

**ANOAS**  
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Electronically Filed  
Mar 19 2019 03:59 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

and

Dean R. Fuchs, Esq. (Pro Hac Vice)  
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*Attorneys for La Fuente Inc. and  
Western Properties Holdings, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

Jane Doe Dancer, I through V, et

al.

Plaintiff,

vs.

La Fuente, Inc. et al.

Defendants.

Case No.: A-14-709851-C

Dept. No.: IV

**AMENDED NOTICE OF APPEAL**

Notice is given in the above-entitled case, that Defendants La Fuente, Inc. and  
Western Property Holdings, LLC appeal to the Supreme Court of Nevada from the

///

1 Notice of Entry of Decision and Order entered on January 25, 2019, and the Notice  
2 of Entry of Judgment of entered on March 5, 2019.

3 Hartwell Thalacker, Ltd.

4 /s/Doreen Spears Hartwell

5 Doreen Spears Hartwell, NSB No. 7525

6 Laura J. Thalacker, NSB No. 5522

7 11920 Southern Highlands Pkwy, Suite 201

8 Las Vegas, Nevada 89141

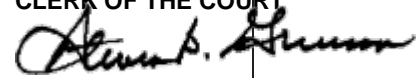
9 *Attorneys for Defendants*

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Kimbal Jones  
Big Horn Law  
716 Jones Blvd.  
Las Vegas, Nevada 89107  
Attorneys for Plaintiffs

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P. Andrew Sterling  
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6363 North Swan Road, Suite 151  
Tucson, AZ 85718  
Attorneys for Plaintiffs

**3 OF 3**



CAS

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and

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*Attorneys for La Fuente Inc. and  
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**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

Jane Doe Dancer, I through V, et al.

Plaintiff,

vs.

La Fuente, Inc. et al.

Defendants.

Case No.: A-14-709851-C

Dept. No.: IV

**CASE APPEAL STATEMENT**

1. Name of appellant filing this case appeal statement:

**La Fuente, Inc. and Western Properties Holdings, LLC.**

2. Identify the judge issuing the decision, judgment, or order appealed from:

**The Honorable Kerry Earley**

3. Identify each appellant and the name and address of counsel for each appellant:

**Appellants: La Fuente, Inc. and Western Property Holdings, LLC**

**Counsel:** Doreen Spears Hartwell, Esq.  
Laura J. Thalacker, Esq.  
Hartwell Thalacker, Ltd  
11920 Southern Highlands Pkwy #201  
Las Vegas, NV 89141

Dean R. Fuchs, Esq. (Pro Hac Vice)  
Schulten Ward Turner & Weiss, LLP  
260 Peachtree Street NW, Suite 2700  
Atlanta GA 30303

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):

Respondents: Jane Does I-V  
Trial Counsel: Kimball Jones, Esq.  
716 Jones Blvd.  
Las Vegas, Nevada 89107

Michael J. Rusing, Esq. (Pro Hac Vice)  
P. Andrew Sterling, Esq. (Pro Hac Vice)  
Rusing, Lopez & Lizardi, PLLC  
6363 North Swan Road, Suite 151  
Tucson, AZ 85718

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

**Pro Hac Vice Applications attached.**

6. Indicate whether appellant was represented by appointed or retained counsel in the district court: **Retained Counsel**

7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

**Retained Counsel**

1 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of  
2 entry of the district court order granting such leave: **N/A**

3 9. Indicate the date the proceedings commenced in the district court (e.g., date complaint,  
4 indictment, information, or petition was filed): **Complaint filed November 14, 2014**

6 10. Provide a brief description of the nature of the action and result in the district court,  
7 including the type of judgment or order being appealed and the relief granted by the district court:

8 Respondents Jane Does 1 through 5 filed a class action law suit under the Nevada Minimum  
9 Wage Act and statutes. The district court granted summary judgment in favor of Respondents on  
10 all of the Jane Doe claims. The district court then entered two orders granted attorney's fees against  
11 Appellants La Fuente, Inc. and Western Properties Holdings, LLC as discovery sanctions.  
12 Appellants appeal both orders.  
13

14 11. Indicate whether the case has previously been the subject of an appeal to or original writ  
15 proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the  
16 prior proceeding:

18 Respondents have an appeal pending on the summary judgment order dismissing al their  
19 claims in Supreme Court Docket No. 78078.

20 12. Indicate whether this appeal involves child custody or visitation: **No**

21 13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

22 **Yes**

23 Hartwell Thalacker, Ltd.  
24 /s/Doreen Spears Hartwell  
25 Doreen Spears Hartwell, NSB No. 7525  
26 Laura J. Thalacker, NSB No. 5522  
27 11920 Southern Highlands Pkwy, Suite 201  
28 Las Vegas, Nevada 89141

*Attorneys for La Fuente, Inc. and Western  
Properties Holdings, LLC*

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Kimbal Jones  
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716 Jones Blvd.  
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Attorneys for Plaintiffs

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6363 North Swan Road, Suite 151  
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Attorneys for Plaintiffs

4 OF 4

1 **NEOJ**

2 Doreen Spears Hartwell, Esq.  
3 Nevada Bar. No. 7525  
4 Laura J. Thalacker, Esq.  
5 Nevada Bar No. 5522  
6 HARTWELL THALACKER, LTD.  
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9 Phone: (702) 850-1074; Fax: (702) 508-9551  
10 Doreen@HartwellThalacker.com  
11 Laura@HartwellThalacker.com

12 *Attorneys for La Fuente Inc. and*  
13 *Western Properties Holdings, LLC*

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09/24/2015 01:04:56 PM



CLERK OF THE COURT

10 **DISTRICT COURT**  
11 **CLARK COUNTY, NEVADA**

12 Jane Doe Dancer, I  
13 Through V, et al.

14 Plaintiff,

15 vs.

16 La Fuente, Inc. et al.

17 Defendants.

Case No.: A-14-709851-C

Dept. No. IV

**NOTICE OF ENTRY ORDER**

18  
19 **TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:**

20 PLEASE TAKE NOTICE that the attached Order Granting Motion to Associate Counsel  
21 was entered on September 23, 2015.

22 Dated: this 24th day of September, 2015.

23 HARTWELTHALACKER, LTD

24 /s/ Doreen Spears Hartwell

25 Doreen Spears Hartwell, Esq.

26 Nevada State Bar No. 7525

27 Laura J. Thalacker, Esq.

28 Nevada State Bar No. 5522

11920 Southern Highlands Pkwy Suite 201

Las Vegas, Nevada 89141

*Attorneys for Defendants*

1 CERTIFICATE OF SERVICE

2 I certify that on the 24<sup>th</sup> day of September, 2015, a true and correct copy of the foregoing  
3 ORDER GRANTING MOTION TO ASSOCIATE COUNSEL was served via Odyssey  
4 electronic-service to the following:  
5

6 Ryan M. Anderson  
7 Jacqueline Bretell  
8 MORRIS ANDERSON LAW  
9 716 Jones Blvd.  
10 Las Vegas, NV 89107  
11 *Attorneys for Plaintiffs*

  
An Employee of Hartwell Thalacker, Ltd.

  
CLERK OF THE COURT

**ORDER**

Doreen Spears Hartwell, Esq.  
Nevada Bar No. 7525  
Laura J. Thalacker, Esq.  
Nevada Bar No. 5522  
HARTWELL THALACKER, LTD.  
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Doreen@HartwellThalacker.com  
Laura@HartwellThalacker.com

Attorneys for La Fuente Inc. and  
Western Properties Holdings, LLC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Jane Doe Dancer, I  
Through V, et al.

Plaintiff,

vs.

La Fuente, Inc. et al.

Defendants.

Case No.: A-14-709851-C

Dept. No. IV

**ORDER GRANTING MOTION TO  
ASSOCIATE COUNSEL**

The Court having reviewed Defendants La Fuente, Inc.'s and Western Properties Holdings, LLC's Motion to Associate Counsel for Stephen Whitfield Brown, Esq.; Motion to Associate Counsel for Dean R. Fuchs, Esq.; and Motion to Associate Counsel for William Scott Sculten, Esq; there being no opposition to same; pursuant to Nevada Supreme Court Rule 42; the respective Verified Applications for Association of Counsel; the Certificates of Good Standing; and the State Bar of Nevada Statements; and for good cause shown:

///

1 IT IS HEREBY ORDERED that the Motion to Associate Counsel for Stephen Whitfield  
2 Brown, Esq. is granted.

3 IT IS FURTHER ORDERED that the Motion to Associate Counsel for Dean R. Fuchs,  
4 Esq. is granted.

5 IT IS FURTHER ORDERED that the Motion to Associate Counsel for William Scott  
6 Schulten is granted.

7  
8 Dated: this 16 day of September, 2015.

9   
DISTRICT COURT JUDGE

10 Submitted by:

11 HARTWELTHALACKER, LTD

12 /s/ Doreen Spears Hartwell

13 Doreen Spears Hartwell

14 Nevada State Bar No. 7525

15 Laura J. Thalacker

16 Nevada State Bar No. 5522

17 11920 Southern Highlands Pkwy Suite 201

18 Las Vegas, Nevada 89141

19 Attorneys for Defendants

**CASE SUMMARY****CASE NO. A-14-709851-C****Jane Doe, Plaintiff(s)****vs.****Western Property Holdings LLC, Defendant(s)**§  
§  
§  
§  
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§  
§Location: **Department 4**Judicial Officer: **Earley, Kerry**Filed on: **11/14/2014**Cross-Reference Case **A709851**

Number:

Supreme Court No.: **78078****78238****CASE INFORMATION****Statistical Closures**

10/25/2016 Stipulated Dismissal

Case Type: **Employment Tort**Case Status: **10/26/2016 Reopened****DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number	A-14-709851-C
Court	Department 4
Date Assigned	11/14/2014
Judicial Officer	Earley, Kerry

**PARTY INFORMATION**

		<i>Lead Attorneys</i>
<b>Plaintiff</b>	<b>Jane Doe I</b>	<b>Anderson, Ryan M.</b> <i>Retained</i> 702-333-1111(W)
	<b>Jane Doe II</b>	<b>Anderson, Ryan M.</b> <i>Retained</i> 702-333-1111(W)
	<b>Jane Doe III</b>	<b>Anderson, Ryan M.</b> <i>Retained</i> 702-333-1111(W)
	<b>Jane Doe IV</b>	<b>Anderson, Ryan M.</b> <i>Retained</i> 702-333-1111(W)
	<b>Jane Doe V</b>	<b>Anderson, Ryan M.</b> <i>Retained</i> 702-333-1111(W)
<b>Defendant</b>	<b>Cheetas Gentleman Club</b> Removed: 05/01/2015 Inactive	
	<b>La Fuente Inc</b>	<b>Hartwell, Doreen M. Spears</b> <i>Retained</i> 702-850-1074(W)
	<b>Western Property Holdings LLC</b>	<b>Hartwell, Doreen M. Spears</b> <i>Retained</i> 702-850-1074(W)

**DATE****EVENTS & ORDERS OF THE COURT****INDEX**








11/14/2014

**EVENTS**

Case Opened

# CASE SUMMARY

CASE NO. A-14-709851-C

11/14/2014	 Filed Under Seal Filed By: Plaintiff Jane Doe I <i>Complaint</i>
11/14/2014	 Filed Under Seal Filed By: Plaintiff Jane Doe I <i>Initial Appearance Fee Disclosure</i>
02/25/2015	 Filed Under Seal Filed By: Plaintiff Jane Doe I <i>Ex-Parte Motion For Leave To Removal Of Plaintiff's Name</i>
03/06/2015	 Filed Under Seal Filed By: Plaintiff Jane Doe I <i>Supplemental Ex-Parte Motion for Leave to Remove Plaintiff's Name to Allow Amendment as Jane Doe Dancer</i>
03/06/2015	 Filed Under Seal Filed By: Plaintiff Jane Doe I <i>Ex-Parte Motion to Enlarge Time for Service</i>
04/03/2015	 Filed Under Seal Filed By: Plaintiff Jane Doe I <i>Plaintiff's Supplemental Brief in Support of Plaintiff's Ex-Parte Motion for Leave to Remove Plaintiff's Name to Allow Amendment as Jane Doe Dancer</i>
04/22/2015	 Filed Under Seal Filed By: Plaintiff Jane Doe I <i>Order Granting Motion to Enlarge Time for Service</i>
04/22/2015	 Filed Under Seal Filed By: Plaintiff Jane Doe I <i>Order Allowing Removal of Plaintiff's Name to Allow Amendment as Jane Doe</i>
04/24/2015	 Filed Under Seal Filed By: Plaintiff Jane Doe I <i>Notice of Entry of Order</i>
04/24/2015	 Filed Under Seal Filed By: Plaintiff Jane Doe I <i>Notice of Entry of Order</i>
05/01/2015	 Amended Complaint Filed By: Plaintiff Jane Doe I <i>Plaintiffs' First Amended Class Action Complaint</i>
05/13/2015	 Affidavit of Service Filed By: Plaintiff Jane Doe I <i>Affidavit/Declaration of Service of Western Property Holdings, LLC</i>
05/13/2015	 Affidavit of Service Filed By: Plaintiff Jane Doe I <i>Affidavit/Declaration of Service of La Fuente, Inc.</i>


# CASE SUMMARY

CASE NO. A-14-709851-C

05/13/2015	 Summons Issued <i>Summons - (Western Property Holdings LLC)</i>
05/13/2015	 Summons Issued <i>Summons - (La Fuente Inc)</i>
05/28/2015	 Notice of Association of Counsel Filed By: Plaintiff Jane Doe I <i>Notice of Association of Counsel</i>
06/09/2015	 Answer to Amended Complaint Filed By: Defendant La Fuente Inc <i>Defendant La Fuente, Inc.'s Answer to Plaintiff's First Amended Class Action Complaint</i>
06/09/2015	 Initial Appearance Fee Disclosure Filed By: Defendant La Fuente Inc <i>Initial Appearance Fee Disclosure of Defendant La Fuente, Inc.</i>
06/09/2015	 Answer to Amended Complaint Filed By: Defendant Western Property Holdings LLC <i>Defendant Western Property Holdings, LLC's Answer to Plaintiff's First Amended Class Action Complaint</i>
06/09/2015	 Initial Appearance Fee Disclosure Filed By: Defendant La Fuente Inc <i>Initial Appearance Fee Disclosure of Defendant Western Property Holdings, LLC</i>
07/29/2015	 Motion Filed By: Defendant La Fuente Inc <i>Motion to Associate Counsel</i>
07/29/2015	 Motion Filed By: Defendant La Fuente Inc <i>Motion to Associate Counsel</i>
07/29/2015	 Motion Filed By: Defendant La Fuente Inc <i>Motion to Associate Counsel</i>
07/29/2015	 Motion to Associate Counsel Filed By: Plaintiff Jane Doe I <i>Motion to Associate Counsel</i>
09/23/2015	 Order Granting Motion Filed By: Defendant Western Property Holdings LLC <i>Order Granting Motion to Associate Counsel</i>
09/23/2015	 Notice of Entry of Order Filed By: Plaintiff Jane Doe I <i>Notice of Entry of Order Granting Plaintiffs' Motion to Associate Counsel</i>
09/23/2015	 Order Granting Motion













# CASE SUMMARY

CASE NO. A-14-709851-C

	<p>Filed By: Plaintiff Jane Doe I  <i>Order Granting Plaintiffs' Motion to Associate Counsel</i></p>
09/24/2015	<p> Notice of Entry of Order            Filed By: Defendant La Fuente Inc  <i>Notice of Entry of Order</i></p>
11/13/2015	<p> Notice of Early Case Conference            Filed By: Plaintiff Jane Doe I  <i>Notice of Early Case Conference</i></p>
12/23/2015	<p> Early Case Conference Report            Filed By: Defendant La Fuente Inc  <i>Defendants' Early Case Conference Report</i></p>
02/03/2016	<p> Individual Case Conference Report            Filed By: Plaintiff Jane Doe I  <i>Individual Case Conference Report</i></p>
02/17/2016	<p> Amended Individual Case Conference Report            Filed By: Plaintiff Jane Doe I  <i>Amended Individual Case Conference Report</i></p>
02/29/2016	<p> Motion            Filed By: Plaintiff Jane Doe I  <i>PLAINTIFFS' MOTION TO CORRECT THE REGISTER OF ACTIONS AND SEAL ALL COURT DOCUMENTS FILED PRIOR TO THE AMENDED COMPLAINT</i></p>
03/04/2016	<p> Motion to Compel            Filed By: Defendant La Fuente Inc  <i>Motion to Compel Arbitration and for Other Miscellaneous Relief</i></p>
03/16/2016	<p> Motion            Filed By: Plaintiff Jane Doe I  <i>Plaintiffs' Motion For Leave To Proceed Pseudonymously And For Protective Order</i></p>
03/17/2016	<p> Opposition and Countermotion            Filed By: Defendant La Fuente Inc  <i>Defendants' Opposition to Plaintiffs' Motion to Correct Register of Actions and Seal Court Records and Defendants' Countermotion to Prohibit Plaintiffs from Proceeding Under the Pseudonym "Jane Doe Dancers"</i></p>
03/18/2016	<p> Notice to Appear for Discovery Conference  <i>Notice to Appear for Discovery Conference</i></p>
03/29/2016	<p> Opposition            Filed By: Plaintiff Jane Doe I  <i>Plaintiffs' Opposition To Defendant's Motion To Compel Arbitration</i></p>
04/01/2016	<p> Stipulation and Order            Filed by: Plaintiff Jane Doe I  <i>Stipulation and Order to Consolidate Hearings</i></p>
04/01/2016	<p> Stipulation</p>

# CASE SUMMARY

CASE NO. A-14-709851-C

	Filed by: Plaintiff Jane Doe I <i>Stipulation for Interim Protective Order Regarding Identities of Jane Doe Dancers I-V</i>
04/01/2016	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Jane Doe I <i>Notice of Entry of Stipulation and Order</i>
04/04/2016	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Jane Doe I <i>Notice of Entry of Stipulation and Order</i>
04/08/2016	 Opposition to Motion Filed By: Defendant La Fuente Inc <i>DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR LEAVE TO PROCEED PSEUDONYMOUSLY AND FOR PROTECTIVE ORDER</i>
04/20/2016	 Reply in Support Filed By: Defendant La Fuente Inc <i>Defendants' Reply Brief in Support of Their Motion to Compel Arbitration, to Compel the Names of Individuals Asserting Claims Against Defendants and to File Exhibit Under SEal</i>
04/20/2016	 Reply in Support Filed By: Plaintiff Jane Doe I <i>Reply in Support of Plaintiffs' Motion for Leave to Proceed Pseudonymously and for Protective</i>
04/29/2016	 Notice of Rescheduling <i>Notice of Rescheduling of Hearings</i>
05/03/2016	 Initial Appearance Fee Disclosure Filed By: Plaintiff Jane Doe II <i>First Amended Initial Appearance Fee Disclosure</i>
06/14/2016	 Notice of Rescheduling <i>Notice of Rescheduling of Hearing</i>
06/30/2016	 Motion for Withdrawal Filed By: Defendant La Fuente Inc <i>Motion to Withdraw As Counsel of Record</i>
07/12/2016	 Motion Filed By: Plaintiff Jane Doe IV <i>Plaintiffs' Motion For Voluntary Dismissal Without Prejudice Of Jane Doe Dancer IV Pursuant To N.R.C.P 41(A)(2)</i>
08/05/2016	 Notice of Non Opposition Filed By: Plaintiff Jane Doe IV <i>(8/8/16 Withdrawn) Notice of No Opposition to Plaintiff's Motion for Voluntary Dismissal without Prejudice of Jane Doe Dancer IV Pursuant to N.R.C.P. 41 (a) (2)</i>
08/08/2016	 Notice of Withdrawal Filed By: Plaintiff Jane Doe IV <i>Notice of Withdrawal of Plaintiff's Notice of No Oppostition to Plaintiff's Motion for Voluntary Dismissal without Prejudice of Jane Doe Dancer IV Pursuant to N.R.C.P. 41 (a)(2)</i>

# CASE SUMMARY

CASE NO. A-14-709851-C

08/08/2016	 Certificate of Service Filed by: Plaintiff Jane Doe II <i>Certificate of Service</i>
08/18/2016	 Supplement Filed by: Plaintiff Jane Doe II <i>Supplemental Exhibit To Plaintiffs' Opposition To Defendant's Motion To Compel Arbitration</i>
08/22/2016	 Stipulation and Order Filed by: Plaintiff Jane Doe I <i>Stipulation and Order to Continue Hearing Date</i>
08/23/2016	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Jane Doe II <i>Notice of Entry of Stipulation and Order</i>
08/25/2016	 Opposition Filed By: Defendant Western Property Holdings LLC <i>Defendants' Response to Plaintiffs' Supplemental Exhibit to Plaintiffs' Opposition to Defendants' Motion to Compel Abitration</i>
08/26/2016	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Jane Doe I <i>Notice of Entry of Stipulation and Order</i>
08/26/2016	 Stipulation and Order for Dismissal Without Prejudice Filed By: Plaintiff Jane Doe II <i>Stipulation and Order for Dismissal of All Claims By Plaintiff Jane Doe Dancer IV Without Prejudice and to Vacate Hearing</i>
10/25/2016	 Order to Statistically Close Case <i>Civil Order To Statistically Close Case</i>
11/04/2016	 Stipulation and Order Filed by: Plaintiff Jane Doe I <i>Stipulation for Protective Order Regarding Identities of Plaintiffs Jane Doe Dancers</i>
11/04/2016	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Jane Doe I <i>Notice of Entry of Stipulation and Order</i>
12/14/2016	 Joint Case Conference Report Filed By: Plaintiff Jane Doe I <i>Joint Case Conference Report</i>
12/19/2016	 Order Filed By: Defendant La Fuente Inc <i>Order on Defendant's Motion to Compel Arbitration and For Other Miscellaneous Relief</i>
12/22/2016	 Notice of Entry Filed By: Defendant Western Property Holdings LLC <i>NOTICE OF ENTRY OF ORDER ON DEFENDANTS' MOTION TO COMPEL ARBITRATION AND FOR OTHER MISCELLANEOUS RELIEF</i>

# CASE SUMMARY

CASE NO. A-14-709851-C

02/07/2017	 Scheduling Order <i>Scheduling Order</i>
02/14/2017	 Order Setting Civil Jury Trial <i>Order Setting Civil Jury Trial</i>
05/30/2017	 Motion for Class Certification Filed By: Plaintiff Jane Doe II <i>Plaintiff Jane Doe Dancer III s Motion for Class Certification</i>
06/16/2017	 Opposition to Motion Filed By: Defendant La Fuente Inc <i>Defendants' Oppositin to Plaintiff Jane Doe Dancer III's Motion for Class Certification</i>
06/28/2017	 Reply in Support Filed By: Plaintiff Jane Doe I; Plaintiff Jane Doe II; Plaintiff Jane Doe III; Plaintiff Jane Doe IV; Plaintiff Jane Doe V <i>Reply in Support of Plaintiff Jane Doe Dancer III s Motion for Class Certification</i>
07/13/2017	 Motion to Withdraw As Counsel Filed By: Defendant La Fuente Inc <i>Motion to Withdraw as Counsel of Record</i>
08/08/2017	 Reporters Transcript Filed By: Defendant La Fuente Inc <i>Reporter's Transcript of Proceedings July 5, 2017</i>
08/16/2017	 Motion to Compel Filed By: Plaintiff Jane Doe III <i>Plaintiff Jane Doe Dancer III s Motion to Compel Defendant s Responses to Discovery on Order Shortening Time</i>
08/23/2017	 Motion to Compel <i>Plaintiff Jane Doe Dancer III s Motion to Compel Defendant s Responses to Discovery</i>
08/28/2017	 Motion to Extend Discovery <i>Defendants' Motion to Extend Discovery Deadline (First Request)</i>
09/11/2017	 Opposition <i>Plaintiff Jane Doe Dancer III s Opposition to Defendant s Motion to Extend Discovery Deadline (First Request)</i>
09/21/2017	 Order Granting Motion Filed By: Defendant Western Property Holdings LLC; Defendant La Fuente Inc <i>Order Granting Motion to Withdraw As Counsel of Record (Stephen Brown)</i>
09/22/2017	 Notice of Entry of Order Filed By: Defendant La Fuente Inc <i>Notice of Entry of Order Granting Motion to Withdraw</i>
10/12/2017	 Order <i>Order on Plaintiff Jane Doe Dancer III's Motion for Class Certification</i>

# CASE SUMMARY

CASE NO. A-14-709851-C

10/16/2017	 Notice of Entry of Order <i>Notice of Entry of Order</i>
12/07/2017	 Motion for Sanctions <i>Plaintiff Jane Doe Dancer III s Motion for Sanctions Against Defendant in Accordance with NRCP 37(C), for Spoliations Sanctions and for Attorney s Fees and Costs</i>
12/08/2017	 Motion <i>Plaintiff Jane Doe Dancer III s Amended Motion for Sanctions Against Defendant in Accordance with NRCP 37(C), for Spoliations Sanctions and For Attorney s Fees and Costs</i>
12/21/2017	 Discovery Commissioners Report and Recommendations <i>Discovery Commissioner's Report and Recommendations</i>
12/26/2017	 Stipulation Filed by: Defendant La Fuente Inc <i>Stipulation to Extend Time For Defendants to File Opposition to Motion for Sanctions</i>
12/28/2017	 Notice of Entry of Decision and Order <i>Notice of Entry of Decision and Order</i>
01/01/2018	 Opposition Filed By: Defendant Western Property Holdings LLC; Defendant La Fuente Inc <i>Defendants' Opposition to Plaintiff Jane Doe Dancer III's Amended Motion for Sanctions</i>
01/05/2018	 Reply in Support <i>Reply in Support of Plaintiff Jane Doe Dancer III's Motion for Sanctions Against Defendant in Accordance with NRCP 37(C), for Spoliation Sanctions, and for Attorney s Fees and Costs</i>
01/09/2018	 Notice <i>Notice of Scheduling Settlement Conference</i>
01/22/2018	 Memorandum <i>Plaintiff's Memorandum of Attorney's Fees and Costs</i>
02/08/2018	 Opposition Filed By: Defendant Western Property Holdings LLC; Defendant La Fuente Inc <i>Defendants Opposition To Plaintiff s Memorandum Of Attorney s Fees And Costs</i>
03/14/2018	 Motion for Summary Judgment Filed By: Defendant Western Property Holdings LLC; Defendant La Fuente Inc <i>Defendants Motion For Summary Judgment</i>
03/14/2018	 Discovery Commissioners Report and Recommendations <i>Discovery Commissioner's Report and Recommendations</i>
03/14/2018	 Notice of Entry of Decision and Order <i>Notice of Entry of Decision and Order</i>
04/05/2018	 Discovery Commissioners Report and Recommendations <i>Discovery Commissioner's Report and Recommendations</i>
04/06/2018	

**CASE SUMMARY**

**CASE NO. A-14-709851-C**

	 Notice of Entry of Decision and Order <i>Notice of Entry of Decision and Order</i>
04/09/2018	 Recorders Transcript of Hearing <i>Recorders Transcript of Hearing - Court Call - Status Check - heard on March 2, 2018</i>
05/14/2018	 Opposition to Motion For Summary Judgment <i>Plaintiffs Opposition to Defendants Motion for Summary Judgment</i>
05/15/2018	 Errata <i>Errata to Plaintiffs Cross-Motion for Summary Judgment on Employee Status and Opposition to Defendants Motion for Summary Judgment</i>
05/29/2018	 Opposition Filed By: Defendant La Fuente Inc <i>Defendants' Opposition to Plaintiffs' Motion for Summary Judgment</i>
06/08/2018	 Notice of Rescheduling <i>Notice of Rescheduling</i>
06/27/2018	 Motion for Sanctions Filed By: Plaintiff Jane Doe I; Plaintiff Jane Doe II; Plaintiff Jane Doe III; Plaintiff Jane Doe IV; Plaintiff Jane Doe V <i>Plaintiff s Motion for Discovery Sanctions and Adverse Presumption</i>
06/27/2018	 Notice <i>Notice of Supplemental Authority Re: Plaintiffs Cross-Motion for Summary Judgment</i>
06/28/2018	 Discovery Commissioners Report and Recommendations <i>Discovery Commissioner's Report and Recommendations</i>
06/28/2018	 Notice of Entry of Decision and Order <i>Notice of Entry of Decision and Order</i>
07/16/2018	 Opposition to Motion Filed By: Defendant Western Property Holdings LLC; Defendant La Fuente Inc <i>Defendants' Opposition to Plaintiffs' Motion for Discovery Sanctions and Request for Hearing on August 8, 2018</i>
07/25/2018	 Notice of Hearing <i>Notice of Rescheduling of Hearing</i>
08/01/2018	 Reply in Support <i>Reply in Support of Plaintiffs Cross-Motion for Summary Judgment on Employee Status</i>
08/01/2018	 Reply in Support <i>Reply in Support of Plaintiff s Motion for Discovery Sanctions and Adverse Presumption</i>
08/10/2018	 Amended Order Setting Jury Trial <i>Amended Order Setting Civil Jury Trial</i>
09/05/2018	 Supplemental Brief








# CASE SUMMARY

CASE NO. A-14-709851-C

	<p>Filed By: Plaintiff Jane Doe I  <i>Supplemental Brief in Support of Plaintiffs Cross-Motion for Summary Judgment on Employee Status</i></p>
09/05/2018	<p> Supplement            Filed by: Defendant La Fuente Inc  <i>Defendants' Supplemental Memorandum in Response to Hearing Conducted on August 8, 2018</i></p>
09/19/2018	<p> Motion for Order  <i>Plaintiffs Motion for Order on Proposed Jury Instructions and Fees and Costs</i></p>
09/19/2018	<p> Motion for Attorney Fees and Costs  <i>Plaintiffs Motion for Fees and Costs in Pursuing Spoliated Materials</i></p>
09/20/2018	<p> Response  <i>Plaintiffs Response to Defendants Supplemental Memorandum</i></p>
10/08/2018	<p> Opposition to Motion            Filed By: Defendant La Fuente Inc  <i>DEFENDANTS OPPOSITION TO PLAINTIFFS MOTION FOR FEES AND COSTS IN PURSUING SPOLIATED MATERIALS</i></p>
10/08/2018	<p> Opposition to Motion            Filed By: Defendant La Fuente Inc  <i>Defendants' Opposition to Plaintiff's Motion for Order on Proposed Jury Instruction and Fees and Costs</i></p>
10/17/2018	<p> Reply in Support  <i>Reply in Support of Plaintiffs Motion for Fees and Costs in Pursuing Spoliated Materials</i></p>
10/24/2018	<p> Reply in Support  <i>Reply in Support of Plaintiffs Motion for Order on Proposed Jury Instructions and Fees and Costs</i></p>
01/04/2019	<p> Order Granting Motion            Filed By: Defendant Western Property Holdings LLC; Defendant La Fuente Inc  <i>Order Granting Defendants Motion For Summary Judgement and Denying Plaintiffs Countermotion for Summary Judgement</i></p>
01/04/2019	<p> Notice of Entry of Order            Filed By: Defendant Western Property Holdings LLC; Defendant La Fuente Inc  <i>Notice of Entry of Order Granting Defendants' Motion for Summary Judgment</i></p>
01/24/2019	<p> Discovery Commissioners Report and Recommendations  <i>Discovery Commissioner's Report and Recommendations</i></p>
01/25/2019	<p> Notice of Entry of Decision and Order  <i>Notice of Entry of Decision and Order</i></p>
01/31/2019	<p> Notice of Appeal  <i>Notice of Appeal</i></p>
01/31/2019	<p> Case Appeal Statement  <i>Case Appeal Statement</i></p>

# CASE SUMMARY

CASE NO. A-14-709851-C

02/05/2019	 Notice <i>Notice of Filing Security for Payment of Costs on Appeal</i>
02/25/2019	 Notice of Appeal Filed By: Defendant Western Property Holdings LLC; Defendant La Fuente Inc <i>Notice of Appeal</i>
03/05/2019	 Order <i>Order on Plaintiffs Motion for Fees and Costs</i>
03/05/2019	 Notice of Entry of Order <i>Notice of Entry of Order</i>
03/11/2019	 Case Appeal Statement Filed By: Defendant Western Property Holdings LLC; Defendant La Fuente Inc <i>Case Appeal Statement</i>
03/11/2019	 Amended Notice of Appeal Party: Defendant Western Property Holdings LLC; Defendant La Fuente Inc <i>Amended Notice of Appeal</i>
	<b><u>DISPOSITIONS</u></b>
08/26/2016	<b>Order of Dismissal Without Prejudice</b> (Judicial Officer: Earley, Kerry) Debtors: Western Property Holdings LLC (Defendant), Cheetas Gentleman Club (Defendant), La Fuente Inc (Defendant) Creditors: Jane Doe IV (Plaintiff) Judgment: 08/26/2016, Docketed: 09/02/2016
03/14/2018	<b>Sanctions</b> (Judicial Officer: Earley, Kerry) Debtors: Western Property Holdings LLC (Defendant), La Fuente Inc (Defendant) Creditors: Jane Doe II (Plaintiff) Judgment: 03/14/2018, Docketed: 03/14/2018 Comment: In Part
01/04/2019	<b>Summary Judgment</b> (Judicial Officer: Earley, Kerry) Debtors: Jane Doe I (Plaintiff), Jane Doe II (Plaintiff), Jane Doe III (Plaintiff), Jane Doe IV (Plaintiff), Jane Doe V (Plaintiff) Creditors: Western Property Holdings LLC (Defendant), Cheetas Gentleman Club (Defendant), La Fuente Inc (Defendant) Judgment: 01/04/2019, Docketed: 01/04/2019 Comment: In Part/ Certain claims
03/05/2019	<b>Order</b> (Judicial Officer: Earley, Kerry) Debtors: Western Property Holdings LLC (Defendant), La Fuente Inc (Defendant) Creditors: Jane Doe I (Plaintiff), Jane Doe II (Plaintiff), Jane Doe III (Plaintiff), Jane Doe IV (Plaintiff), Jane Doe V (Plaintiff) Judgment: 03/05/2019, Docketed: 03/12/2019 Total Judgment: 29,499.50
	<b><u>HEARINGS</u></b>
04/01/2015	 <b>Motion for Leave</b> (9:00 AM) (Judicial Officer: Earley, Kerry) <b>04/01/2015, 04/06/2015</b> <i>Ex-Parte Motion For Leave To Removal Of Plaintiff's Name To Allow Amendment As Jane Doe Dancer</i> Continued for Chambers Decision; Minute Order - No Hearing Held;

# CASE SUMMARY

CASE NO. A-14-709851-C

**Journal Entry Details:**

*Plaintiff's Ex-Parte Motion For Leave To Remove Plaintiff's Name To Allow Amendment As Jane Doe Dancer, having come before the Court on April 1, 2015, the Court having reviewed the papers and pleadings on file, including the supplemental briefing requested by the Court, and the oral argument of Plaintiff's counsel, is hereby GRANTED. CLERK'S NOTE: A copy of this Minute Order was distributed to the following parties via e-mail: Daniel Price, Esq. [daniel@morrisanderson.com]. (KD 4/20/15) ;*

Continued for Chambers Decision;

Minute Order - No Hearing Held;

**Journal Entry Details:**


*Mr. Price argued in support of the Motion, stating that the Defendant did not want her real name on public documents. Court noted there was no legal basis to grant the Motion under NRCF 17(a), and the case had to proceed under the real party in interest. Mr. Price requested leave to submit supplemental briefing. COURT ORDERED, Motion CONTINUED to Department IV's Chambers Calendar to allow Mr. Price to submit supplemental briefing. As to the Ex Parte Motion To Enlarge Time, Mr. Price argued in support of the Motion, stating that he wanted to ensure the proper Plaintiff was named prior to having the summons and complaint served. COURT ORDERED, Motion to Enlarge Time GRANTED for SIXTY (60) DAYS ONLY, from the date of the entry of the instant Order. CONTINUED TO: 4/6/15 (CHAMBERS CALENDAR) ;*


08/31/2015 **CANCELED Motion to Associate Counsel (3:00 AM)** (Judicial Officer: Earley, Kerry)  
Vacated  
Def't's Motion Associate Counsel

08/31/2015 **CANCELED Motion to Associate Counsel (3:00 AM)** (Judicial Officer: Earley, Kerry)  
Vacated  
Def't's Motion Associate Counsel

08/31/2015 **CANCELED Motion to Associate Counsel (3:00 AM)** (Judicial Officer: Earley, Kerry)  
Vacated  
Def't's Motion Associate Counsel

08/31/2015 **CANCELED Motion to Associate Counsel (3:00 AM)** (Judicial Officer: Earley, Kerry)  
Vacated  
Plaintiff's Motion to Associate Counsel

09/08/2015  **Minute Order (3:00 AM)** (Judicial Officer: Earley, Kerry)  
*Def't's Motion To Associate Counsel...Def't's Motion To Associate Counsel...Def't's Motion To Associate Counsel...Plaintiff's Motion To Associate Counsel --- GRANTED BY MINUTE ORDER 9/8/15*  
Minute Order - No Hearing Held;  
Journal Entry Details:  
*These motions came before the court on August 31, 2015 for Plaintiff's singular Motion to Associate Counsel and Defendants three separate Motions to Associate Counsel. Having reviewed the arguments and authorities in the pleadings submitted, COURT ORDERS Plaintiff's Motion to Associate Counsel Michael John Rusing GRANTED. Further, COURT ORDERS Defendants Motions to Associate Counsel Stephen Whitfield Brown, Dean R. Fuchs, and William Scott Schulten, Esq. GRANTED. Counsels for Plaintiff and Defendant to prepare and submit their respective orders specifically naming each counsel to be associated. CLERK'S NOTE: A copy of this minute order distributed to Doreen Spears Hartwell, Esq. [doreen@hartwellthalacker.com], Laura J. Thalacker, Esq. [laura@hartwellthalacker.com], Ryan M. Anderson, Esq. [ryan@morrisandersonlaw.com], Jacqueline Bretell, Esq. [jacqueline@morrisandersonlaw.com], Daniel R. Price, Esq. [daniel@morrisandersonlaw.com], and Michael J. Rusing, Esq. [rusinglopez@rllaz.com]. (KD 9/11/15) ;*

04/19/2016  **Discovery Conference (9:00 AM)** (Judicial Officer: Bulla, Bonnie)



**MINUTES**

**CANCELED Discovery Conference (10/25/2016 at 9:30 AM)** (Judicial Officer: Bulla, Bonnie)

Vacated - per Commissioner

# CASE SUMMARY

CASE NO. A-14-709851-C

	<p>Matter Continued; Journal Entry Details: <i>Colloquy regarding delays. COMMISSIONER RECOMMENDED, Ms. Hartwell to PAY \$50.00 contribution to Legal Aid Center of Southern Nevada (Clark County Pro Bono Project) for failing to provide a courtesy copy of the report to the Discovery Commissioner; payment held in ABEYANCE pending Defendants' motion to compel arbitration. COMMISSIONER RECOMMENDED, Discovery Conference is CONTINUED. Counsel to advise the Discovery Commissioner if the case is remanded to arbitration 5/10/16 9:00 a.m. Discovery Conference - Further Proceedings;</i></p> <p><b>SCHEDULED HEARINGS</b> <b>CANCELED Discovery Conference</b> (10/25/2016 at 9:30 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i></p>
08/01/2016	<p> <b>Motion to Withdraw as Counsel</b> (3:00 AM) (Judicial Officer: Earley, Kerry) <i>W. Scott Schulten Esq's Motion to Withdraw As Counsel of Record for Defendants La Fuente and Western Property Holdings</i> Minute Order - No Hearing Held; W. Scott Schulten Esq's Motion to Withdraw As Counsel of Record for Defendants La Fuente and Western Property Holdings Journal Entry Details: <i>A Motion to Withdraw as Counsel was filed on June 30, 2016 by Wm. Scott Schulten, Esq., counsel for Defendants La Fuente Western Property Holdings. The matter was subsequently placed on the civil calendar of Department IV. Having received no Opposition to the matter and pursuant to EDCR 2.20 and for good cause showing, the Court hereby GRANTS the Motion to Withdraw. Defense counsel shall prepare the Order in accordance with EDCR 7.21, notifying the former client of all pending dates and providing the last known address and telephone number of Defendant within the proposed Order. CLERK'S NOTE: The above minute order has been distributed to: Wm. Scott Schulten, Esq., (s.schulten@swtwlaw.com) and Ryan M. Anderson, Esq., (ryan@morrisandersonlaw.com). aw;</i></p>
08/17/2016	<p><b>Motion</b> (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Plaintiffs' Motion to Correct the Register of Actions and Seal All Court Documents Filed Prior to the Amended Complaint</i> per minute order Motion Granted;</p>
08/17/2016	<p><b>Motion to Compel</b> (9:00 AM) (Judicial Officer: Earley, Kerry) <b>08/17/2016, 09/12/2016</b> <i>Defendants La Fuente Inc and Western Property Holdings LLC's Motion to Compel Arbitration and for Other Miscellaneous Relief</i> per minute order Matter Continued; Granted in Part; per minute order Matter Continued; Granted in Part;</p>
08/17/2016	<p><b>Motion for Leave</b> (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Plaintiffs' Motion for Leave to Proceed Pseudonymously and for Protective Order</i> per minute order Motion Granted;</p>
08/17/2016	<p><b>Opposition and Countermotion</b> (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Defendants' Opposition to Plaintiffs' Motion to Correct Register of Actions and Seal Court Records and Defendants' Countermotion to Prohibit Plaintiffs from Proceeding Under the Pseudonym "Jane Doe Dancers"</i> per minute order Denied;</p>
08/17/2016	<p> <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Earley, Kerry) Matter Heard;</p>

**CASE SUMMARY****CASE NO. A-14-709851-C**

## Journal Entry Details:

**PLTFS' MOTION FOR LEAVE TO PROCEED PSEUDONYMOUSLY AND FOR**

**PROTECTIVE ORDER:** Court stated she has reviewed all documents, does not have an issue as to the pleadings filed in Odyssey and as far as the names, they have to be produced in discovery. Mr. Sterling stated "Jane Doe" status was just assumed and is a pure question of the law with respect of there classification. Further, counsel stated he is concerned these young woman's names are out in public. Mr. Hartwell argued he does not believe burden has been met. Further, as to proceeding as "Jane Doe", Mr. Hartwell stated if the Court wants that, the parties can come up with something for the pleadings so the names are not listed. Court stated she does not want discovery hampered and no game playing. Colloquy. **COURT ORDERED,** motion **GRANTED** based on the restrictions the Court advised of in open court. Counsel to get together as to the protective order incorporating what was done in the previous protective order. Ms. Hartwell requested to include the Court is in no way restricting disclosure amongst the parties. **COURT SO ORDERED. PLTFS' MOTION TO CORRECT THE REGISTER OF ACTIONS AND SEAL ALL COURT DOCUMENTS FILED PRIOR TO THE AMENDED COMPLAINT:** Statement by Mr. Sterling. **COURT ORDERED,** motion **GRANTED.** Odyssey to read "Jane Doe I" only. No AKA's or KNA's to be listed. **DEFTS' OPPOSITION TO PLTFS' MOTION TO CORRECT REGISTER OF ACTIONS AND SEAL COURT RECORDS AND DEFTS' COUNTERMOTION TO PROHIBIT PLTFS' FROM PROCEEDING UNDER THE PSEUDONYM "JANE DOE DANCERS":** **COURT ORDERED,** counter motion **DENIED.** **DEFTS' LA FUENTE INC AND WESTERN PROPERTY HOLDINGS LLC'S MOTION TO COMPEL ARBITRATION AND FOR OTHER MISCELLANEOUS RELIEF:** Court inquired if Pltfs' claims are within the scope of the arbitration policy. Ms. Hartwell stated with regards to wage and hour claims. Further, Ms. Hartwell argued if you want to work at the club, arbitration agreement is entered pursuant to the Federal Arbitration Act that governs which is very broad. Pltfs' alleging they have issues with regards with their employment at the club based on not being paid overtime and not being treated as employees for wages. Colloquy. Additional argument by Ms. Hartwell. Mr. Sterling agreed this is a matter of contract interpretation and argued not an adhesion contract, it was a form prepared by the parties seeking to enforce it. Further, Mr. Sterling argued this is a poorly written contract, unclear and ambiguous. As to paragraph 4, Mr. Sterling stated the rules for arbitration of a covered claim will be AAA Arbitration Employment Rules. Additionally, Mr. Sterling stated rules were selected because they deal with claims by employees against employers and it will not allow this case to be heard under those rules. Mr. Sterling argued all claims are employees bring within the context of the existing employment relationship. Further, no claim can arise under the ADEA unless you are an employee. Court noted document combined independent contractors and employees they had and who they considered at that time. Ms. Hartwell argued in order to work there it is the policy of club to sign arbitration policy and only enforceable if signed. Further, Jane Doe I was already working at the club prior to signing arbitration agreement and argued there is nothing ambiguous with contract. Additionally, Ms. Hartwell argued Federal law trumps State law and if there were inconsistencies between Federal law and Nevada law on an agreement that says Federal law applies then Federal law would trump. Colloquy. Further argument by Ms. Hartwell. Statement by Mr. Sterling. Court inquired was there a meaningful opportunity for the entertainer to agree to the terms and what was going on at time of execution. Further, the Court noted all agree it is an adhesion contract and it was a take it or leave it situation. Ms. Hartwell stated based on agreement itself, states will not be enforceable until signed and a signature shall be required for policy to be applicable. Further, Ms. Hartwell argued Jane Doe I was already working prior to signing contract. If she chose not to read it, that is not procedural impropriety. Additionally, Ms. Hartwell argued entertainers are business owners, everyone not the same in terms of with regards to their education and knowledge. Colloquy. Ms. Hartwell further argued nothing said she was required to execute agreement and after she signed, she continued to perform. Further, Ms. Hartwell argued this does not rise to procedural unconscionability. Mr. Sterling argued this is a flexible equitable doctrine. Further, Mr. Sterling advised Judge Cory in his order specifically addressed the interplay between the individual facts that are limited to the affidavits and then the general applicability of the unconscionability of this contract in the abstract as a matter of law. Additional argument by Mr. Sterling. Ms. Hartwell argued there was no surprise, document reads arbitration agreement and in Nevada, it is presumed document was read. As to substantive unconscionability, Ms. Hartwell stated all rules and law apply just a different form. If entitled in State Court, they are entitled to in arbitration. Further, if the club decides they no longer want arbitration policy, they can terminate policy and does not prejudice the Pltfs. With regards to the rules that apply, parties can agree to govern their dispute under what ever rules they choose. The parties can agree to resolve whatever potential issues they have however they choose. Additionally, Ms. Hartwell argued the Pltfs' want to be and insist on being independent contractors and do not consider themselves employees, do not want to be employees and the do not feel by signing this document, they waive any type of protection. Mr. Sterling stated AAA Employment Arbitration Laws are very generous to

**CASE SUMMARY****CASE NO. A-14-709851-C**

employees and the problem with the designation of the rules is, it speaks to the intent of the parties and is entirely different issue. The scope of this was intended to apply to employees within the employment context and argued it is clear because they chose rules that cannot apply to this case. Additional arguments by counsel. **COURT ORDERED**, matter **CONTINUED** to this Court's chamber calendar for decision. Mr. Sterling advised two of the Pltfs' don't want to be named, want to be class members but do not want to be class reps. Colloquy regarding pending motion to dismiss. Mr. Sterling advised he will stipulate to dismiss two Jane Doe's and request to withdraw motion set for October 5, 2016, at this time. **COURT SO ORDERED. 9/12/16 DEFTS' LA FUENTE INC AND WESTERN PROPERTY HOLDINGS LLC'S MOTION TO COMPEL ARBITRATION AND FOR OTHER MISCELLANEOUS RELIEF...DECISION;**

09/12/2016

**Status Check (3:00 AM)** (Judicial Officer: Earley, Kerry)

Status Check: Decision

Decision Made;

09/12/2016

**All Pending Motions (3:00 AM)** (Judicial Officer: Earley, Kerry)

Minute Order - No Hearing Held;

Journal Entry Details:

**DEFTS' LA FUENTE INC AND WESTERN PROPERTY HOLDINGS LLC'S MOTION TO COMPEL ARBITRATION AND FOR OTHER MISCELLANEOUS RELIEF...STATUS CHECK:** **DECISION** Having reviewed the matter, along with all points and authorities submitted by counsel, as well as oral argument presented August 17, 2016, the court hereby issues its decision on Defendants La Fuente Inc. and Western Property Holdings LLC s Motion to Compel Arbitration and for Other Miscellaneous Relief. First, the court **FINDS** that the Arbitration Policy (hereinafter *The Policy* ) implemented by La Fuente, Inc., doing business as Cheetahs Las Vegas, and signed by its dancers applies to the dancers, and that their claims in the instant case are covered under *The Policy*. The plain language contained in Section 2 of *The Policy* indicates the broad scope of the potential claims governed by *The Policy*, as follows: 2. Covered claims include, but are not limited to, claims that arose before and/or after this policy went into effect, arising under the Age Discrimination in Employment Act (ADEA), Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA)[,] the Fair Labor Standards Act (FLSA), 42 U.S.C. 1981, including amendments to all the foregoing statutes, the Employee Polygraph Protection Acts, Employment Retirement Income Security Act (ERISA), Occupational Health and Safety Act (OSHA), and/or common law regulating employment termination, misappropriation, breach of the duty of loyalty, the law of contract or the law of tort, including, but not limited to, claims for malicious prosecution, intentional/negligent infliction of emotional distress or defamation. The covered claims thus consist not only of several specific employment-related claims, but also the catchall provision of claims arising under the law of contract or the law of tort. As the Plaintiffs claims arise from a dispute regarding whether their contractual relationship with Cheetahs constitutes that of an employee-employer relationship as opposed to an independent contractor relationship, these claims fall squarely under Section 2 s catchall provision. A reading of Section 2 that would exclude the instant claims from arbitration is too narrow a reading and is inconsistent with Nevada s policy of construing arbitration clauses in favor of granting arbitration. Nevada courts encourage arbitration and [will] liberally construe arbitration clauses in favor of granting arbitration. *Tallman v. Eighth Judicial Dist. Ct.*, 131 Nev. Adv. Op. 71, 359 P.3d 113, 119 (2015), citing *State ex rel. Masto*, 125 Nev. at 44, 199 P.3d at 832. Plaintiffs argument that *The Policy* was ambiguous or unclear is unpersuasive. Section 16 of the policy specifically refers to dancers and entertainers, so there can be no credible confusion on the part of any dancer that the Policy applied to her. Second, the court **FINDS** *The Policy* is not unconscionable and is enforceable. Plaintiffs arguments that *The Policy* is an adhesion contract and thus unconscionable and unenforceable is contrary to Nevada law regarding adhesion contracts in employment cases. See *Kindred v. Second Judicial Dist. Ct.*, 116 Nev. 405, 411, 996 P.2d 903, 907 (2000) (stating We have never applied the adhesion contract doctrine to employment cases. ) However, contracts can be found unconscionable and thus unenforceable. Nevada law requires a showing of both procedural and substantive unconscionability. *D.R. Horton, Inc. v. Green*, 120 Nev. 549, 553-54, 96 P.3d 1159, 1162 (2004). Procedural unconscionability focuses on such inequalities between the parties as to age, intelligence, and relative bargaining power. Plaintiffs argue *The Policy* was unilaterally drafted by the Defendants, gave no meaningful opportunity to negotiate, and that Defendants chose the terms of the contract, which gave rise to unequal bargaining power between the parties. These factors however merely describe the nature of an adhesion contract and do not by themselves establish procedural unconscionability. Further, *The Policy* was a stand-alone document, as opposed to an arbitration clause buried within some larger


# CASE SUMMARY


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document. Its heading, *ARBITRATION POLICY*, *CHEETAHS* was prominently displayed in capitalized, bold print, and unlikely to be overlooked. The Plaintiffs arguments that they did not or could not understand that they were signing an agreement to arbitrate potential claims against the Defendants is unpersuasive. As to substantive unconscionability, which focuses on the one-sidedness of contract terms, Plaintiffs argue that they were not given adequate time to review The Policy, that Defendants did not set aside time to answer questions about The Policy, that the Defendants reserved the sole right to terminate or modify the arbitration policy, and that the Plaintiffs felt threatened due to the implication that the dancers must pay their own fees and costs at arbitration. However, Plaintiffs were free to find other employment rather than agree to be bound by the terms of The Policy. While Plaintiffs may have possessed less bargaining power than Defendants, Plaintiffs have failed to assert facts demonstrating that they were at such a disadvantage that they were essentially forced to accept initial or continued employment with Defendants, subject to The Policy. There is also no evidence presented to indicate that Plaintiffs attempted take the time to thoroughly discuss The Policy with Defendants. Rather, Plaintiffs signed the agreement and posed no relevant questions about The Policy's scope or intent. While the Defendants did reserve the right to terminate or modify The Policy, such action could occur only after providing thirty (30) days notice to the Plaintiffs, wherein Plaintiffs could choose to accept the modifications, leave the employment of the club, or challenge the pending changes. Finally, the implication that the dancers must pay their own fees and costs is belied by the plain language of Section 11: Each party shall bear their own attorney's fees, costs, and filings, except as may be ordered by the arbitrator pursuant the arbitration rules. Plaintiffs cite no authority for the proposition that all prevailing party fee-shifting scenarios must be articulated within an arbitration agreement, and this court does not find that provision so ambiguous as to be unenforceable. Thus, Defendant's Motion to Compel Arbitration is GRANTED in part and DENIED in part. Counsel for Defendants to prepare the Order, to be approved as to form and content by counsel for the Plaintiffs. While Defendant's Motion to Compel Arbitration requested disclosure of the names of Plaintiffs identified as Jane Doe Dancers II and IV along with sanctions for the Plaintiff's failure to do so, the court finds this request is MOOT due pursuant to stipulation on this issue by counsel during oral argument. CLERK'S NOTE: The above minute order has been distributed to: P. Andrew Sterling, Esq., (msterling@rllaz.com), Michael H. Rusing, Esq., (mrusing@rllaz.com) and Doreen Spears Hartwell, Esq., (Doreen@HartwellThalacker.com). aw;

10/05/2016 **CANCELED Motion to Dismiss** (9:00 AM) (Judicial Officer: Earley, Kerry)  
*Vacated - per Judge*  
*Plaintiffs' Motion For Voluntary Dismissal Without Prejudice Of Jane Doe Dancer IV Pursuant To N.R.C.P 41(A)(2)*

10/25/2016 **CANCELED Discovery Conference** (9:30 AM) (Judicial Officer: Bulla, Bonnie)  
*Vacated - per Commissioner*

07/05/2017  **Motion for Class Certification** (9:00 AM) (Judicial Officer: Becker, Nancy)  
*Plaintiff Jane Doe Dancer III's Motion for Class Certification*  
 Granted;  
 Journal Entry Details:  
*Ms. Calvert argued regarding dancers who had worked after 2012 who did not sign the agreement with the arbitration clause and whether or not it applied retroactively. Ms. Calvert argued regarding attorney fees stated those fees will be mandated if plaintiff is successful and plaintiff assumes success in all the claims as pled. Further arguments in support of class action certification. Colloquy regarding what evidence plaintiff has that indicates this would come close to the \$10,000.00 amount for district court action. Ms. Hartwell referenced this Court's prior ruling regarding arbitration regarding plaintiff. Ms. Hartwell referenced the performers who didn't sign the agreement. Ms. Hartwell further argued plaintiff is time-barred and argued plaintiff does not meet the numerosity requirement. Court stated defendant is in control of that information regarding the number of performers. Further arguments. Additionally, Ms. Hartwell argued that whatever plaintiff saw in 2014 cannot be used as evidence. Lastly, Ms. Hartwell argued whether this Court has subject matter jurisdiction. Following further arguments by Ms. Calvert, COURT stated its findings and ORDERED, motion GRANTED. Counsel to prepare findings of fact.;*

08/14/2017  **Motion to Withdraw as Counsel** (3:00 AM) (Judicial Officer: Earley, Kerry)  
*Stephen W. Brown's Motion to Withdraw as Counsel of Record for Defendants La Fuente Inc and Western Property Holdings LLC*

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Motion Granted;

Journal Entry Details:

*This matter came before the court for Defendants La Fuente and Western Property Holdings s Motion to Withdraw as Counsel of Record, filed by counsel Stephen W. Brown, Esq. on July 13, 2017. Having received no Opposition to the matter and pursuant to EDCR 2.20 and for good cause showing, the Court hereby GRANTS Defendants Motion. Defendants counsel shall prepare the Order in accordance with EDCR 7.21 and EDCR 7.40, notifying the former client of all pending dates and providing the last known address and telephone number of Defendant within the proposed Order. A Status Check is hereby set for September 6, 2017 at 9:00 a.m. for Defendant to obtain new counsel. CLERK'S NOTE: A copy of the foregoing minute order has been electronically distributed to: Stephen W. Brown, Esq. (swbrown@littler.com); Ryan Anderson, Esq. (ryan@morrisandersonlaw.com); Michael J. Rusing, Esq. (mrusing@rllaz.com); Laura J. Thalacker, Esq. (Laura@hartwellthalacker.com). (8-14-17 ks) ;*


08/23/2017

**CANCELED Motion to Compel** (9:30 AM) (Judicial Officer: Bulla, Bonnie)

*Vacated - per Commissioner*

*Plaintiff Jane Doe Dancer III s Motion to Compel Defendant s Responses to Discovery on Order Shortening Time*

09/06/2017

 **Status Check: Confirmation of Counsel** (9:00 AM) (Judicial Officer: Herndon, Douglas W.)

**09/06/2017, 10/04/2017**

*Status Check: Confirmation of Counsel*

Matter Continued;

Matter Heard;

Journal Entry Details:

*Court stated an order was signed indicating that Stephen Brown, Esq. has been withdraw, however, other defense counsel is still in place. COURT ORDERED, matter OFF CALENDAR. ;*


Matter Continued;

Matter Heard;

Journal Entry Details:

*No parties present. COURT ORDERED, matter CONTINUED. CONTINUED TO: 10/4/17 9:00 AM;*

09/27/2017

 **Motion to Compel** (9:00 AM) (Judicial Officer: Bulla, Bonnie)

*Plaintiff Jane Doe Dancer III's Motion to Compel Defendant's Response to Discovery Granted;*

Journal Entry Details:


*No Opposition to Motion; it was served, and Deft filed a Motion to Extend Discovery. Pltf filed a limited Opposition to that Motion. COMMISSIONER RECOMMENDED, motion is GRANTED; supplemental answers to outstanding written discovery due by 10-26-17.*

*Commissioner will consider attorney fees and costs based on compliance for having to bring the Motion; Ms. Calvert to prepare a Memorandum of fees and apply the Brunzell factors.*

*Status Check SET. Commissioner advised Ms. Calvert to let counsel know. Ms. Calvert to prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. 11-7-17 10:00 a.m. Status Check: Compliance / Attorney fees CLERK'S NOTE: On 10-13-17, a copy of this minute order was placed in the attorney folder(s) of:*

*Doreen Hartwell - Hartwell Thalacker;*

09/29/2017

 **Motion to Extend Discovery** (9:00 AM) (Judicial Officer: Bulla, Bonnie)

*Defendants Motion to Extend Discovery Deadline (First Request)*

Granted; Defendants Motion to Extend Discovery Deadline (First Request)

Journal Entry Details:

*1-2-18 Trial date; dates in Motion don't work, and dispositive motions must be heard by 11-22-17. Ms. Calvert stated counsel discussed compelling information, but it is not in electronic format. Ms. Hartwell stated documents go back ten years, Defense counsel is working with the client on discovery, but it will take awhile based on document format. No Order for class certification yet per Ms. Hartwell. COMMISSIONER RECOMMENDED, motion is GRANTED; discovery cutoff EXTENDED to 11-27-17; file dispositive motions no later than 11-22-17. If counsel make a Motion properly before the District Court Judge and the Trial*

# CASE SUMMARY

CASE NO. A-14-709851-C

date is continued, counsel can ask the Court for discovery deadlines, and Commissioner's Recommendation will be vacated. Commissioner will try to let the Court know a Stipulation or Motion may be filed. If Commissioner's deadlines are vacated, counsel must send a letter to Commissioner Bulla. Ms. Hartwell to prepare the Report and Recommendations, and Ms. Calvert to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.;

11/07/2017



**Status Check: Compliance** (10:00 AM) (Judicial Officer: Bulla, Bonnie)

Matter Heard;

Journal Entry Details:

Ms. Calvert revised the 9-27-17 Report and Recommendation, and it should be in transit. Memorandum of Fees was to be submitted. As a gesture of good will Ms. Calvert did not seek fees. Colloquy re: production of documents; 16,000 documents are being reviewed in Atlanta, scanned, and uploaded to a secure website. Ms. Calvert communicated with out of state counsel several times, but Ms. Calvert hasn't received anything. Counsel submitted a Stipulation to push out the Trial date, and counsel agreed to a Settlement Conference with a Judge. Ms. Spears Hartwell stated there was a death in the office, and another employee was involved in the shooting so production has been slow. Ms. Calvert requested Interrogatories supplemented; depositions are done. If counsel cannot agree on deadlines, have a 2,34 conference and contact Commissioner by conference call, submit a 2.35 Stipulation, or bring a Motion to Extend Discovery. No further action today.;

11/30/2017

**CANCELED Status Check: Compliance** (3:00 AM) (Judicial Officer: Bulla, Bonnie)

Vacated - per Commissioner

DCRR 9-27-17

11/30/2017

**Status Check: Compliance** (3:00 AM) (Judicial Officer: Bulla, Bonnie)

DCRR 9-29-17

Matter Continued;

complied

12/13/2017



**Pretrial/Calendar Call** (11:00 AM) (Judicial Officer: Earley, Kerry)

Matter Heard;

Journal Entry Details:

Kimball Jones, Esq., present on behalf of Plaintiff. Ms. Calvert noted a stipulation was submitted and they were told they need firm date put in the stipulation in order to do a settlement conference. Upon Court's inquiry, Mr. Jones requested a Senior Judge and stated Judge Barker previously ruled on a decision in this case. Court noted that shouldn't be a problem; however, if they are assigned to Judge Barker, then they can mention the history. COURT ORDERED, trial dates VACATED and RESET; Status Check regarding Settlement Conference SET. Counsel stated they will let opposing counsel know of new dates set. 03/28/18 9:00 AM STATUS CHECK: SETTLEMENT CONFERENCE 05/09/18 11:00 AM PRETRIAL/CALENDAR CALL 05/21/18 9:00 AM JURY TRIAL;

01/02/2018

**CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Earley, Kerry)

Vacated - per Judge

01/10/2018



**Motion for Sanctions** (9:00 AM) (Judicial Officer: Bulla, Bonnie)

Plaintiff Jane Doe Dancer III's Motion for Sanctions Against Deft in Accordance with NRCP 37(C), for Spoliations Sanctions and for Attorney's Fees and Costs

Granted in Part; Plaintiff Jane Doe Dancer III's Motion for Sanctions Against Deft in Accordance with NRCP 37(C), for Spoliations Sanctions and for Attorney's Fees and Costs

Journal Entry Details:

Commissioner addressed the lack of communication between counsel. Argument by Mr. Jones; discussion re: Exhibit 17 in the initial Motion. Mr. Jones stated one group is in Arbitration, and one group did not sign Arbitration Agreement. Colloquy. Ms. Hartwell indicated the records produced to Pltf's counsel were the state of the records. Commissioner REQUIRED everyone be e-served including out of state counsel. Commissioner encouraged everyone to use the Court e-service system. COMMISSIONER RECOMMENDED, by 1-31-18 all Contracts that out of state counsel has in his possession must be sent to in state counsel and lead counsel. Mr. Jones requested documents on a flash drive. COMMISSIONER SO RECOMMENDED. Mr. Jones will pay for a flash drive. Colloquy re: Interrogatories 10, 11, and 15, but

# CASE SUMMARY

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corresponding Requests to Produce are unknown. COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; alternative relief is provided, and Motion to Compel is GRANTED; 1) no later than 1-31-18, produce Arbitration Agreements currently in Deft's possession, and Deft can charge Pltf with reasonable copy costs under Rule 34(d); 2) full and complete names and last known addresses, hours that Dancers worked, and whatever information shows payment of Dancers from 2010 through 2014. Mr. Jones stated Dancers paid the club. COMMISSIONER RECOMMENDED, by 1-31-18, provide accounting paid / received for each Dancer; 3) for Dancers 2014 to present, Deft must go through and check receipts and check if Dancers had an Arbitration Agreement or not; Deft is REQUIRED to organize it in a legible fashion, and information is due 1-31-18; supplemental signed and verified Interrogatories and Request to Produce implicated are due by 2-16-18. Commissioner Will Not move the Trial date. COMMISSIONER RECOMMENDED, Motion for Spoliation is DENIED WITHOUT PREJUDICE; Attorney fees and costs for having to bring the Motion for Sanctions are GRANTED (treated as a Motion to Compel), and include Reply, and today's argument. Mr. Jones will prepare a Memorandum of Fees and Costs and apply the Brunzell factors. COMMISSIONER RECOMMENDED, logbook and Arbitration Agreements due by 1-31-18, but everything else due 2-16-18; Status Check SET, and out of state counsel for Both Sides must participate by Court Call. Mr. Jones / Ms. Calvert to prepare the Report and Recommendations, and Ms. Hartwell to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. 2-21-18 10:00 a.m. Status Check ;

02/21/2018



**Status Check** (10:00 AM) (Judicial Officer: Bulla, Bonnie)

**02/21/2018, 03/02/2018**

COURT CALL - Status Check

Matter Continued;

Matter Heard; COURT CALL - Status Check

Journal Entry Details:

Dean Fuchs, Esquire, for Western Property Holdings LLC. Commissioner looked at all the facts and circumstances, however, Commissioner is not inclined to award fees as a substantial amount of documents were produced. Argument by Mr. Jones re: no meaningful supplementation for one Class; argument re: no identification of who did not have an Arbitration agreement. Upon Commissioner's inquiry, Class 1 - November 14, 2010 to the present (unjust enrichment claims - Dancers did not sign Arbitration agreements) and Class 2 - November 2012 to the present (minimum wage/compensation claim - Dancers did not sign Arbitration agreements). Mr. Fuchs produced everything that Commissioner directed Deft to produce. Argument by Mr. Fuchs. Colloquy re: Commissioner's rulings from 1-10-18. Mr. Fuchs stated Deft produced what they have. If Deft does not have documents, Commissioner needs a sworn statement from someone in the Company, and provide a sworn statement to Plaintiff. If Plaintiff's counsel finds out otherwise, Commissioner advised Plaintiff's counsel to bring a Motion, and there will be consequences. Mr. Fuchs stated documents that existed at one point were destroyed in flood damage. Commissioner Directed Mr. Fuchs to put information in a sworn statement with a contemporaneous receipt or confirmation, and find out what Deft has. Colloquy. Mr. Jones discussed stage fees, log book with stage names, and comparing information with Sheriff's cards. Commissioner gave Mr. Fuchs time to find out what Deft has or doesn't have, and supplement by separate Affidavit and explain documents, and explain the flood. Commissioner advised counsel to work out a date for a Rule 34 inspection which can be set with less than 30 days notice on agreement by counsel. Colloquy re: Interrogatories 10, 11, 15 were discussed 1-10-18 (Interrogatory 22 was not in the previous Minute Order). COMMISSIONER RECOMMENDED, supplement Interrogatory 11 for Dancers at the Club and include names and addresses of Dancers. Commissioner will revisit and take a more critical look at the Memorandum of Fees and Costs. COMMISSIONER RECOMMENDED, Status Check SET. 3-30-18 9:00 a.m. Status Check;

Matter Continued;

Matter Heard; COURT CALL - Status Check

Journal Entry Details:

No Court Call. Ms. Calvert stated a continuance was requested as Ms. Spears Hartwell is in Trial. Counsel agreed to 3-2-18. COMMISSIONER RECOMMENDED, matter CONTINUED. Ms. Calvert will advise opposing counsel of the continuance date. Discovery staff contacted Court Call. 3-2-18 9:00 a.m. Status Check;

02/28/2018



**Settlement Conference** (9:00 AM) (Judicial Officer: Saitta, Nancy)

Not Settled;

Journal Entry Details:

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-14-709851-C**

	<i>Matter not settled.;</i>
03/08/2018	<b>CANCELED Status Check: Compliance</b> (3:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i>
03/28/2018	 <b>Status Check</b> (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Status Check: Settlement Conference</i> <i>Matter Heard;</i> <i>Journal Entry Details:</i> <i>Courts stated it was its understanding there was no settlement. Ms. Hartwell stated they were just hoping to get a deadline on the Motion for Summary Judgment. Court noted there was an issue with the Stipulation and Order; it was vague and it needed specific dates. Counsel advised they do not want to extend discovery; it was closed November 27, 2017 and the only dates they need is for the dispositive motions and trial date. COURT ORDERED, trial date SET; Deft's Motion for Summary Judgment RESET to June 13, 2018 and dispositive motion deadline is May 15, 2018. Counsel anticipate one week for trial based on the Court's calendar. 7/18/18 11:00 AM CALENDAR CALL 7/30/18 9:00 AM JURY TRIAL ;</i>
03/30/2018	 <b>Status Check</b> (9:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Matter Heard;</i> <i>Journal Entry Details:</i> <i>Dean Fuchs, Esquire, for Defts. The case did not resolve, and counsel will move forward to Trial. Ms. Calvert confirmed a site inspection was held, but counsel hasn't received any explanations or responses, or a response to Interrogatory #11. All documents were produced in Deft's possession, and Ms. Hartwell Spears was present at the site inspection; argument by counsel. Mr. Fuchs prepared a Declaration for the client to sign, revisions were made, and Mr. Fuchs expects to file it shortly. Mr. Fuchs is in Florida due to his Mother's health condition, and Mr. Fuchs will take care of Interrogatory #11 when he is back in town. Commissioner advised Plaintiffs' counsel any Motion for Rule 37 sanctions including terminating sanctions would be filed before the Judge. Commissioner will not take further action. COMMISSIONER RECOMMENDED, supplement Interrogatory 11 and provide a Declaration as soon as possible, and provide any other outstanding discovery discussed in a proper 2.34 conference by 4-18-18 (Rescind 4-13-18). Mr. Jones to prepare the Report and Recommendations, and Ms. Hartwell Spears to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Submit a cover letter if Mr. Jones cannot obtain a signature.;</i>
05/09/2018	<b>CANCELED Pretrial/Calendar Call</b> (11:00 AM) (Judicial Officer: Hardcastle, Kathy) <i>Vacated</i>
05/21/2018	<b>CANCELED Jury Trial</b> (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Vacated</i>
05/24/2018	 <b>Status Check: Compliance</b> (3:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Matter Continued;</i> <i>Complied</i> <i>Journal Entry Details:</i> <i>The 3-30-18 Report and Recommendation remains outstanding. Mr. Jones was given the responsibility to submit the Report and Recommendation from the 3-30-18 hearing. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a sanction. COMMISSIONER RECOMMENDED, matter CONTINUED to an in chambers status check. CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Kimball Jones, Esq. (Morris Anderson); Lauren Calvert, Esq. (Morris Anderson); Doreen M. Spears Hartwell, Esq. (Hartwell Thalacker, Ltd.).;</i>
08/08/2018	<b>CANCELED Motion for Summary Judgment</b> (9:00 AM) (Judicial Officer: Bonaventure, Joseph T.) <i>Vacated - per Law Clerk</i> <i>Defendants' Motion for Summary Judgment</i>
08/08/2018	 <b>Motion</b> (9:00 AM) (Judicial Officer: Earley, Kerry)

# CASE SUMMARY

CASE NO. A-14-709851-C

08/08/2018, 08/23/2018

*Plaintiff's Motion for Discovery Sanctions and Adverse Presumption*

Continued;

Granted;

Journal Entry Details:

*Colloquy regarding attorney fees and costs that Commissioner Bulla previously ordered. Court noted there were two reasons the hearing was continued, one of which was to get clarification on the sanctions ordered by Commissioner Bulla. Court advised the second reason the hearing was continued, was to obtain the supplemental affidavit from Diana Pontrelli. Court noted that there was no supplemental affidavit received. Arguments by counsel. COURT ORDERED, motion GRANTED. Court further set the following briefing schedule: Plaintiff's order for attorney fees and costs DUE 09/13/18, Defendant's opposition DUE 09/27/18, Plaintiff's reply DUE 10/02/18. COURT FURTHER ORDERED, matter SET. ADDITIONALLY, COURT ORDERED, calendar call and jury trial VACATED. 10/04/18 9:00 AM HEARING: ORDER FOR DISCOVERY SANCTIONS;*

Continued;

Granted;

Journal Entry Details:

*Dean Fuchs, Pro Hac, also present. Colloquy regarding Terry v Sapphire case. Argument by Mr. Sterling regarding the difference between the statutory wage claim and constitutional wage claim. Argument by Mr. Fuchs. Colloquy regarding Neville vs. Eighth Judicial District Court case. Further arguments by counsel. COURT ORDERED, a briefing schedule as follows: Defendant's Opposition DUE 08/17/18, Opening Brief DUE 09/05/18, Opposition DUE 09/20/18. Colloquy regarding Defense counsel producing legible documents in a timely manner. COURT FURTHER ORDERED, an affidavit by Diana Potrelli be done regarding the number of documents and what was destroyed. COURT ORDERED matters SET. CONTINUED TO: 08/23/18 9:00 AM 10/04/18 9:00 AM DEFENDANT'S MOTION FOR SUMMARY JUDGMENT 10/04/18 9:00 AM PLAINTIFF'S COUNTERMOTION FOR SUMMARY JUDGMENT;*

08/08/2018

**CANCELED Motion for Summary Judgment (9:00 AM)** (Judicial Officer: Earley, Kerry)

*Vacated - per Law Clerk*

*Defendants La Fuente, Inc. and Western Properties Holdings, LLC's Motion for Summary Judgment*

09/26/2018

**CANCELED Pretrial/Calendar Call (11:00 AM)** (Judicial Officer: Earley, Kerry)

*Vacated - Superseding Order*

09/27/2018

**CANCELED Calendar Call (9:00 AM)** (Judicial Officer: Earley, Kerry)

*Vacated - per Judge*

10/04/2018

**Motion for Summary Judgment (9:00 AM)** (Judicial Officer: Earley, Kerry)

*Defendant's Motion for Summary Judgment*

Granted;

10/04/2018

**Counter-motion (9:00 AM)** (Judicial Officer: Earley, Kerry)

*Plaintiff's Counter-motion for Summary Judgment*

Denied;

10/04/2018

**Hearing (9:00 AM)** (Judicial Officer: Earley, Kerry)

*Hearing: Order for Discovery Sanctions*

Matter Heard;

10/04/2018



**All Pending Motions (9:00 AM)** (Judicial Officer: Earley, Kerry)

Matter Heard;

Journal Entry Details:

*HEARING: ORDER FOR DISCOVERY SANCTIONS...PLAINTIFF'S COUNTERMOTION FOR SUMMARY JUDGMENT... DEFENDANT'S MOTION FOR SUMMARY JUDGMENT Court noted there were new arguments regarding case law and whether statute would apply to the amendment claim. Court noted it reviewed the supplemental briefs, case law, and read the transcript. Court determined the Thomas case was not applicable for determining whether a person is or is not an employee or independent contractor. Ms. Hartwell argued the dancers were independent contractors pursuant to statute. Court noted argument was limited to*

**CASE SUMMARY****CASE NO. A-14-709851-C**

determining under the statute whether the dancers are presumed to be an independent contractors, and certain criteria must be met. Ms. Hartwell stated reasons why the dancers would be considered independent contractors. Mr. Sterling and Mr. Jones argued regarding house rules; stated the house rules have changed over time. Mr. Jones stated there is unfairness in that all the names of Plaintiffs are not known at this time. Argument by counsel regarding Defendants' Motion for Summary Judgment. Court stated a decision will be issued in a minute order today. ;

10/04/2018

**Minute Order** (2:00 PM) (Judicial Officer: Earley, Kerry)

Minute Order - No Hearing Held;

Journal Entry Details:

*This matter came before the Court on both Plaintiff Jane Doe and Defendant La Fuenta, Inc. s competing Motions for Summary Judgment on Employee/Independent Contractor Status. Having reviewed the matter, including all points, authorities, exhibits, and supplemental briefing, as well as oral argument from counsel, the Court hereby GRANTS Defendant s Motion for Summary Judgment. The Court uses the test set forth within NRS 608.0155 to determine whether the Plaintiff is an independent contractor and finds that NRS 608.0155(a), 608.0155(b), and 608.0155(c)(1) through (3) apply to the Plaintiff. Thus, Defendant is entitled to a judgment as a matter of law, since no genuine issue of material fact remains regarding the issue that Plaintiff is an independent contractor pursuant to NRS 608.0155. Plaintiff s Counter Motion is hereby DENIED. Counsel for Defendant to prepare and submit the order, to be approved as to form and content by Plaintiff s counsel. CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Kimball Jones, Esq. (Bighorn Law), Andrew Sterling, Esq. (rusinglopez@rllaz.com) and Doreen Hartwell, Esq. (dhartwell@lionelsawyer.com) //ev 10/4/18;*

10/08/2018

**CANCELED Jury Trial** (9:00 AM) (Judicial Officer: Earley, Kerry)*Vacated - Superseding Order*

10/15/2018

**CANCELED Jury Trial** (10:00 AM) (Judicial Officer: Earley, Kerry)*Vacated - per Judge*

10/24/2018

**Motion for Fees** (9:00 AM) (Judicial Officer: Bulla, Bonnie)*Plaintiffs Motion for Fees and Costs in Pursuing Spoliated Materials*

Granted; COURT CALL - Plaintiffs' Motion for Fees and Costs in Pursuing Spoliated Materials

Journal Entry Details:

*Commissioner stated the Court Granted Summary Judgment. Mr. Jones stated the case will be on Appeal with other similar cases, but the fees and costs are still to be paid, and there is a Hearing before the Judge. Mr. Jones stated fees and costs were Granted as well as a rebuttable presumption. Arguments by counsel. Commissioner DEFERRED the Motion to the District Court Judge, and the Judge will consider it when the Judge decides fees and costs. Mr. Jones stated the District Court Judge told counsel to split fees and costs, and bring fees and costs up until April, already Recommended by Commissioner. Counsel were ordered by the Court to bring it back to the Discovery Commissioner. Arguments by counsel. COMMISSIONER RECOMMENDED, motion is UNDER ADVISEMENT, and Commissioner will issue a Decision. CLERK'S NOTE: See Minute Order on 11-13-18. jl;*

11/01/2018

**Motion** (9:00 AM) (Judicial Officer: Earley, Kerry)*Plaintiff's Motion for Order on Proposed Jury Instructions and Fees and Costs*

Granted in Part;

Journal Entry Details:

*Mr. Fuchs and Mr. Sterling present via Court Call. Court noted the summary judgment was granted, and trial date was vacated, however these motions were filed after the summary judgment. Mr. Sterling stated the jury instructions were moot, and the remaining issue were fees and costs; argued there were no specific allegation that time entries were duplicative or improper in the opposition. Ms. Hartwell argued there was no way opposing counsel incurred over \$30,000 in attorney's fees for the Motion. Court noted it was aware of the arguments and positions of both counsel. Court determined it would wait to review Commissioner Bulla's ruling prior to making a ruling on the Motion. COURT ORDERED, matter TAKEN UNDER ADVISEMENT.;*

## CASE SUMMARY

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11/13/2018

**Minute Order** (11:55 AM) (Judicial Officer: Bulla, Bonnie)*Minute Order regarding the 10-24-18 Hearing*

Minute Order - No Hearing Held; Regarding the 10-24-18 Hearing

Journal Entry Details:

*The Discovery Commissioner having taken the above matter under advisement and having reviewed the prior hearing minutes, Report and Recommendations and applicable pleadings, as well as argument of counsel, recommends that the Plaintiffs' Motion for Fees and Costs in Pursuing Spoliated Materials be granted. As a preliminary matter, the Commissioner takes the opportunity to set out the relevant procedural history. The Plaintiffs filed an initial motion to compel which was heard by the Commissioner on 9/27/17. At this hearing, the Commissioner stated her intention to award attorney fees and costs and Plaintiffs' counsel was instructed to prepare a Memorandum of Fees and Costs, applying the Brunzell factors. At the follow up hearing, Plaintiffs' counsel withdrew her request for fees and costs as a "gesture of good will" and none were awarded. Subsequently, on 12/7/17, the Plaintiffs filed a Motion for Sanctions against Defendants in accordance with NRCP 37[c] for Spoliation Sanctions and Attorney Fees and Costs for the Defendants' failure to produce discovery as previously ordered. This motion was heard on 1/10/18. At the hearing, the Commissioner denied the Motion for Spoliation Sanctions without Prejudice and granted the Motion for Attorney Fees and Costs. Defendants were given additional time to comply with the Discovery Commissioner's recommendations regarding document production, and Plaintiffs were instructed to file a Memorandum of Fees and Costs for having to bring the Motion for Sanctions, which the Commissioner essentially treated as a Motion to Compel, and apply the Brunzell factors. Of note, the Report and Recommendations from this hearing was filed on 3/14/18 and then again on 4/5/18. On January 22, 2018, Plaintiffs filed their Memorandum of Fees and Costs, which included attorney fees in the amount of \$14,110.50 and costs in the amount of \$10.50 (filing fees). Defendants objected to the Plaintiffs' memorandum on 2/8/18. A follow up hearing to address the Plaintiffs' requested fees and costs was scheduled for 2/21/18, but had to be continued to 3/2/18 as Defendants' counsel failed to appear because she was in trial. In the interim, on 2/28/18, the parties engaged in a settlement conference. The case did not settle. At the 3/2/18 hearing to address the award of fees from the 1/10/18 hearing, the Commissioner declined to award the entire amount of fees requested by Plaintiffs in light of Defendants' compliance and the number of documents that in fact were produced. The Plaintiffs, however, remained concerned that additional documents responsive to their requests remained outstanding. A site inspection of the location of the documents was agreed to by the parties and scheduled. Therefore, the Commissioner continued the matter for further compliance, and agreed to re-review the Memorandum of Fees and Costs submitted by the Plaintiffs. When the parties returned for the follow up hearing on 3/30/18, it was apparent that there were potential issues involving spoliation. In light of the sanctions requested (case terminating sanctions), the Commissioner deferred any forthcoming Rule 37 sanctions to the District Court Judge, including any award of attorney fees and costs, and declined to take further action at that time. Subsequently, on or about 10/4/18, the District Court Judge granted Defendants' Motion for Summary Judgment. Following this, the Plaintiffs filed Motions for Fees and Costs related to their unsuccessful efforts to obtain discovery, which Plaintiffs claim based on the site inspection was spoliated. One motion was filed before the District Court Judge and the other before the Discovery Commissioner. It is the understanding of the Commissioner that she is to consider Plaintiff's request for attorney fees and costs up until April 2018 for their efforts to obtain evidence that ultimately did not exist, and the Judge will consider the attorney fees and costs requested after that date. See October 24, 2018 minutes. It should be noted that at this point only monetary sanctions are available as a sanction for Defendants' failure to produce evidence since summary judgment has been granted in favor of the Defendants, thereby precluding imposition of evidentiary-type sanctions. Based on the foregoing, the Discovery Commissioner reviewed Plaintiffs' Memorandums for Fees and Costs filed on 1/22/18 and 9/9/18. Preliminarily, the Commissioner accepts and adopts the Plaintiffs' analysis of the Brunzell factors and agrees to the Plaintiffs' hourly rates of \$400 an hour for Kimball Jones, \$375 and \$320 an hour for P. Andrew Sterling. With respect to the requested costs, the Commissioner also accepts Plaintiffs' costs contained within both memorandums with the exception of parking, which she routinely does not allow. Although the Plaintiffs could have ordered a more cost-effective disc of the hearing instead of a transcript, the Commissioner decided to permit the costs associated with the transcript of the 3/30/18 hearing, as this was the hearing that the sanction part of the motion was deferred to the Judge, and therefore relevant to the resolution of Plaintiffs' request for sanctions. Thus, the Commissioner recommends reimbursing Plaintiffs their costs in the amount of \$178.22. With respect to the attorney fees, the Commissioner did not include fees associated with preparing Reports and Recommendations (required), the memorandums of fees and costs (required), administrative-type tasks, or entries after 3/31/18, which would be outside of the time frame of Commissioner Bulla's focus. In summary, the Commissioner only allowed for the recovery of attorney fees*

**CASE SUMMARY****CASE NO. A-14-709851-C**

*related to the Motion for Sanctions filed in January 2018, and to the follow up hearings and activities related to the discovery of Defendants' documents. Based on the foregoing, the Commissioner recommends reimbursing Plaintiffs their attorney fees from the following entries set forth in the 1/22/18 memorandum: 12/9/17; 12/24/17; 1/1/18; 1/4/18; and, 1/10/18. The total of these attorney fees are in the amount of \$4312.50. Further, the Commissioner recommends reimbursing Plaintiffs their attorney fees from the following entries set forth in the 9/19/18 memorandum, which are not duplicative of those recommended above: 1/10/18 (KJ); 1/31/18; 2/19/18 (two entries); 2/20/18 (second entry); 2/21/18 (first entry); 3/2/18 (both entries); 3/6/18 (KJ); 3/6/18; 3/13/18; 3/14/18 (four entries); 3/15/18; and, 3/20/18 (two entries, one LC and one KJ). The total of these attorney fees are in amount of \$7565. Therefore, the Commissioner recommends that Plaintiffs be awarded costs in the amount of \$178.22, and attorney fees in the amount of \$11,877.50, for a total award of \$12,055.72. The total amount will be due and owing from the Defendants, not their attorneys, to the Plaintiff within thirty (30) days after the Report and Recommendations is signed by the District Court Judge. Mr. Jones is to prepare the Report and Recommendations, to include the analysis of the Brunzell factors set forth in both memorandums, and Defense counsel is to approve as to form and content. The Report is due within 10 days after being served with these minutes. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl;*

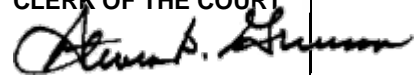
02/01/2019

**Minute Order (3:00 AM)** (Judicial Officer: Earley, Kerry)

Minute Order - No Hearing Held;

Journal Entry Details:

*The District Court, having taken the Plaintiff's Motion for Order on Proposed Jury Instructions and Fees and Costs under advisement until the Discovery Commissioner ruled on Plaintiff's Motion for Sanctions and Fees and Costs pertaining to the fees and costs prior to April 2018, renders its ruling pertaining to fees and costs after April 2018 on this matter. Having reviewed all points, authorities, and exhibits, as well as considering the oral arguments of counsel at the previous hearing and after an analysis of the Brunzell factors, The Court finds that Plaintiff is not entitled to costs incurred for an Airline Ticket for P. Andrew Sterling to attend the hearing totaling \$379.96, Parking totaling \$13.00, and a Taxi totaling \$56.55. The Court further finds, in relation to the attorney's fees requested by The Law Offices of Bighorn Law, that Plaintiff is not entitled to fee entry dated 05/04/2018 and titled "Reviewed and Finalized DCR&R from 03/30/2018" totaling \$160.00 and fee entry dated 06/11/2018 and titled "Prepared Memo of Fees and Costs" totaling \$320.00. The Court further finds, in relation to the attorney's fees requested by the Law Offices of Rusing, Lopez & Lizardi, PLLC, the Plaintiff is not entitled to the full fee entry dated 08/08/2018 totaling 11.8 hours titled "Prepare for and attend hearing;" the Court will allow 3.5 hours for this entry. Therefore, the Court finds that Plaintiff shall be awarded costs in the amount of \$6.00, and attorney fees in the amount of \$29,493.50, for a total award of \$29,499.50. The total amount will be due and owing from the Defendants, not their attorneys, to the Plaintiff within thirty (30) days after the Order is served on Defendants. Counsel for Plaintiff to prepare the Order, to include the analysis of the Brunzell factors as set forth in its Motion, to be approved as to form and content by counsel for Defendant. The Order is due within ten (10) days of this Minute Order. CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Ryan Andersen, Esq. (ryan@bighornlaw.com) and Doreen Hartwell, Esq. (doreen@hartwellthalacker.com). //ev 2/1/19;*



**DCRR**  
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*Attorneys for Plaintiffs*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JANE DOE DANCER, I through V, individually,  
and on behalf of Class of similarly situated  
individuals,

Plaintiffs,

vs.

LA FUENTE, INC., an active Nevada Corporation,  
WESTERN PROPERTY HOLDINGS, LLC, an  
active Nevada Limited Liability Company (all d/b/a  
CHEETAHS LAS VEGAS and/or THE NEW  
CHEETAHS GENTLEMAN'S CLUB), DOE  
CLUB OWNER, I-X, DOE EMPLOYER, I-X,  
ROE CLUB OWNER, I-X, and ROE EMPLOYER,  
I-X,

Defendants.

CASE NO: A-14-709851-C  
DEPT. NO: IV

**DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATIONS**

HEARING DATE: October 24, 2018

HEARING TIME: 9:00 a.m.

*and minute order  
dated 11-13-18*

1 ATTORNEY FOR PLAINTIFFS:

2 KIMBALL JONES, ESQ., with the Law Offices of **BIGHORN LAW** and P. ANDREW  
3 STERLING, ESQ., with **RUSING LOPEZ & LIZARDI, PLLC.**

4 ATTORNEYS FOR DEFENDANTS:

5 DOREEN M. SPEARS HARTWELL, ESQ., with **HARTWELL THALACKER, LTD.**, and  
6 DEAN R. FUCHS, ESQ., with **SCHULTEN WARD TURNER & WEISS, LLP.**

7  
8 I.

9 FINDINGS

10 The Discovery Commissioner having taken the above matter under advisement and having  
11 reviewed the prior hearing minutes, Report and Recommendations and applicable pleadings, as well as  
12 argument of counsel, recommends that the Plaintiffs' Motion for Fees and Costs in Pursuing Spoliated  
13 Materials be granted.

14 As a preliminary matter, the Commissioner takes the opportunity to set out the relevant procedural  
15 history. The Plaintiffs filed an initial motion to compel which was heard by the Commissioner on 9/27/17.  
16 At this hearing, the Commissioner stated her intention to award attorney fees and costs and Plaintiffs'  
17 counsel was instructed to prepare a Memorandum of Fees and Costs, applying the *Brunzell* factors. At  
18 the follow up hearing, Plaintiffs' counsel withdrew her request for fees and costs as a "gesture of good  
19 will" and none were awarded.

20  
21 Subsequently, on 12/7/17, the Plaintiffs filed a Motion for Sanctions against Defendants in  
22 accordance with NRCP 37[c] for Spoliation Sanctions and Attorney Fees and Costs for the Defendants'  
23 failure to produce discovery as previously ordered. This motion was heard on 1/10/18. At the hearing,  
24 the Commissioner denied the Motion for Spoliation Sanctions without Prejudice and granted the Motion  
25 for Attorney Fees and Costs. Defendants were given additional time to comply with the Discovery  
26 Commissioner's recommendations regarding document production, and Plaintiffs were instructed to file  
27 a Memorandum of Fees and Costs for having to bring the Motion for Sanctions, which the Commissioner  
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1 essentially treated as a Motion to Compel, and apply the *Brunzell* factors. Of note, the Report and  
2 Recommendations from this hearing was filed on 3/14/18 and then again on 4/5/18.

3 On January 22, 2018, Plaintiffs filed their Memorandum of Fees and Costs, which included  
4 attorney fees in the amount of \$14,110.50 and costs in the amount of \$10.50 (filing fees). Defendants  
5 objected to the Plaintiffs' memorandum on 2/8/18. A follow up hearing to address the Plaintiffs'  
6 requested fees and costs was scheduled for 2/21/18, but had to be continued to 3/2/18 as Defendants'  
7 counsel failed to appear because she was in trial. In the interim, on 2/28/18, the parties engaged in a  
8 settlement conference. The case did not settle.

10 At the 3/2/18 hearing to address the award of fees from the 1/10/18 hearing, the Commissioner  
11 declined to award the entire amount of fees requested by Plaintiffs in light of Defendants' compliance  
12 and the number of documents that in fact were produced. The Plaintiffs, however, remained concerned  
13 that additional documents responsive to their requests remained outstanding. A site inspection of the  
14 location of the documents was agreed to by the parties and scheduled. Therefore, the Commissioner  
15 continued the matter for further compliance, and agreed to re-review the Memorandum of Fees and Costs  
16 submitted by the Plaintiffs.

18 When the parties returned for the follow up hearing on 3/30/18, it was apparent that there were  
19 potential issues involving spoliation. In light of the sanctions requested (case terminating sanctions), the  
20 Commissioner deferred any forthcoming Rule 37 sanctions to the District Court Judge, including any  
21 award of attorney fees and costs, and declined to take further action at that time.

23 Subsequently, on or about 10/4/18, the District Court Judge granted Defendants' Motion for  
24 Summary Judgment. Following this, the Plaintiffs filed Motions for Fees and Costs related to their  
25 unsuccessful efforts to obtain discovery, which Plaintiffs claim based on the site inspection was spoliated.  
26 One motion was filed before the District Court Judge and the other before the Discovery Commissioner.  
27 It is the understanding of the Commissioner that she is to consider Plaintiff's request for attorney fees and  
28 costs up until April 2018 for their efforts to obtain evidence that ultimately did not exist, and the Judge

1 will consider the attorney fees and costs requested after that date. See October 24, 2018 minutes. It should  
2 be noted that at this point only monetary sanctions are available as a sanction for Defendants' failure to  
3 produce evidence since summary judgment has been granted in favor of the Defendants, thereby  
4 precluding imposition of evidentiary-type sanctions.

5  
6 Based on the foregoing, the Discovery Commissioner reviewed Plaintiffs' Memorandums for  
7 Fees and Costs filed on 1/22/18 and 9/19/18. Preliminarily, the Commissioner accepts and adopts the  
8 Plaintiffs' analysis of the *Brunzell* factors and agrees to the Plaintiffs' hourly rates of \$400.00 an hour for  
9 Kimball Jones, \$375.00 and \$320.00 an hour for P. Andrew Sterling.

10 *Brunzell* factors analysis for 1/22/18 Memorandum:

11 Plaintiffs incurred total costs and fees relating to this matter in the amount of  
12 \$14,110.50. Defendant's delays and refusal to participate in discovery this matter  
13 have done nothing more than hinder the progression and prosecution of Plaintiffs'  
14 meritorious claims, increased the costs associated with Plaintiffs' case, and  
15 prevented Plaintiffs' counsel from engaging in and pursuing its meritorious and  
16 worthwhile pursuits. It also has caused the Court system to waste its time and  
17 valuable resources rather than attending to necessary and worthwhile matters.

18 Looking to the *Brunzell* factors, counsel's ability, training, education, experience,  
19 professional standing and skill support the award of attorney's fees. Counsel has  
20 been practicing law in Nevada for 11 years, handles multiple class action and  
21 complex litigation lawsuits and sits on the executive boards of multiple legal and  
22 non-legal organizations. Counsel taught at the William S. Boyd School of Law as  
23 an adjunct professor for four years. In addition to working for Morris Anderson,  
24 counsel maintains a private practice in Boulder City, Nevada, which provides legal  
25 and consulting services at an hourly billable rate, and at which her hourly billable  
26 rate is higher than that stated for the matter herein of \$375.00.

27 The character of the work done in terms of its difficulty, its intricacy, its  
28 importance, time and skill required, the responsibility imposed and the prominence  
and character of the parties where they affect the importance of the litigation  
likewise favors the award of fees and costs. Plaintiffs have not received the  
documentation necessary to alert class members of this suit, compute damages or  
prove the elements of their causes of action and have not received the supplemental  
discovery responses as previously ordered by the Court. The importance of  
pursuing discovery is obvious, as has been the intricacy in complying with  
provisions of the NRCP and EDCR to ensure Plaintiffs met all obligations to  
continue seeking orders to compel and for sanctions. The difficulty in ascertaining  
what responsive information Defendant would have in its possession was  
considerable and involved looking through the discovery files of other gentlemen's  
clubs in different lawsuits, conducting online research in Defendant's social media

1 accounts and websites, interviewing dancers regarding what documents they  
2 recalled seeing, serving public records requests on government agencies, and  
3 reviewing Defendants' publicly available documents from other similar lawsuits.  
4 Plaintiffs' diligence far exceeded that of Defendant in looking into what documents  
would be responsive, which was immensely more difficult and time-consuming for  
Plaintiffs to do.

5 Plaintiffs' counsel was successful in their efforts in their first motion to compel  
6 discovery responses, to which Defendant did not file an opposition. However,  
7 Defendants did not comply with the order, and Plaintiffs brought the motion for  
8 Rule 37 sanctions for failure to participate in discovery and failure to comply with  
9 this Court's order, to which Defendant opposed but did not file the necessary  
10 amended or supplemental discovery responses. Although the Court has permitted  
11 Defendant another second chance to comply with discovery obligations, Plaintiffs  
12 will succeed in either obtaining the information they need or having Defendant  
13 appropriately sanctioned. There is immense benefit to Plaintiffs' successful efforts  
14 in pursuing discovery and appropriate evidentiary sanctions, including curbing the  
time, delay, expense and effort that has already ensued. Because of the advanced  
stage of litigation and the potential for Defendant to abdicate its responsibilities  
through non-responsiveness, it was of the utmost importance that Plaintiffs  
prevailed. This was done and for a reasonable amount of fees given the above  
realities, the multiple discovery dispute conferences and ensuing multiple motions  
to compel, the multiple second chances offered to Defendant and the numerous  
hearings that followed.

15 *Brunzell* factors analysis for 9/19/18 Memorandum:

16 Plaintiffs' attorneys, Ms. Calvert, Mr. Jones and Mr. Sterling, are qualified,  
17 educated attorneys with significant skill and experience. As the Discovery  
18 Commissioner is keenly aware, this work, involving numerous parties and  
19 involving pursuit of document for years, has required great technical skill and  
tenacity.

20 Each attorney, Ms. Calvert, Mr. Jones and Mr. Sterling, are qualified, educated  
21 attorneys with significant skill and experience. This work, involving numerous  
22 parties and involving pursuit of document for years, has required great technical  
skill and tenacity.

23 Mr. Jones is a managing partner with the Law Offices of BIGHORN LAW. He  
24 graduated Magna Cum Laude from Brigham Young University-Idaho in 2005 and  
25 graduated as the top student in economics that year. He graduated from Brigham  
26 Young University in 2008 and was awarded a Dean's Scholarship for academic  
27 merit all three (3) years of law school. Mr. Jones was first admitted to practice law  
28 in Nevada in 2013, scoring in the 98th percentile nationally on the MBE. He has  
also passed the Idaho Bar Exam. Mr. Jones has prevailed in more than 90 percent  
of the arbitrations and trials he has litigated. Further, as a partner in his firm, he has  
recovered more than \$20,000,000 for our clients through judgments and settlements  
in the last five (5) year. Mr. Jones' usual and customary fee on an hourly basis is

1 \$400.00 an hour, which is far below average for attorneys of my skill and  
2 experience who handle similar matters in Clark County, Nevada.

3 Ms. Lauren Calvert, Esq., is a duly licensed to practice law in the State of Nevada  
4 and is familiar with the facts and circumstances surrounding this matter. Ms.  
5 Calvert has been an attorney, admitted to practice in the State of Nevada for the  
6 past 11 years. Ms. Calvert's billing rate of \$375.00 per hour is at or below average  
for attorneys of her skill and experience who handle similar matters in Clark  
County, Nevada.

7 Likewise, Mr. Sterling is a 2002 graduate of the University of Texas Law School.  
8 He is currently admitted to practice law in the states of Arizona, Nevada, and  
9 Maryland and he is an adjunct professor at the University of Arizona James E.  
10 Rogers College of Law, where he teaches a seminar on civil pre-trial practice and  
procedure. He has extensive experience in handling class action lawsuits in multiple  
jurisdictions. Mr. Sterling's billing rate is \$320 an hour.

11 In order to litigate this matter, Plaintiffs were required to bring numerous motions  
12 to both the Discovery Commissioner and the District Court in order to receive  
sanctions in aid of their clients.

13 This work involved sifting through a 10,000 page data dump by Defendant that  
14 contained no useful material. It involved numerous hearings before the District  
15 Court and the Discovery Commissioner. A full recounting of the work performed  
16 by Plaintiffs' Counsel is attached hereto as "Exhibit 1." Finally, the successful  
result of Counsel's work is evident as the District Court has already ordered a  
rebuttable presumption in Plaintiffs' favor. As such, the Brunzell factors favor an  
award of attorneys' fees, as well as the attendant costs for bringing these Motions.

17 With respect to the requested costs, the Commissioner also accepts Plaintiffs' costs contained  
18 within both memorandums with the exception of parking, which she routinely does not allow. Although  
19 the Plaintiffs could have ordered a more cost-effective disc of the hearing instead of a transcript, the  
20 Commissioner decided to permit the costs associated with the transcript of the 3/30/18 hearing, as this  
21 was the hearing that the sanction part of the motion was deferred to the Judge, and therefore relevant to  
22 the resolution of Plaintiffs' request for sanctions. Thus, the Commissioner recommends reimbursing  
23 Plaintiffs their costs in the amount of \$178.22.

24 With respect to the attorney fees, the Commissioner did not include fees associated with preparing  
25 Reports and Recommendations (required), the memorandums of fees and costs (required),  
26 administrative-type tasks, or entries after 3/31/18, which would be outside of the time frame of  
27  
28

1 Commissioner Bulla's focus. In summary, the Commissioner only allowed for the recovery of attorney  
2 fees related to the Motion for Sanctions filed in January 2018, and to the follow up hearings and activities  
3 related to the discovery of Defendants' documents.

4 Based on the foregoing, the Commissioner recommends reimbursing Plaintiffs their attorney fees  
5 from the following entries set forth in the 1/22/18 memorandum: 12/9/17; 12/24/17; 1/1/18; 1/4/18; and,  
6 1/10/18. The total of these attorney fees are in the amount of \$4,312.50. Further, the Commissioner  
7 recommends reimbursing Plaintiffs their attorney fees from the following entries set forth in the 9/19/18  
8 memorandum, which are not duplicative of those recommended above: 1/10/18 (KJ); 1/31/18; 2/19/18  
9 (two entries); 2/20/18 (second entry); 2/21/18 (first entry); 3/2/18 (both entries); 3/6/18 (KJ); 3/6/18;  
10 3/13/18; 3/14/18 (four entries); 3/15/18; and, 3/20/18 (two entries, one LC and one KJ). The total of these  
11 attorney fees are in amount of \$7,565.00.  
12

## 13 II.

### 14 RECOMMENDATIONS

15  
16 THEREFORE, IT IS HEREBY RECOMMENDED that Plaintiffs be awarded costs in the amount  
17 of \$178.22, and attorney fees in the amount of \$11,877.50, for a total award of \$12,055.72.

18 IT IS FURTHER RECOMMENDED The total amount will be due and owing from the  
19 Defendants, not their attorneys, to the Plaintiff within thirty (30) days after the Report and  
20 Recommendations is signed by the District Court Judge.

21 IT IS FURTHER RECOMMENDED Mr. Jones is to prepare the Report and Recommendations,  
22 to include the analysis of the *Brunzell* factors set forth in both memorandums, and Defense counsel is to  
23 approve as to form and content.  
24

25 ///

26 ///

27 ///

28 ///

A-14-704851-C  
JANE DOE DANCER  
V.  
LA FUENTE

IT IS FURTHER RECOMMENDED The Report is due within 10 days after being served with these minutes.

DATED this 17 day of January, 2019 ~~December, 2018~~

  
DISCOVERY COMMISSIONER

Respectfully Submitted by:

**BIGHORN LAW**

 # 41289  
**KIMBALL JONES, ESQ.**

Nevada Bar No.: 12982  
716 S. Jones Blvd.  
Las Vegas, Nevada 89107

**MICHAEL J. RUSING, ESQ.**  
(Admitted Pro Hac Vice)

**P. ANDREW STERLING, ESQ.**  
Nevada Bar No.: 13769

**RUSING LOPEZ & LIZARDI, PLLC**  
6363 North Swan Road, Suite 151  
Tucson, Arizona 85718

*Attorneys for Plaintiffs*

Approved as to Form and Content by:

**HARTWELL THALACKER, LTD.**

  
**DOREEN SPEARS HARTWELL, ESQ.**

Nevada Bar No.: 7525  
11920 Southern Highlands Pkwy., Suite 201  
Las Vegas, Nevada 89141

**DEAN R. FUCHS, ESQ.**  
(Admitted Pro Hac Vice)

**SCHULTEN WARD**

**TURNER & WEISS, LLP**  
260 Peachtree Street NW, Suite 2700  
Atlanta, Georgia 30303

*Attorneys for Defendants*

Case Name: DANCERS v. LA FUENTE, INC.  
Case Number: A-14-709851-C  
Hearing Date: October 24, 2018 +

11-13-18 minute order

**NOTICE**

Pursuant to N.R.C.P. 16.1(d)(2), you are hereby notified you have five (5) days from the date you receive this document within which to file written objections.

**The Commissioner's Report is deemed received three (3) days after mailing to a party or the party's attorney, or three (3) days after the clerk of the court deposits a copy of the Report in the folder of a party's lawyer in the Clerk's office. E.D.C.R. 2.34(f).**

A copy of the foregoing Discovery Commissioner's Report was:

\_\_\_\_\_ Mailed to Plaintiff/Defendant at the following address on the \_\_\_ day of \_\_\_, 2018.

\_\_\_\_\_ Placed in the folder of Plaintiff's and Defendant's Counsel in the Clerk's office on the \_\_\_ day of \_\_\_, 2018.

✓ \_\_\_\_\_ Electronically served counsel on the 7 day of January, 2018, Pursuant to N.E.F.C.R. Rule 9.

By   
Commissioner Designee

Case Name: DANCERS v. LA FUENTE, INC.

Case Number: A-14-709851-C

Hearing Date: October 24, 2018 +

11/13/18 minute order.

ORDER

The Court, having reviewed the above report and recommendations prepared by the  
Discovery Commissioner and,

The parties having waived the right to object thereto,

No timely objection having been received in the office of the Discovery  
Commissioner pursuant to E.D.C.R. 2.34(f),

Having received the objections thereto and the written arguments in support of  
said objections, and good cause appearing,

\* \* \*

AND

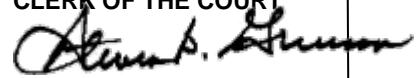
IT IS HEREBY ORDERED the Discovery Commissioner's Report &  
Recommendations are affirmed and adopted.

IT IS HEREBY ORDERED the Discovery Commissioner's Report &  
Recommendations are affirmed and adopted as modified in the following matter.  
(attached hereto)

IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's  
Report and Recommendations is set for \_\_\_\_ day of \_\_\_\_\_, 2018,  
at \_\_\_\_ : \_\_\_\_ a.m.

Dated this 23 day of Jan, 2018.

DISTRICT COURT JUDGE



**NEOD**  
KIMBALL JONES, ESQ.  
Nevada Bar No.: 12982  
**BIGHORN LAW**  
716 S. Jones Blvd.  
Las Vegas, Nevada 89107  
Phone: (702) 333-1111  
Email: [Kimball@BighornLaw.com](mailto:Kimball@BighornLaw.com)

MICHAEL J. RUSING, ESQ.  
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P. ANDREW STERLING, ESQ.  
Nevada Bar No.: 13769  
**RUSING LOPEZ & LIZARDI, PLLC**  
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Phone: (520) 792-4800  
Fax: (520) 529-4262  
Email: [asterling@rllaz.com](mailto:asterling@rllaz.com)

*Attorneys for Plaintiffs*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JANE DOE DANCER, I through V, individually,  
and on behalf of Class of similarly situated  
individuals,

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Plaintiffs,

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OWNER, I-X, DOE EMPLOYER, I-X, ROE  
CLUB OWNER, I-X, and ROE EMPLOYER, I-  
X,

Defendants.

**NOTICE OF ENTRY OF DECISION AND ORDER**

TO: ALL INTERESTED PARTIES; and

TO: THEIR RESPECTIVE COUNSEL OF RECORD:

YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that the Discovery Commissioner's Report and Recommendations, was Affirmed and Adopted by the District Court Judge, in the above-entitled matter, on January 24, 2019, a copy of which is attached hereto.

DATED this 25th day of January, 2019.

**BIGHORN LAW**

By: /s/ Kimball Jones

**KIMBALL JONES, ESQ.**

Nevada Bar No.: 12982

716 S. Jones Blvd.

Las Vegas, Nevada 89107

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6363 North Swan Road, Suite 151

Tucson, Arizona 85718

*Attorneys for Plaintiffs*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of  
3 **BIGHORN LAW**, and on the 25th day of January, 2019, I served the foregoing **NOTICE OF ENTRY**  
4 **OF DECISION AND ORDER** as follows:

5 ☒ Electronic Service – By serving a copy thereof through the Court’s electronic  
6 service system; and/or

7 ☐ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage  
8 prepaid and addressed as listed below; and/or

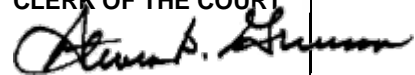
9 ☐ Facsimile—By facsimile transmission pursuant to EDCR 7.26 to the facsimile  
10 number(s) shown below and in the confirmation sheet filed herewith. Consent to  
11 service under NRCP 5(b)(2)(D) shall be assumed unless an objection to service by  
facsimile transmission is made in writing and sent to the sender via facsimile within  
24 hours of receipt of this Certificate of Service.

12 Doreen Spears Hartwell, Esq.  
13 HARTWELL THALACKER, LTD.  
14 11920 Southern Highlands Parkway, Suite 201  
Las Vegas, Nevada 89141  
[Doreen@HartwellThalacker.com](mailto:Doreen@HartwellThalacker.com)

15 Dean R. Fuchs, Esq.  
16 SCHULTEN WARD & TURNER, LLP  
17 260 Peachtree Street NW, Suite 2700  
Atlanta, Georgia 30303  
[d.fuchs@swtwlaw.com](mailto:d.fuchs@swtwlaw.com)

18 *Attorneys for Defendants*

19  
20  
21 /s/ Erickson Finch  
An employee/agent of **BIGHORN LAW**



**DCRR**  
KIMBALL JONES, ESQ.  
Nevada Bar No.: 12982  
**BIGHORN LAW**  
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*and minute order  
dated 11-13-18*

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28 costs up until April 2018 for their efforts to obtain evidence that ultimately did not exist, and the Judge

1 will consider the attorney fees and costs requested after that date. See October 24, 2018 minutes. It should  
2 be noted that at this point only monetary sanctions are available as a sanction for Defendants' failure to  
3 produce evidence since summary judgment has been granted in favor of the Defendants, thereby  
4 precluding imposition of evidentiary-type sanctions.

5  
6 Based on the foregoing, the Discovery Commissioner reviewed Plaintiffs' Memorandums for  
7 Fees and Costs filed on 1/22/18 and 9/19/18. Preliminarily, the Commissioner accepts and adopts the  
8 Plaintiffs' analysis of the *Brunzell* factors and agrees to the Plaintiffs' hourly rates of \$400.00 an hour for  
9 Kimball Jones, \$375.00 and \$320.00 an hour for P. Andrew Sterling.

10 *Brunzell* factors analysis for 1/22/18 Memorandum:

11 Plaintiffs incurred total costs and fees relating to this matter in the amount of  
12 \$14,110.50. Defendant's delays and refusal to participate in discovery this matter  
13 have done nothing more than hinder the progression and prosecution of Plaintiffs'  
14 meritorious claims, increased the costs associated with Plaintiffs' case, and  
15 prevented Plaintiffs' counsel from engaging in and pursuing its meritorious and  
16 worthwhile pursuits. It also has caused the Court system to waste its time and  
17 valuable resources rather than attending to necessary and worthwhile matters.

18 Looking to the *Brunzell* factors, counsel's ability, training, education, experience,  
19 professional standing and skill support the award of attorney's fees. Counsel has  
20 been practicing law in Nevada for 11 years, handles multiple class action and  
21 complex litigation lawsuits and sits on the executive boards of multiple legal and  
22 non-legal organizations. Counsel taught at the William S. Boyd School of Law as  
23 an adjunct professor for four years. In addition to working for Morris Anderson,  
24 counsel maintains a private practice in Boulder City, Nevada, which provides legal  
25 and consulting services at an hourly billable rate, and at which her hourly billable  
26 rate is higher than that stated for the matter herein of \$375.00.

27 The character of the work done in terms of its difficulty, its intricacy, its  
28 importance, time and skill required, the responsibility imposed and the prominence  
and character of the parties where they affect the importance of the litigation  
likewise favors the award of fees and costs. Plaintiffs have not received the  
documentation necessary to alert class members of this suit, compute damages or  
prove the elements of their causes of action and have not received the supplemental  
discovery responses as previously ordered by the Court. The importance of  
pursuing discovery is obvious, as has been the intricacy in complying with  
provisions of the NRCP and EDCR to ensure Plaintiffs met all obligations to  
continue seeking orders to compel and for sanctions. The difficulty in ascertaining  
what responsive information Defendant would have in its possession was  
considerable and involved looking through the discovery files of other gentlemen's  
clubs in different lawsuits, conducting online research in Defendant's social media

1 accounts and websites, interviewing dancers regarding what documents they  
2 recalled seeing, serving public records requests on government agencies, and  
3 reviewing Defendants' publicly available documents from other similar lawsuits.  
4 Plaintiffs' diligence far exceeded that of Defendant in looking into what documents  
would be responsive, which was immensely more difficult and time-consuming for  
Plaintiffs to do.

5 Plaintiffs' counsel was successful in their efforts in their first motion to compel  
6 discovery responses, to which Defendant did not file an opposition. However,  
7 Defendants did not comply with the order, and Plaintiffs brought the motion for  
8 Rule 37 sanctions for failure to participate in discovery and failure to comply with  
9 this Court's order, to which Defendant opposed but did not file the necessary  
10 amended or supplemental discovery responses. Although the Court has permitted  
11 Defendant another second chance to comply with discovery obligations, Plaintiffs  
12 will succeed in either obtaining the information they need or having Defendant  
13 appropriately sanctioned. There is immense benefit to Plaintiffs' successful efforts  
14 in pursuing discovery and appropriate evidentiary sanctions, including curbing the  
time, delay, expense and effort that has already ensued. Because of the advanced  
stage of litigation and the potential for Defendant to abdicate its responsibilities  
through non-responsiveness, it was of the utmost importance that Plaintiffs  
prevailed. This was done and for a reasonable amount of fees given the above  
realities, the multiple discovery dispute conferences and ensuing multiple motions  
to compel, the multiple second chances offered to Defendant and the numerous  
hearings that followed.

15 *Brunzell factors analysis for 9/19/18 Memorandum:*

16 Plaintiffs' attorneys, Ms. Calvert, Mr. Jones and Mr. Sterling, are qualified,  
17 educated attorneys with significant skill and experience. As the Discovery  
18 Commissioner is keenly aware, this work, involving numerous parties and  
19 involving pursuit of document for years, has required great technical skill and  
tenacity.

20 Each attorney, Ms. Calvert, Mr. Jones and Mr. Sterling, are qualified, educated  
21 attorneys with significant skill and experience. This work, involving numerous  
22 parties and involving pursuit of document for years, has required great technical  
skill and tenacity.

23 Mr. Jones is a managing partner with the Law Offices of BIGHORN LAW. He  
24 graduated Magna Cum Laude from Brigham Young University-Idaho in 2005 and  
25 graduated as the top student in economics that year. He graduated from Brigham  
26 Young University in 2008 and was awarded a Dean's Scholarship for academic  
27 merit all three (3) years of law school. Mr. Jones was first admitted to practice law  
28 in Nevada in 2013, scoring in the 98th percentile nationally on the MBE. He has  
also passed the Idaho Bar Exam. Mr. Jones has prevailed in more than 90 percent  
of the arbitrations and trials he has litigated. Further, as a partner in his firm, he has  
recovered more than \$20,000,000 for our clients through judgments and settlements  
in the last five (5) year. Mr. Jones' usual and customary fee on an hourly basis is

1 \$400.00 an hour, which is far below average for attorneys of my skill and  
2 experience who handle similar matters in Clark County, Nevada.

3 Ms. Lauren Calvert, Esq., is a duly licensed to practice law in the State of Nevada  
4 and is familiar with the facts and circumstances surrounding this matter. Ms.  
5 Calvert has been an attorney, admitted to practice in the State of Nevada for the  
6 past 11 years. Ms. Calvert's billing rate of \$375.00 per hour is at or below average  
7 for attorneys of her skill and experience who handle similar matters in Clark  
8 County, Nevada.

9 Likewise, Mr. Sterling is a 2002 graduate of the University of Texas Law School.  
10 He is currently admitted to practice law in the states of Arizona, Nevada, and  
11 Maryland and he is an adjunct professor at the University of Arizona James E.  
12 Rogers College of Law, where he teaches a seminar on civil pre-trial practice and  
13 procedure. He has extensive experience in handling class action lawsuits in multiple  
14 jurisdictions. Mr. Sterling's billing rate is \$320 an hour.

15 In order to litigate this matter, Plaintiffs were required to bring numerous motions  
16 to both the Discovery Commissioner and the District Court in order to receive  
17 sanctions in aid of their clients.

18 This work involved sifting through a 10,000 page data dump by Defendant that  
19 contained no useful material. It involved numerous hearings before the District  
20 Court and the Discovery Commissioner. A full recounting of the work performed  
21 by Plaintiffs' Counsel is attached hereto as "Exhibit 1." Finally, the successful  
22 result of Counsel's work is evident as the District Court has already ordered a  
23 rebuttable presumption in Plaintiffs' favor. As such, the Brunzell factors favor an  
24 award of attorneys' fees, as well as the attendant costs for bringing these Motions.

25 With respect to the requested costs, the Commissioner also accepts Plaintiffs' costs contained  
26 within both memorandums with the exception of parking, which she routinely does not allow. Although  
27 the Plaintiffs could have ordered a more cost-effective disc of the hearing instead of a transcript, the  
28 Commissioner decided to permit the costs associated with the transcript of the 3/30/18 hearing, as this  
was the hearing that the sanction part of the motion was deferred to the Judge, and therefore relevant to  
the resolution of Plaintiffs' request for sanctions. Thus, the Commissioner recommends reimbursing  
Plaintiffs their costs in the amount of \$178.22.

With respect to the attorney fees, the Commissioner did not include fees associated with preparing  
Reports and Recommendations (required), the memorandums of fees and costs (required),  
administrative-type tasks, or entries after 3/31/18, which would be outside of the time frame of

1 Commissioner Bulla's focus. In summary, the Commissioner only allowed for the recovery of attorney  
2 fees related to the Motion for Sanctions filed in January 2018, and to the follow up hearings and activities  
3 related to the discovery of Defendants' documents.

4 Based on the foregoing, the Commissioner recommends reimbursing Plaintiffs their attorney fees  
5 from the following entries set forth in the 1/22/18 memorandum: 12/9/17; 12/24/17; 1/1/18; 1/4/18; and,  
6 1/10/18. The total of these attorney fees are in the amount of \$4,312.50. Further, the Commissioner  
7 recommends reimbursing Plaintiffs their attorney fees from the following entries set forth in the 9/19/18  
8 memorandum, which are not duplicative of those recommended above: 1/10/18 (KJ); 1/31/18; 2/19/18  
9 (two entries); 2/20/18 (second entry); 2/21/18 (first entry); 3/2/18 (both entries); 3/6/18 (KJ); 3/6/18;  
10 3/13/18; 3/14/18 (four entries); 3/15/18; and, 3/20/18 (two entries, one LC and one KJ). The total of these  
11 attorney fees are in amount of \$7,565.00.  
12

## 13 II.

### 14 RECOMMENDATIONS

15  
16 THEREFORE, IT IS HEREBY RECOMMENDED that Plaintiffs be awarded costs in the amount  
17 of \$178.22, and attorney fees in the amount of \$11,877.50, for a total award of \$12,055.72.

18 IT IS FURTHER RECOMMENDED The total amount will be due and owing from the  
19 Defendants, not their attorneys, to the Plaintiff within thirty (30) days after the Report and  
20 Recommendations is signed by the District Court Judge.

21 IT IS FURTHER RECOMMENDED Mr. Jones is to prepare the Report and Recommendations,  
22 to include the analysis of the *Brunzell* factors set forth in both memorandums, and Defense counsel is to  
23 approve as to form and content.  
24

25 ///

26 ///

27 ///

28 ///

A-14-704851-C  
JANE DOE DANCER  
V.  
LA FUENTE

IT IS FURTHER RECOMMENDED The Report is due within 10 days after being served with these minutes.

DATED this 17 day of January, 2019 ~~December, 2018~~

  
DISCOVERY COMMISSIONER

Respectfully Submitted by:

**BIGHORN LAW**

 # 41289  
**KIMBALL JONES, ESQ.**

Nevada Bar No.: 12982  
716 S. Jones Blvd.  
Las Vegas, Nevada 89107

**MICHAEL J. RUSING, ESQ.**  
(Admitted Pro Hac Vice)

**P. ANDREW STERLING, ESQ.**  
Nevada Bar No.: 13769

**RUSING LOPEZ & LIZARDI, PLLC**  
6363 North Swan Road, Suite 151  
Tucson, Arizona 85718

*Attorneys for Plaintiffs*

Approved as to Form and Content by:

**HARTWELL THALACKER, LTD.**

  
**DOREEN SPEARS HARTWELL, ESQ.**

Nevada Bar No. 7525  
11920 Southern Highlands Pkwy., Suite 201  
Las Vegas, Nevada 89141

**DEAN R. FUCHS, ESQ.**  
(Admitted Pro Hac Vice)

**SCHULTEN WARD**

**TURNER & WEISS, LLP**  
260 Peachtree Street NW, Suite 2700  
Atlanta, Georgia 30303

*Attorneys for Defendants*

Case Name: DANCERS v. LA FUENTE, INC.  
Case Number: A-14-709851-C  
Hearing Date: October 24, 2018 +

11-13-18 minute order

**NOTICE**

Pursuant to N.R.C.P. 16.1(d)(2), you are hereby notified you have five (5) days from the date you receive this document within which to file written objections.

**The Commissioner's Report is deemed received three (3) days after mailing to a party or the party's attorney, or three (3) days after the clerk of the court deposits a copy of the Report in the folder of a party's lawyer in the Clerk's office. E.D.C.R. 2.34(f).**

A copy of the foregoing Discovery Commissioner's Report was:

\_\_\_\_\_ Mailed to Plaintiff/Defendant at the following address on the \_\_\_ day of \_\_\_, 2018.

\_\_\_\_\_ Placed in the folder of Plaintiff's and Defendant's Counsel in the Clerk's office on the \_\_\_ day of \_\_\_, 2018.

✓ \_\_\_\_\_ Electronically served counsel on the 7 day of January, 2018, Pursuant to N.E.F.C.R. Rule 9.

By   
Commissioner Designee

Case Name: DANCERS v. LA FUENTE, INC.

Case Number: A-14-709851-C

Hearing Date: October 24, 2018 +

11/13/18 minute order.

ORDER

The Court, having reviewed the above report and recommendations prepared by the  
Discovery Commissioner and,

The parties having waived the right to object thereto,

No timely objection having been received in the office of the Discovery  
Commissioner pursuant to E.D.C.R. 2.34(f),

Having received the objections thereto and the written arguments in support of  
said objections, and good cause appearing,

\* \* \*

AND

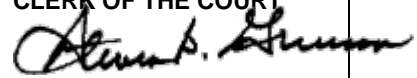
IT IS HEREBY ORDERED the Discovery Commissioner's Report &  
Recommendations are affirmed and adopted.

IT IS HEREBY ORDERED the Discovery Commissioner's Report &  
Recommendations are affirmed and adopted as modified in the following matter.  
(attached hereto)

IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's  
Report and Recommendations is set for \_\_\_\_ day of \_\_\_\_\_, 2018,  
at \_\_\_\_ : \_\_\_\_ a.m.

Dated this 23 day of Jan, 2018.

DISTRICT COURT JUDGE



**ORDR**

KIMBALL JONES, ESQ.

Nevada Bar No.: 12982

**BIGHORN LAW**

716 S. Jones Blvd.

Las Vegas, Nevada 89107

Phone: (702) 333-1111

Email: [Kimball@BighornLaw.com](mailto:Kimball@BighornLaw.com)

*Attorneys for Plaintiffs*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JANE DOE DANCER, I through V, individually,  
and on behalf of Class of similarly situated  
individuals,

Plaintiffs,

vs.

LA FUENTE, INC., an active Nevada Corporation,  
WESTERN PROPERTY HOLDINGS, LLC, an  
active Nevada Limited Liability Company (all d/b/a  
CHEETAHS LAS VEGAS and/or THE NEW  
CHEETAHS GENTLEMAN'S CLUB), DOE  
CLUB OWNER, I-X, DOE EMPLOYER, I-X,  
ROE CLUB OWNER, I-X, and ROE EMPLOYER,  
I-X,

Defendants.

CASE NO.: A-14-709851-C

DEPT. NO.: IV

**ORDER ON PLAINTIFFS' MOTION FOR ORDER ON PROPOSED JURY INSTRUCTIONS  
AND FEES AND COSTS**

The District Court, having taken the Plaintiffs' Motion for Order on Proposed Jury Instructions and Fees and Costs under advisement until the Discovery Commissioner ruled on Plaintiffs' Motion for Sanctions and Fees and Costs pertaining to the fees and costs prior to April 2018, renders its ruling pertaining to fees and costs after April 2018 on this matter. Having reviewed all points, authorities, and exhibits, as well as considering the oral arguments of counsel at the previous hearing on November 1, 2018 and after an analysis of the *Brunzell* factors:

///

///

1 THE COURT FINDS that Plaintiffs are not entitled to costs incurred for an Airline Ticket for P.  
2 Andrew Sterling, Esq., to attend the hearing totaling \$379.96, Parking totaling \$13.00, and a Taxi  
3 totaling \$56.55.

4 THE COURT FURTHER FINDS that in relation to the attorney's fees requested by The Law  
5 Offices of BIGHORN LAW, that Plaintiffs are not entitled to fee entry dated 05/04/2018 and titled  
6 Reviewed and Finalized DCR&R from 03/30/2018 totaling \$160.00 and fee entry dated 06/11/2018 and  
7 titled Prepared Memo of Fees and Costs totaling \$320.00.

8 THE COURT FURTHER FINDS that in relation to the attorney s fees requested by the Law  
9 Offices of RUSING, LOPEZ & LIZARDI, PLLC, the Plaintiffs are not entitled to the full fee entry  
10 dated 08/08/2018 totaling 11.8 hours titled Prepare for and attend hearing; the Court will allow 3.5  
11 hours for this entry.

12 THE COURT FURTHER FINDS that Four factors determine whether attorneys' fees requested  
13 are reasonable: (1) the qualities of the advocate: his ability, his training, education, experience,  
14 professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its  
15 importance, time and skill required, the responsibility imposed and the prominence and character of the  
16 parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer:  
17 the skill, time and attention given to the work; and (4) the result: whether the attorney was successful  
18 and what benefits were derived. *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349 (1969). If the  
19 record reflects that the court properly considered these factors, there is no abuse of discretion. *Wynn v.*  
20 *Smith*, 117 Nev. 6, 13,16 P.3d 424, 428-29 (2001); *Beattie v. Thompson*, 99 Nev. 579, 588-89, 668 P.2d  
21 268, 274 (1983).

22 THE COURT FURTHER FINDS that Each attorney, Ms. Calvert, Mr. Jones and Mr. Sterling,  
23 are qualified, educated attorneys with significant skill and experience. As the Court is keenly aware, this  
24 work, involving numerous parties and involving pursuit of document for years, has required great  
25 technical skill and tenacity.

1 THE COURT FURTHER FINDS that Mr. Jones is a managing partner with the Law Offices of  
2 BIGHORN LAW. Mr. Jones was first admitted to practice law in Nevada in 2013 and also passed the  
3 Idaho Bar Exam. Mr. Jones has prevailed in more than 90 percent of the arbitrations and trials he has  
4 litigated. And, as a partner in his firm, he has recovered more than \$20,000,000 for clients through  
5 judgments and settlements in the last five (5) year. Mr. Jones' usual and customary fee on an hourly  
6 basis is \$400.00 an hour, which is far below average for attorneys of my skill and experience who  
7 handle similar matters in Clark County, Nevada.  
8

9 THE COURT FURTHER FINDS that Ms. Lauren Calvert, Esq., is a duly licensed to practice  
10 law in the State of Nevada and is familiar with the facts and circumstances surrounding this matter. Ms.  
11 Calvert has been an attorney, admitted to practice in the State of Nevada for the past 11. Ms. Calvert's  
12 billing rate of \$375.00 per hour is at or below average for attorneys of her skill and experience who  
13 handle similar matters in Clark County, Nevada.  
14

15 THE COURT FURTHER FINDS that Mr. Sterling is a 2002 graduate of the University of Texas  
16 Law School. He is currently admitted to practice law in the states of Arizona, Nevada, and Maryland and  
17 he is an adjunct professor at the University of Arizona James E. Rogers College of Law, where he  
18 teaches a seminar on civil pre-trial practice and procedure. He has extensive experience in handling class  
19 action lawsuits in multiple jurisdictions. Mr. Sterling's billing rate is \$320 an hour.

20 THEREFORE, IT IS HEREBY ORDERED that Plaintiffs shall be awarded Costs in the amount  
21 of \$6.00, and Attorney Fees in the amount of \$29,493.50, for a total award of \$29,499.50.

22 IT IS FURTHER ORDERED that the total amount will be due and owing from the Defendant,  
23 not their attorneys, to the Plaintiffs within thirty (30) days after the Order is served on Defendant.  
24

25 IT IS FURTHER ORDERED that Counsel for Plaintiffs are to prepare the Order, to include the  
26 analysis of the *Brunzell* factors as set forth in its Motion, to be approved as to form and content by  
27 counsel for Defendant.  
28

///

1 IT IS FURTHER ORDERED that the Order is due within ten (10) days of this Minute Order.

2 DATED this 1 day of <sup>March</sup>~~February~~, 2019.

3  
4   
DISTRICT COURT JUDGE  


5 Respectfully Submitted by:

6 **BIGHORN LAW**

7   
8 **KIMBALL JONES, ESQ.**

9 Nevada Bar No.: 12982

10 716 S. Jones Blvd.

11 Las Vegas, Nevada 89107

12 **MICHAEL J. RUSING, ESQ.**

13 (Admitted Pro Hac Vice)

14 **P. ANDREW STERLING, ESQ.**

15 Nevada Bar No.: 13769

16 **RUSING LOPEZ & LIZARDI, PLLC**

17 6363 North Swan Road, Suite 151

18 Tucson, Arizona 85718

19 *Attorneys for Plaintiffs*

Approved as to Form and Content by:

**HARTWELL THALACKER, LTD.**

***REFUSED TO SIGN***

**DOREEN SPEARS HARTWELL, ESQ.**

Nevada Bar No.: 7525

11920 Southern Highlands Pkwy., Suite 201

Las Vegas, Nevada 89141

**DEAN R. FUCHS, ESQ.**

(Admitted Pro Hac Vice)

**SCHULTEN WARD**

**TURNER & WEISS, LLP**

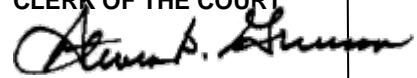
260 Peachtree Street NW, Suite 2700

Atlanta, Georgia 30303

*Attorneys for Defendants*

20 *Order on Pliffs Motion for Order*  
21 *on Proposed jury instructions*  
22 *and fees and costs*

23 *A-14-709851-C*  
24  
25  
26  
27  
28



1 **NEOJ**  
2 KIMBALL JONES, ESQ.  
3 Nevada Bar No.: 12982  
4 **BIGHORN LAW**  
5 716 S. Jones Blvd.  
6 Las Vegas, Nevada 89107  
7 Phone: (702) 333-1111  
8 Email: [Kimball@BighornLaw.com](mailto:Kimball@BighornLaw.com)

9 MICHAEL J. RUSING, ESQ.  
10 Arizona Bar No.: 6617 (*Admitted Pro Hac Vice*)  
11 P. ANDREW STERLING, ESQ.  
12 Nevada Bar No.: 13769  
13 **RUSING LOPEZ & LIZARDI, PLLC**  
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16 Phone: (520) 792-4800  
17 Fax: (520) 529-4262  
18 Email: [asterling@rllaz.com](mailto:asterling@rllaz.com)

19 *Attorneys for Plaintiffs*

20 **DISTRICT COURT**

21 **CLARK COUNTY, NEVADA**

22 JANE DOE DANCER, I through V, individually,  
23 and on behalf of Class of similarly situated  
24 individuals,

25 Plaintiffs,

26 vs.

27 LA FUENTE, INC., an active Nevada  
28 Corporation, WESTERN PROPERTY  
HOLDINGS, LLC, an active Nevada Limited  
Liability Company (all d/b/a CHEETAHS LAS  
VEGAS and/or THE NEW CHEETAHS  
GENTLEMAN'S CLUB), DOE CLUB  
OWNER, I-X, DOE EMPLOYER, I-X, ROE  
CLUB OWNER, I-X, and ROE EMPLOYER, I-  
X,

Defendants.

CASE NO.: A-14-709851-C  
DEPT. NO.: IV

**NOTICE OF ENTRY OF ORDER**

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TO: THEIR RESPECTIVE COUNSEL OF RECORD:

DATED this 5th day of March, 2019.

By: /s/ Kimball Jones

Las Vegas, Nevada 89107

Nevada Bar No.: 13769

Tucson, Arizona 85718

Page 2 of 3

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of  
3 **BIGHORN LAW**, and on the 5th day of March, 2019, I served the foregoing **NOTICE OF ENTRY**  
4 **OF ORDER** as follows:

5 ☒ Electronic Service – By serving a copy thereof through the Court’s electronic  
6 service system; and/or

7 ☐ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage  
8 prepaid and addressed as listed below; and/or

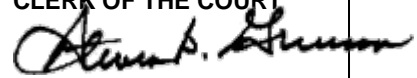
9 ☐ Facsimile—By facsimile transmission pursuant to EDCR 7.26 to the facsimile  
10 number(s) shown below and in the confirmation sheet filed herewith. Consent to  
11 service under NRCP 5(b)(2)(D) shall be assumed unless an objection to service by  
facsimile transmission is made in writing and sent to the sender via facsimile within  
24 hours of receipt of this Certificate of Service.

12 Doreen Spears Hartwell, Esq.  
13 HARTWELL THALACKER, LTD.  
14 11920 Southern Highlands Parkway, Suite 201  
Las Vegas, Nevada 89141  
[Doreen@HartwellThalacker.com](mailto:Doreen@HartwellThalacker.com)

15 Dean R. Fuchs, Esq.  
16 SCHULTEN WARD & TURNER, LLP  
17 260 Peachtree Street NW, Suite 2700  
Atlanta, Georgia 30303  
[d.fuchs@swtwlaw.com](mailto:d.fuchs@swtwlaw.com)

18 *Attorneys for Defendants*  
19

20 /s/ Erickson Finch  
21 An employee/agent of **BIGHORN LAW**  
22  
23  
24  
25  
26  
27  
28



**ORDR**

KIMBALL JONES, ESQ.

Nevada Bar No.: 12982

**BIGHORN LAW**

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Phone: (702) 333-1111

Email: [Kimball@BighornLaw.com](mailto:Kimball@BighornLaw.com)

*Attorneys for Plaintiffs*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JANE DOE DANCER, I through V, individually,  
and on behalf of Class of similarly situated  
individuals,

Plaintiffs,

vs.

LA FUENTE, INC., an active Nevada Corporation,  
WESTERN PROPERTY HOLDINGS, LLC, an  
active Nevada Limited Liability Company (all d/b/a  
CHEETAHS LAS VEGAS and/or THE NEW  
CHEETAHS GENTLEMAN'S CLUB), DOE  
CLUB OWNER, I-X, DOE EMPLOYER, I-X,  
ROE CLUB OWNER, I-X, and ROE EMPLOYER,  
I-X,

Defendants.

CASE NO.: A-14-709851-C

DEPT. NO.: IV

**ORDER ON PLAINTIFFS' MOTION FOR ORDER ON PROPOSED JURY INSTRUCTIONS  
AND FEES AND COSTS**

The District Court, having taken the Plaintiffs' Motion for Order on Proposed Jury Instructions and Fees and Costs under advisement until the Discovery Commissioner ruled on Plaintiffs' Motion for Sanctions and Fees and Costs pertaining to the fees and costs prior to April 2018, renders its ruling pertaining to fees and costs after April 2018 on this matter. Having reviewed all points, authorities, and exhibits, as well as considering the oral arguments of counsel at the previous hearing on November 1, 2018 and after an analysis of the *Brunzell* factors:

///

///

1 THE COURT FINDS that Plaintiffs are not entitled to costs incurred for an Airline Ticket for P.  
2 Andrew Sterling, Esq., to attend the hearing totaling \$379.96, Parking totaling \$13.00, and a Taxi  
3 totaling \$56.55.

4 THE COURT FURTHER FINDS that in relation to the attorney's fees requested by The Law  
5 Offices of BIGHORN LAW, that Plaintiffs are not entitled to fee entry dated 05/04/2018 and titled  
6 Reviewed and Finalized DCR&R from 03/30/2018 totaling \$160.00 and fee entry dated 06/11/2018 and  
7 titled Prepared Memo of Fees and Costs totaling \$320.00.

8 THE COURT FURTHER FINDS that in relation to the attorney s fees requested by the Law  
9 Offices of RUSING, LOPEZ & LIZARDI, PLLC, the Plaintiffs are not entitled to the full fee entry  
10 dated 08/08/2018 totaling 11.8 hours titled Prepare for and attend hearing; the Court will allow 3.5  
11 hours for this entry.

12 THE COURT FURTHER FINDS that Four factors determine whether attorneys' fees requested  
13 are reasonable: (1) the qualities of the advocate: his ability, his training, education, experience,  
14 professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its  
15 importance, time and skill required, the responsibility imposed and the prominence and character of the  
16 parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer:  
17 the skill, time and attention given to the work; and (4) the result: whether the attorney was successful  
18 and what benefits were derived. *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349 (1969). If the  
19 record reflects that the court properly considered these factors, there is no abuse of discretion. *Wynn v.*  
20 *Smith*, 117 Nev. 6, 13,16 P.3d 424, 428-29 (2001); *Beattie v. Thompson*, 99 Nev. 579, 588-89, 668 P.2d  
21 268, 274 (1983).

22 THE COURT FURTHER FINDS that Each attorney, Ms. Calvert, Mr. Jones and Mr. Sterling,  
23 are qualified, educated attorneys with significant skill and experience. As the Court is keenly aware, this  
24 work, involving numerous parties and involving pursuit of document for years, has required great  
25 technical skill and tenacity.

1 THE COURT FURTHER FINDS that Mr. Jones is a managing partner with the Law Offices of  
2 BIGHORN LAW. Mr. Jones was first admitted to practice law in Nevada in 2013 and also passed the  
3 Idaho Bar Exam. Mr. Jones has prevailed in more than 90 percent of the arbitrations and trials he has  
4 litigated. And, as a partner in his firm, he has recovered more than \$20,000,000 for clients through  
5 judgments and settlements in the last five (5) year. Mr. Jones' usual and customary fee on an hourly  
6 basis is \$400.00 an hour, which is far below average for attorneys of my skill and experience who  
7 handle similar matters in Clark County, Nevada.  
8

9 THE COURT FURTHER FINDS that Ms. Lauren Calvert, Esq., is a duly licensed to practice  
10 law in the State of Nevada and is familiar with the facts and circumstances surrounding this matter. Ms.  
11 Calvert has been an attorney, admitted to practice in the State of Nevada for the past 11. Ms. Calvert's  
12 billing rate of \$375.00 per hour is at or below average for attorneys of her skill and experience who  
13 handle similar matters in Clark County, Nevada.  
14

15 THE COURT FURTHER FINDS that Mr. Sterling is a 2002 graduate of the University of Texas  
16 Law School. He is currently admitted to practice law in the states of Arizona, Nevada, and Maryland and  
17 he is an adjunct professor at the University of Arizona James E. Rogers College of Law, where he  
18 teaches a seminar on civil pre-trial practice and procedure. He has extensive experience in handling class  
19 action lawsuits in multiple jurisdictions. Mr. Sterling's billing rate is \$320 an hour.

20 THEREFORE, IT IS HEREBY ORDERED that Plaintiffs shall be awarded Costs in the amount  
21 of \$6.00, and Attorney Fees in the amount of \$29,493.50, for a total award of \$29,499.50.

22 IT IS FURTHER ORDERED that the total amount will be due and owing from the Defendant,  
23 not their attorneys, to the Plaintiffs within thirty (30) days after the Order is served on Defendant.  
24

25 IT IS FURTHER ORDERED that Counsel for Plaintiffs are to prepare the Order, to include the  
26 analysis of the *Brunzell* factors as set forth in its Motion, to be approved as to form and content by  
27 counsel for Defendant.  
28

///

1 IT IS FURTHER ORDERED that the Order is due within ten (10) days of this Minute Order.

2 DATED this 1 day of <sup>March</sup>~~February~~, 2019.

3  
4   
DISTRICT COURT JUDGE  


5 Respectfully Submitted by:

6 **BIGHORN LAW**

7   
8 **KIMBALL JONES, ESQ.**

9 Nevada Bar No.: 12982

10 716 S. Jones Blvd.

11 Las Vegas, Nevada 89107

12 **MICHAEL J. RUSING, ESQ.**

13 (Admitted Pro Hac Vice)

14 **P. ANDREW STERLING, ESQ.**

15 Nevada Bar No.: 13769

16 **RUSING LOPEZ & LIZARDI, PLLC**

17 6363 North Swan Road, Suite 151

18 Tucson, Arizona 85718

19 *Attorneys for Plaintiffs*

Approved as to Form and Content by:

**HARTWELL THALACKER, LTD.**

***REFUSED TO SIGN***

**DOREEN SPEARS HARTWELL, ESQ.**

Nevada Bar No.: 7525

11920 Southern Highlands Pkwy., Suite 201

Las Vegas, Nevada 89141

**DEAN R. FUCHS, ESQ.**

(Admitted Pro Hac Vice)

**SCHULTEN WARD**

**TURNER & WEISS, LLP**

260 Peachtree Street NW, Suite 2700

Atlanta, Georgia 30303

*Attorneys for Defendants*

20 *Order on Pliffs Motion for Order*  
21 *on Proposed jury instructions*  
22 *and fees and costs*

23 *A-14-709851-C*  
24  
25  
26  
27  
28

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**April 01, 2015**

---

A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

---

**April 01, 2015      9:00 AM      Motion for Leave**

**HEARD BY:** Earley, Kerry      **COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Kristin Duncan

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:** Price, Daniel R.      Attorney

**JOURNAL ENTRIES**

- Mr. Price argued in support of the Motion, stating that the Defendant did not want her real name on public documents. Court noted there was no legal basis to grant the Motion under NRCP 17(a), and the case had to proceed under the real party in interest. Mr. Price requested leave to submit supplemental briefing. COURT ORDERED, Motion CONTINUED to Department IV's Chambers Calendar to allow Mr. Price to submit supplemental briefing.

As to the Ex Parte Motion To Enlarge Time, Mr. Price argued in support of the Motion, stating that he wanted to ensure the proper Plaintiff was named prior to having the summons and complaint served. COURT ORDERED, Motion to Enlarge Time GRANTED for SIXTY (60) DAYS ONLY, from the date of the entry of the instant Order.

CONTINUED TO: 4/6/15 (CHAMBERS CALENDAR)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**April 06, 2015**

---

A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

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**April 06, 2015      3:00 AM      Motion for Leave**

**HEARD BY:** Earley, Kerry      **COURTROOM:** No Location

**COURT CLERK:** Kristin Duncan

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Plaintiff s Ex-Parte Motion For Leave To Remove Plaintiff s Name To Allow Amendment As Jane Doe Dancer, having come before the Court on April 1, 2015, the Court having reviewed the papers and pleadings on file, including the supplemental briefing requested by the Court, and the oral argument of Plaintiff s counsel, is hereby GRANTED.

CLERK S NOTE: A copy of this Minute Order was distributed to the following parties via e-mail: Daniel Price, Esq. [daniel@morrisanderson.com]. (KD 4/20/15)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**September 08, 2015**

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A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

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**September 08, 2015      3:00 AM      Minute Order**

**HEARD BY:** Earley, Kerry

**COURTROOM:** No Location

**COURT CLERK:** Kristin Duncan

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- These motions came before the court on August 31, 2015 for Plaintiff s singular Motion to Associate Counsel and Defendants three separate Motions to Associate Counsel. Having reviewed the arguments and authorities in the pleadings submitted, COURT ORDERS Plaintiff s Motion to Associate Counsel Michael John Rusing GRANTED. Further, COURT ORDERS Defendants Motions to Associate Counsel Stephen Whitfield Brown, Dean R. Fuchs, and William Scott Schulten, Esq. GRANTED. Counsels for Plaintiff and Defendant to prepare and submit their respective orders specifically naming each counsel to be associated.

CLERK'S NOTE: A copy of this minute order distributed to Doreen Spears Hartwell, Esq. [doreen@hartwellthalacker.com], Laura J. Thalacker, Esq. [laura@hartwellthalacker.com], Ryan M. Anderson, Esq. [ryan@morrisandersonlaw.com], Jacqueline Bretell, Esq. [jacqueline@morrisandersonlaw.com], Daniel R. Price, Esq. [daniel@morrisandersonlaw.com], and Michael J. Rusing, Esq. [rusinglopez@rllaz.com]. (KD 9/11/15)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**April 19, 2016**

---

A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

---

**April 19, 2016      9:00 AM      Discovery Conference**

**HEARD BY:** Bulla, Bonnie

**COURTROOM:** RJC Level 5 Hearing Room

**COURT CLERK:** Alan Castle

**RECORDER:** Francesca Haak

**REPORTER:**

**PARTIES**

**PRESENT:**      Hartwell, Doreen    M. Spears      Attorney  
Price, Daniel R.      Attorney

**JOURNAL ENTRIES**

- Colloquy regarding delays. COMMISSIONER RECOMMENDED, Ms. Hartwell to PAY \$50.00 contribution to Legal Aid Center of Southern Nevada (Clark County Pro Bono Project) for failing to provide a courtesy copy of the report to the Discovery Commissioner; payment held in ABEYANCE pending Defendants' motion to compel arbitration. COMMISSIONER RECOMMENDED, Discovery Conference is CONTINUED. Counsel to advise the Discovery Commissioner if the case is remanded to arbitration

5/10/16 9:00 a.m. Discovery Conference - Further Proceedings

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort****COURT MINUTES****August 01, 2016**

A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

<b>August 01, 2016</b>	<b>3:00 AM</b>	<b>Motion to Withdraw as Counsel</b>	<b>W. Scott Schulten Esq's Motion to Withdraw As Counsel of Record for Defendants La Fuente and Western Property Holdings</b>
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**HEARD BY:** Earley, Kerry**COURTROOM:** Chambers**COURT CLERK:** April Watkins**RECORDER:****REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- A Motion to Withdraw as Counsel was filed on June 30, 2016 by Wm. Scott Schulten, Esq., counsel for Defendants La Fuente Western Property Holdings. The matter was subsequently placed on the civil calendar of Department IV. Having received no Opposition to the matter and pursuant to EDCR 2.20 and for good cause showing, the Court hereby GRANTS the Motion to Withdraw. Defense counsel shall prepare the Order in accordance with EDCR 7.21, notifying the former client of all pending dates and providing the last known address and telephone number of Defendant within the proposed Order.

CLERK'S NOTE: The above minute order has been distributed to: Wm. Scott Schulten, Esq., (s.schulten@swtwlaw.com) and Ryan M. Anderson, Esq., (ryan@morrisandandersonlaw.com). aw

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort****COURT MINUTES****August 17, 2016**

A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

**August 17, 2016      9:00 AM      All Pending Motions**

**HEARD BY:** Earley, Kerry      **COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** April Watkins

**RECORDER:**

**REPORTER:** Loree Murray

**PARTIES**

**PRESENT:**      Hartwell, Doreen M. Spears      Attorney  
Rusing, Michael J., ESQ      Attorney  
Sterling, P. Andrew      Attorney

**JOURNAL ENTRIES**

- PLTFS' MOTION FOR LEAVE TO PROCEED PSEUDONYMOUSLY AND FOR PROTECTIVE ORDER:

Court stated she has reviewed all documents, does not have an issue as to the pleadings filed in Odyssey and as far as the names, they have to be produced in discovery. Mr. Sterling stated "Jane Doe" status was just assumed and is a pure question of the law with respect of there classification. Further, counsel stated he is concerned these young woman's names are out in public. Mr. Hartwell argued he does not believe burden has been met. Further, as to proceeding as "Jane Doe", Mr. Hartwell stated if the Court wants that, the parties can come up with something for the pleadings so the names are not listed. Court stated she does not want discovery hampered and no game playing. Colloquy. COURT ORDERED, motion GRANTED based on the restrictions the Court advised of in open court. Counsel to get together as to the protective order incorporating what was done in the previous protective order. Ms. Hartwell requested to include the Court is in no way restricting disclosure amongst the parties. COURT SO ORDERED.

PLTFS' MOTION TO CORRECT THE REGISTER OF ACTIONS AND SEAL ALL COURT

DOCUMENTS FILED PRIOR TO THE AMENDED COMPLAINT:

Statement by Mr. Sterling. COURT ORDERED, motion GRANTED. Odyssey to read "Jane Doe I" only. No AKA's or KNA's to be listed.

DEFTS' OPPOSITION TO PLTFS' MOTION TO CORRECT REGISTER OF ACTIONS AND SEAL COURT RECORDS AND DEFTS' COUNTERMOTION TO PROHIBIT PLTFS' FROM PROCEEDING UNDER THE PSEUDONYM "JANE DOE DANCERS":

COURT ORDERED, countermotion DENIED.

DEFTS' LA FUENTE INC AND WESTERN PROPERTY HOLDINGS LLC'S MOTION TO COMPEL ARBITRATION AND FOR OTHER MISCELLANEOUS RELIEF:

Court inquired if Pltfs' claims are within the scope of the arbitration policy. Ms. Hartwell stated with regards to wage and hour claims. Further, Ms. Hartwell argued if you want to work at the club, arbitration agreement is entered pursuant to the Federal Arbitration Act that governs which is very broad. Pltfs' alleging they have issues with regards with their employment at the club based on not being paid overtime and not being treated as employees for wages. Colloquy. Additional argument by Ms. Hartwell. Mr. Sterling agreed this is a matter of contract interpretation and argued not an adhesion contract, it was a form prepared by the parties seeking to enforce it. Further, Mr. Sterling argued this is a poorly written contract, unclear and ambiguous. As to paragraph 4, Mr. Sterling stated the rules for arbitration of a covered claim will be AAA Arbitration Employment Rules. Additionally, Mr. Sterling stated rules were selected because they deal with claims by employees against employers and it will not allow this case to be heard under those rules. Mr. Sterling argued all claims are employees bring within the context of the existing employment relationship. Further, no claim can arise under the ADEA unless you are an employee. Court noted document combined independent contractors and employees they had and who they considered at that time. Ms. Hartwell argued in order to work there it is the policy of club to sign arbitration policy and only enforceable if signed. Further, Jane Doe I was already working at the club prior to signing arbitration agreement and argued there is nothing ambiguous with contract. Additionally, Ms. Hartwell argued Federal law trumps State law and if there were inconsistencies between Federal law and Nevada law on an agreement that says Federal law applies then Federal law would trump. Colloquy. Further argument by Ms. Hartwell. Statement by Mr. Sterling. Court inquired was there a meaningful opportunity for the entertainer to agree to the terms and what was going on at time of execution. Further, the Court noted all agree it is an adhesion contract and it was a take it or leave it situation. Ms. Hartwell stated based on agreement itself, states will not be enforceable until signed and a signature shall be required for policy to be applicable. Further, Ms. Hartwell argued Jane Doe I was already working prior to signing contract. If she chose not to read it, that is not procedural impropriety. Additionally, Ms. Hartwell argued entertainers are business owners, everyone not the same in terms of with regards to their education and knowledge. Colloquy. Ms. Hartwell further argued nothing said she was required to execute agreement and after she signed, she continued to perform. Further, Ms. Hartwell argued this does not rise to procedural unconscionability. Mr.

Sterling argued this is a flexible equitable doctrine. Further, Mr. Sterling advised Judge Cory in his order specifically addressed the interplay between the individual facts that are limited to the affidavits and then the general applicability of the unconscionability of this contract in the abstract as a matter of law. Additional argument by Mr. Sterling. Ms. Hartwell argued there was no surprise, document reads arbitration agreement and in Nevada, it is presumed document was read. As to substantive unconscionability, Ms. Hartwell stated all rules and law apply just a different form. If entitled in State Court, they are entitled to in arbitration. Further, if the club decides they no longer want arbitration policy, they can terminate policy and does not prejudice the Pltfs. With regards to the rules that apply, parties can agree to govern their dispute under what ever rules they choose. The parties can agree to resolve whatever potential issues they have however they choose. Additionally, Ms. Hartwell argued the Pltfs' want to be and insist on being independent contractors and do not consider themselves employees, do not want to be employees and the do not feel by signing this document, they waive any type of protection. Mr. Sterling stated AAA Employment Arbitration Laws are very generous to employees and the problem with the designation of the rules is, it speaks to the intent of the parties and is entirely different issue. The scope of this was intended to apply to employees within the employment context and argued it is clear because they chose rules that cannot apply to this case. Additional arguments by counsel. COURT ORDERED, matter CONTINUED to this Court's chamber calendar for decision. Mr. Sterling advised two of the Pltfs' don't want to be named, want to be class members but do not want to be class reps. Colloquy regarding pending motion to dismiss. Mr. Sterling advised he will stipulate to dismiss two Jane Doe's and request to withdraw motion set for October 5, 2016, at this time. COURT SO ORDERED.

9/12/16 DEFTS' LA FUENTE INC AND WESTERN PROPERTY HOLDINGS LLC'S MOTION TO COMPEL ARBITRATION AND FOR OTHER MISCELLANEOUS RELIEF...DECISION

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**September 12, 2016**

---

A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

---

**September 12, 2016      3:00 AM      All Pending Motions**

**HEARD BY:** Earley, Kerry

**COURTROOM:** Chambers

**COURT CLERK:** April Watkins

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- DEFTS' LA FUENTE INC AND WESTERN PROPERTY HOLDINGS LLC'S MOTION TO COMPEL ARBITRATION AND FOR OTHER MISCELLANEOUS RELIEF...STATUS CHECK: DECISION

Having reviewed the matter, along with all points and authorities submitted by counsel, as well as oral argument presented August 17, 2016, the court hereby issues its decision on Defendants La Fuente Inc. and Western Property Holdings LLC s Motion to Compel Arbitration and for Other Miscellaneous Relief.

First, the court FINDS that the Arbitration Policy (hereinafter The Policy ) implemented by La Fuente, Inc., doing business as Cheetahs Las Vegas, and signed by its dancers applies to the dancers, and that their claims in the instant case are covered under The Policy. The plain language contained in Section 2 of The Policy indicates the broad scope of the potential claims governed by The Policy, as follows:

2. Covered claims include, but are not limited to, claims that arose before and/or after this policy went into effect, arising under the Age Discrimination in Employment Act (ADEA), Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA)[,] the Fair Labor Standards Act (FLSA), 42 U.S.C. 1981, including amendments to all the

foregoing statutes, the Employee Polygraph Protection Acts, Employment Retirement Income Security Act (ERISA), Occupational Health and Safety Act (OSHA), and/or common law regulating employment termination, misappropriation, breach of the duty of loyalty, the law of contract or the law of tort, including, but not limited to, claims for malicious prosecution, intentional/negligent infliction of emotional distress or defamation.

The covered claims thus consist not only of several specific employment-related claims, but also the catchall provision of claims arising under the law of contract or the law of tort. As the Plaintiffs claims arise from a dispute regarding whether their contractual relationship with Cheetahs constitutes that of an employee-employer relationship as opposed to an independent contractor relationship, these claims fall squarely under Section 2's catchall provision. A reading of Section 2 that would exclude the instant claims from arbitration is too narrow a reading and is inconsistent with Nevada's policy of construing arbitration clauses in favor of granting arbitration. Nevada courts encourage arbitration and [will] liberally construe arbitration clauses in favor of granting arbitration. *Tallman v. Eighth Judicial Dist. Ct.*, 131 Nev. Adv. Op. 71, 359 P.3d 113, 119 (2015), citing *State ex rel. Masto*, 125 Nev. at 44, 199 P.3d at 832. Plaintiffs' argument that The Policy was ambiguous or unclear is unpersuasive. Section 16 of the policy specifically refers to dancers and entertainers, so there can be no credible confusion on the part of any dancer that the Policy applied to her.

Second, the court FINDS The Policy is not unconscionable and is enforceable. Plaintiffs' arguments that The Policy is an adhesion contract and thus unconscionable and unenforceable is contrary to Nevada law regarding adhesion contracts in employment cases. See *Kindred v. Second Judicial Dist. Ct.*, 116 Nev. 405, 411, 996 P.2d 903, 907 (2000) (stating "We have never applied the adhesion contract doctrine to employment cases.") However, contracts can be found unconscionable and thus unenforceable. Nevada law requires a showing of both procedural and substantive unconscionability. *D.R. Horton, Inc. v. Green*, 120 Nev. 549, 553-54, 96 P.3d 1159, 1162 (2004).

Procedural unconscionability focuses on such inequalities between the parties as to age, intelligence, and relative bargaining power. Plaintiffs argue The Policy was unilaterally drafted by the Defendants, gave no meaningful opportunity to negotiate, and that Defendants chose the terms of the contract, which gave rise to unequal bargaining power between the parties. These factors however merely describe the nature of an adhesion contract and do not by themselves establish procedural unconscionability. Further, The Policy was a stand-alone document, as opposed to an arbitration clause buried within some larger document. Its heading, ARBITRATION POLICY[,], CHEETAHS was prominently displayed in capitalized, bold print, and unlikely to be overlooked. The Plaintiffs' arguments that they did not or could not understand that they were signing an agreement to arbitrate potential claims against the Defendants is unpersuasive.

As to substantive unconscionability, which focuses on the one-sidedness of contract terms, Plaintiffs argue that they were not given adequate time to review The Policy, that Defendants did not set aside time to answer questions about The Policy, that the Defendants reserved the sole right to terminate or modify the arbitration policy, and that the Plaintiffs felt threatened due to the implication that the dancers must pay their own fees and costs at arbitration. However, Plaintiffs were free to find other

employment rather than agree to be bound by the terms of The Policy. While Plaintiffs may have possessed less bargaining power than Defendants, Plaintiffs have failed to assert facts demonstrating that they were at such a disadvantage that they were essentially forced to accept initial or continued employment with Defendants, subject to The Policy. There is also no evidence presented to indicate that Plaintiffs attempted take the time to thoroughly discuss The Policy with Defendants. Rather, Plaintiffs signed the agreement and posed no relevant questions about The Policy's scope or intent. While the Defendants did reserve the right to terminate or modify The Policy, such action could occur only after providing thirty (30) days notice to the Plaintiffs, wherein Plaintiffs could choose to accept the modifications, leave the employment of the club, or challenge the pending changes. Finally, the implication that the dancers must pay their own fees and costs is belied by the plain language of Section 11: Each party shall bear their own attorney's fees, costs, and filings, except as may be ordered by the arbitrator pursuant the arbitration rules. Plaintiffs cite no authority for the proposition that all prevailing party fee-shifting scenarios must be articulated within an arbitration agreement, and this court does not find that provision so ambiguous as to be unenforceable.

Thus, Defendant's Motion to Compel Arbitration is GRANTED in part and DENIED in part. Counsel for Defendants to prepare the Order, to be approved as to form and content by counsel for the Plaintiffs.

While Defendant's Motion to Compel Arbitration requested disclosure of the names of Plaintiffs identified as Jane Doe Dancers II and IV along with sanctions for the Plaintiff's failure to do so, the court finds this request is MOOT due pursuant to stipulation on this issue by counsel during oral argument.

CLERK'S NOTE: The above minute order has been distributed to: P. Andrew Sterling, Esq., (msterling@rllaz.com), Michael H. Rusing, Esq., (mrusing@rllaz.com) and Doreen Spears Hartwell, Esq., (Doreen@HartwellThalacker.com). aw

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort****COURT MINUTES****July 05, 2017**

A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

**July 05, 2017      9:00 AM      Motion for Class  
Certification**

**HEARD BY:** Becker, Nancy**COURTROOM:** RJC Courtroom 16B**COURT CLERK:** Shelly Landwehr**RECORDER:****REPORTER:** Loree Murray**PARTIES**

**PRESENT:**      CALVERT, LAUREN      Attorney  
Hartwell, Doreen M. Spears      Attorney

**JOURNAL ENTRIES**

- Ms. Calvert argued regarding dancers who had worked after 2012 who did not sign the agreement with the arbitration clause and whether or not it applied retroactively. Ms. Calvert argued regarding attorney fees stated those fees will be mandated if plaintiff is successful and plaintiff assumes success in all the claims as pled. Further arguments in support of class action certification. Colloquy regarding what evidence plaintiff has that indicates this would come close to the \$10,000.00 amount for district court action.

Ms. Hartwell referenced this Court's prior ruling regarding arbitration regarding plaintiff. Ms. Hartwell referenced the performers who didn't sign the agreement. Ms. Hartwell further argued plaintiff is time-barred and argued plaintiff does not meet the numerosity requirement. Court stated defendant is in control of that information regarding the number of performers. Further arguments. Additionally, Ms. Hartwell argued that whatever plaintiff saw in 2014 cannot be used as evidence. Lastly, Ms. Hartwell argued whether this Court has subject matter jurisdiction.

Following further arguments by Ms. Calvert, COURT stated its findings and ORDERED, motion GRANTED. Counsel to prepare findings of fact.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**August 14, 2017**

---

A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

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**August 14, 2017      3:00 AM      Motion to Withdraw as  
Counsel**

**HEARD BY:** Earley, Kerry

**COURTROOM:** Chambers

**COURT CLERK:** Kory Schlitz

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- This matter came before the court for Defendants La Fuente and Western Property Holdings s Motion to Withdraw as Counsel of Record, filed by counsel Stephen W. Brown, Esq. on July 13, 2017. Having received no Opposition to the matter and pursuant to EDCR 2.20 and for good cause showing, the Court hereby GRANTS Defendants Motion. Defendants counsel shall prepare the Order in accordance with EDCR 7.21 and EDCR 7.40, notifying the former client of all pending dates and providing the last known address and telephone number of Defendant within the proposed Order. A Status Check is hereby set for September 6, 2017 at 9:00 a.m. for Defendant to obtain new counsel.

CLERK'S NOTE: A copy of the foregoing minute order has been electronically distributed to: Stephen W. Brown, Esq. (swbrown@littler.com); Ryan Anderson, Esq. (ryan@morrisandersonlaw.com); Michael J. Rusing, Esq. (mrusing@rllaz.com); Laura J. Thalacker, Esq. (Laura@hartwellthalacker.com). (8-14-17 ks)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**September 06, 2017**

---

A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

---

**September 06, 2017      9:00 AM**

**Status Check:  
Confirmation of Counsel**

**HEARD BY:** Earley, Kerry

**COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:** Loree Murray

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- No parties present. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 10/4/17 9:00 AM



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort****COURT MINUTES****September 29, 2017**

A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

<b>September 29, 2017</b>	<b>9:00 AM</b>	<b>Motion to Extend Discovery</b>	<b>Defendants Motion to Extend Discovery Deadline (First Request)</b>
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**HEARD BY:** Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

**PRESENT:**      CALVERT, LAUREN      Attorney  
                         Hartwell, Doreen M. Spears      Attorney

**JOURNAL ENTRIES**

- 1-2-18 Trial date; dates in Motion don't work, and dispositive motions must be heard by 11-22-17. Ms. Calvert stated counsel discussed compelling information, but it is not in electronic format. Ms. Hartwell stated documents go back ten years, Defense counsel is working with the client on discovery, but it will take awhile based on document format. No Order for class certification yet per Ms. Hartwell.

COMMISSIONER RECOMMENDED, motion is GRANTED; discovery cutoff EXTENDED to 11-27-17; file dispositive motions no later than 11-22-17. If counsel make a Motion properly before the District Court Judge and the Trial date is continued, counsel can ask the Court for discovery deadlines, and Commissioner's Recommendation will be vacated. Commissioner will try to let the Court know a Stipulation or Motion may be filed. If Commissioner's deadlines are vacated, counsel must send a letter to Commissioner Bulla. Ms. Hartwell to prepare the Report and Recommendations, and Ms. Calvert to approve as to form and content. A proper report must be

timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**October 04, 2017**

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A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

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**October 04, 2017      9:00 AM      Status Check:  
Confirmation of Counsel**

**HEARD BY:** Herndon, Douglas W.      **COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** Deborah Miller

**RECORDER:** Sara Richardson

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Court stated an order was signed indicating that Stephen Brown, Esq. has been withdraw, however, other defense counsel is still in place. COURT ORDERED, matter OFF CALENDAR.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort****COURT MINUTES****November 07, 2017**

A-14-709851-C      Jane Doe, Plaintiff(s)  
                                  vs.  
                                  Western Property Holdings LLC, Defendant(s)

**November 07, 2017      10:00 AM      Status Check: Compliance**

**HEARD BY:** Bulla, Bonnie      **COURTROOM:** RJC Level 5 Hearing Room

**COURT CLERK:** Jennifer Lott

**RECORDER:** Francesca Haak

**REPORTER:**

**PARTIES**

**PRESENT:**      CALVERT, LAUREN      Attorney  
                                  Hartwell, Doreen M. Spears      Attorney

**JOURNAL ENTRIES**

- Ms. Calvert revised the 9-27-17 Report and Recommendation, and it should be in transit. Memorandum of Fees was to be submitted. As a gesture of good will Ms. Calvert did not seek fees. Colloquy re: production of documents; 16,000 documents are being reviewed in Atlanta, scanned, and uploaded to a secure website. Ms. Calvert communicated with out of state counsel several times, but Ms. Calvert hasn't received anything. Counsel submitted a Stipulation to push out the Trial date, and counsel agreed to a Settlement Conference with a Judge. Ms. Spears Hartwell stated there was a death in the office, and another employee was involved in the shooting so production has been slow. Ms. Calvert requested Interrogatories supplemented; depositions are done. If counsel cannot agree on deadlines, have a 2,34 conference and contact Commissioner by conference call, submit a 2.35 Stipulation, or bring a Motion to Extend Discovery. No further action today.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**December 13, 2017**

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A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

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**December 13, 2017      11:00 AM      Pretrial/Calendar Call**

**HEARD BY:** Earley, Kerry

**COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Haly Pannullo

**RECORDER:**

**REPORTER:** Gina Shrader

**PARTIES**

**PRESENT:** CALVERT, LAUREN      Attorney

**JOURNAL ENTRIES**

- Kimball Jones, Esq., present on behalf of Plaintiff.

Ms. Calvert noted a stipulation was submitted and they were told they need firm date put in the stipulation in order to do a settlement conference. Upon Court's inquiry, Mr. Jones requested a Senior Judge and stated Judge Barker previously ruled on a decision in this case. Court noted that shouldn't be a problem; however, if they are assigned to Judge Barker, then they can mention the history. COURT ORDERED, trial dates VACATED and RESET; Status Check regarding Settlement Conference SET. Counsel stated they will let opposing counsel know of new dates set.

03/28/18 9:00 AM STATUS CHECK: SETTLEMENT CONFERENCE

05/09/18 11:00 AM PRETRIAL/CALENDAR CALL

05/21/18 9:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort****COURT MINUTES****January 10, 2018**

A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

<b>January 10, 2018</b>	<b>9:00 AM</b>	<b>Motion for Sanctions</b>	<b>Plaintiff Jane Doe Dancer III's Motion for Sanctions Against Deft in Accordance with NRCP 37(C), for Spoliations Sanctions and for Attorney's Fees and Costs</b>
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**HEARD BY:** Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

<b>PRESENT:</b>	CALVERT, LAUREN	Attorney
	Hartwell, Doreen M. Spears	Attorney
	Jones, Kimball	Attorney

**JOURNAL ENTRIES**

- Commissioner addressed the lack of communication between counsel. Argument by Mr. Jones; discussion re: Exhibit 17 in the initial Motion. Mr. Jones stated one group is in Arbitration, and one group did not sign Arbitration Agreement. Colloquy. Ms. Hartwell indicated the records produced to Pltff's counsel were the state of the records. Commissioner REQUIRED everyone be e-served including out of state counsel. Commissioner encouraged everyone to use the Court e-service system. COMMISSIONER RECOMMENDED, by 1-31-18 all Contracts that out of state counsel has in his possession must be sent to in state counsel and lead counsel. Mr. Jones requested documents on a flash drive. COMMISSIONER SO RECOMMENDED. Mr. Jones will pay for a flash drive. Colloquy re: Interrogatories 10, 11, and 15, but corresponding Requests to Produce are unknown.

COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; alternative relief is provided, and Motion to Compel is GRANTED; 1) no later than 1-31-18, produce Arbitration Agreements currently in Deft's possession, and Deft can charge Pltf with reasonable copy costs under Rule 34(d); 2) full and complete names and last known addresses, hours that Dancers worked, and whatever information shows payment of Dancers from 2010 through 2014. Mr. Jones stated Dancers paid the club.

COMMISSIONER RECOMMENDED, by 1-31-18, provide accounting paid / received for each Dancer; 3) for Dancers 2014 to present, Deft must go through and check receipts and check if Dancers had an Arbitration Agreement or not; Deft is REQUIRED to organize it in a legible fashion, and information is due 1-31-18; supplemental signed and verified Interrogatories and Request to Produce implicated are due by 2-16-18. Commissioner Will Not move the Trial date. COMMISSIONER RECOMMENDED, Motion for Spoliation is DENIED WITHOUT PREJUDICE; Attorney fees and costs for having to bring the Motion for Sanctions are GRANTED (treated as a Motion to Compel), and include Reply, and today's argument. Mr. Jones will prepare a Memorandum of Fees and Costs and apply the Brunzell factors. COMMISSIONER RECOMMENDED, logbook and Arbitration Agreements due by 1-31-18, but everything else due 2-16-18; Status Check SET, and out of state counsel for Both Sides must participate by Court Call.

Mr. Jones / Ms. Calvert to prepare the Report and Recommendations, and Ms. Hartwell to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.

2-21-18 10:00 a.m. Status Check

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**February 21, 2018**

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A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

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**February 21, 2018      10:00 AM      Status Check**

**HEARD BY:** Bulla, Bonnie      **COURTROOM:** RJC Level 5 Hearing Room

**COURT CLERK:** Jennifer Lott

**RECORDER:** Francesca Haak

**REPORTER:**

**PARTIES**

**PRESENT:** CALVERT, LAUREN      Attorney

**JOURNAL ENTRIES**

- No Court Call. Ms. Calvert stated a continuance was requested as Ms. Spears Hartwell is in Trial. Counsel agreed to 3-2-18. COMMISSIONER RECOMMENDED, matter CONTINUED. Ms. Calvert will advise opposing counsel of the continuance date. Discovery staff contacted Court Call.

3-2-18 9:00 a.m. Status Check

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**February 28, 2018**

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A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

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**February 28, 2018      9:00 AM      Settlement Conference**

**HEARD BY:** Saitta, Nancy      **COURTROOM:** No Location

**COURT CLERK:** Christopher Darling

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Matter not settled.

**March 02, 2018**

PRINT DATE: 03/14/2019 Page 25 of 42 Minutes Date: April 01, 2015

Mr. Fuchs stated documents that existed at one point were destroyed in flood damage. Commissioner Directed Mr. Fuchs to put information in a sworn statement with a contemporaneous receipt or confirmation, and find out what Deft has. Colloquy. Mr. Jones discussed stage fees, log book with stage names, and comparing information with Sheriff's cards. Commissioner gave Mr. Fuchs time to find out what Deft has or doesn't have, and supplement by separate Affidavit and explain documents, and explain the flood. Commissioner advised counsel to work out a date for a Rule 34 inspection which can be set with less than 30 days notice on agreement by counsel. Colloquy re: Interrogatories 10, 11, 15 were discussed 1-10-18 (Interrogatory 22 was not in the previous Minute Order). COMMISSIONER RECOMMENDED, supplement Interrogatory 11 for Dancers at the Club and include names and addresses of Dancers. Commissioner will revisit and take a more critical look at the Memorandum of Fees and Costs. COMMISSIONER RECOMMENDED, Status Check SET.

3-30-18 9:00 a.m. Status Check

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort****COURT MINUTES****March 28, 2018**

A-14-709851-C      Jane Doe, Plaintiff(s)  
                                  vs.  
                                  Western Property Holdings LLC, Defendant(s)

**March 28, 2018      9:00 AM      Status Check**

**HEARD BY:** Earley, Kerry      **COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Louisa Garcia

**RECORDER:**

**REPORTER:** Loree Murray

**PARTIES**

**PRESENT:**      CALVERT, LAUREN      Attorney  
                          Hartwell, Doreen M. Spears      Attorney

**JOURNAL ENTRIES**

- Courts stated it was its understanding there was no settlement. Ms. Hartwell stated they were just hoping to get a deadline on the Motion for Summary Judgment. Court noted there was an issue with the Stipulation and Order; it was vague and it needed specific dates. Counsel advised they do not want to extend discovery; it was closed November 27, 2017 and the only dates they need is for the dispositive motions and trial date. COURT ORDERED, trial date SET; Deft's Motion for Summary Judgment RESET to June 13, 2018 and dispositive motion deadline is May 15, 2018. Counsel anticipate one week for trial based on the Court's calendar.

7/18/18 11:00 AM CALENDAR CALL

7/30/18 9:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort****COURT MINUTES****March 30, 2018**

A-14-709851-C      Jane Doe, Plaintiff(s)  
                                  vs.  
                                  Western Property Holdings LLC, Defendant(s)

**March 30, 2018      9:00 AM      Status Check**

**HEARD BY:** Bulla, Bonnie      **COURTROOM:** RJC Level 5 Hearing Room

**COURT CLERK:** Jennifer Lott

**RECORDER:** Francesca Haak

**REPORTER:**

**PARTIES**

**PRESENT:**      CALVERT, LAUREN      Attorney  
                          Hartwell, Doreen M. Spears      Attorney  
                          Jones, Kimball      Attorney

**JOURNAL ENTRIES**

- Dean Fuchs, Esquire, for Defts.

The case did not resolve, and counsel will move forward to Trial. Ms. Calvert confirmed a site inspection was held, but counsel hasn't received any explanations or responses, or a response to Interrogatory #11. All documents were produced in Deft's possession, and Ms. Hartwell Spears was present at the site inspection; argument by counsel. Mr. Fuchs prepared a Declaration for the client to sign, revisions were made, and Mr. Fuchs expects to file it shortly. Mr. Fuchs is in Florida due to his Mother's health condition, and Mr. Fuchs will take care of Interrogatory #11 when he is back in town. Commissioner advised Plaintiffs' counsel any Motion for Rule 37 sanctions including terminating sanctions would be filed before the Judge. Commissioner will not take further action.

COMMISSIONER RECOMMENDED, supplement Interrogatory 11 and provide a Declaration as soon as possible, and provide any other outstanding discovery discussed in a proper 2.34 conference by 4-18-18 (Rescind 4-13-18). Mr. Jones to prepare the Report and Recommendations, and Ms.

Hartwell Spears to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. Submit a cover letter if Mr. Jones cannot obtain a signature.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**May 24, 2018**

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A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

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**May 24, 2018      3:00 AM      Status Check: Compliance**

**HEARD BY:** Bulla, Bonnie      **COURTROOM:** No Location

**COURT CLERK:** Christopher Darling

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The 3-30-18 Report and Recommendation remains outstanding. Mr. Jones was given the responsibility to submit the Report and Recommendation from the 3-30-18 hearing. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a sanction. COMMISSIONER RECOMMENDED, matter CONTINUED to an in chambers status check.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Kimball Jones, Esq. (Morris Anderson); Lauren Calvert, Esq. (Morris Anderson); Doreen M. Spears Hartwell, Esq. (Hartwell Thalacker, Ltd.).

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**August 08, 2018**

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A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

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**August 08, 2018      9:00 AM      Motion**

**HEARD BY:** Earley, Kerry      **COURTROOM:** RJC Courtroom 12D

**COURT CLERK:** Nancy Maldonado

**RECORDER:** Sharon Nichols

**REPORTER:**

**PARTIES**

**PRESENT:**      Hartwell, Doreen      M. Spears      Attorney  
                 Jones, Kimball      Attorney  
                 Sterling, P. Andrew      Attorney

**JOURNAL ENTRIES**

- Dean Fuchs, Pro Hac, also present.

Colloquy regarding Terry v Sapphire case. Argument by Mr. Sterling regarding the difference between the statutory wage claim and constitutional wage claim. Argument by Mr. Fuchs. Colloquy regarding Neville vs. Eighth Judicial District Court case. Further arguments by counsel. COURT ORDERED, a briefing schedule as follows: Defendant's Opposition DUE 08/17/18, Opening Brief DUE 09/05/18, Opposition DUE 09/20/18. Colloquy regarding Defense counsel producing legible documents in a timely manner. COURT FURTHER ORDERED, an affidavit by Diana Potrelli be done regarding the number of documents and what was destroyed. COURT ORDERED matters SET.

CONTINUED TO: 08/23/18 9:00 AM

10/04/18 9:00 AM DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

10/04/18 9:00 AM PLAINTIFF'S COUNTERMOTION FOR SUMMARY JUDGMENT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort****COURT MINUTES****August 23, 2018**

A-14-709851-C      Jane Doe, Plaintiff(s)  
                                  vs.  
                                  Western Property Holdings LLC, Defendant(s)

**August 23, 2018      9:00 AM      Motion**

**HEARD BY:** Earley, Kerry      **COURTROOM:** RJC Courtroom 12D

**COURT CLERK:** Nancy Maldonado

**RECORDER:** Sharon Nichols

**REPORTER:**

**PARTIES**

**PRESENT:**      Hartwell, Doreen    M. Spears      Attorney  
                                  Jones, Kimball                              Attorney

**JOURNAL ENTRIES**

- Colloquy regarding attorney fees and costs that Commissioner Bulla previously ordered. Court noted there were two reasons the hearing was continued, one of which was to get clarification on the sanctions ordered by Commissioner Bulla. Court advised the second reason the hearing was continued, was to obtain the supplemental affidavit from Diana Pontrelli. Court noted that there was no supplemental affidavit received. Arguments by counsel. COURT ORDERED, motion GRANTED. Court further set the following briefing schedule: Plaintiff's order for attorney fees and costs DUE 09/13/18, Defendant's opposition DUE 09/27/18, Plaintiff's reply DUE 10/02/18. COURT FURTHER ORDERED, matter SET. ADDITIONALLY, COURT ORDERED, calendar call and jury trial VACATED.

10/04/18 9:00 AM HEARING: ORDER FOR DISCOVERY SANCTIONS

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort****COURT MINUTES****October 04, 2018**

A-14-709851-C      Jane Doe, Plaintiff(s)  
                                  vs.  
                                  Western Property Holdings LLC, Defendant(s)

**October 04, 2018      9:00 AM      All Pending Motions**

**HEARD BY:** Earley, Kerry      **COURTROOM:** RJC Courtroom 12D

**COURT CLERK:** Elizabeth Vargas

**RECORDER:** Sharon Nichols

**REPORTER:**

**PARTIES**

**PRESENT:**      Hartwell, Doreen   M. Spears      Attorney  
                          Jones, Kimball                           Attorney  
                          Sterling, P. Andrew                           Attorney

**JOURNAL ENTRIES**

- HEARING: ORDER FOR DISCOVERY SANCTIONS...PLAINTIFF'S COUNTERMOTION FOR SUMMARY JUDGMENT... DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Court noted there were new arguments regarding case law and whether statute would apply to the amendment claim. Court noted it reviewed the supplemental briefs, case law, and read the transcript. Court determined the Thomas case was not applicable for determining whether a person is or is not an employee or independent contractor. Ms. Hartwell argued the dancers were independent contractors pursuant to statute. Court noted argument was limited to determining under the statute whether the dancers are presumed to be an independent contractors, and certain criteria must be met. Ms. Hartwell stated reasons why the dancers would be considered independent contractors. Mr. Sterling and Mr. Jones argued regarding house rules; stated the house rules have changed over time. Mr. Jones stated there is unfairness in that all the names of Plaintiffs are not known at this time. Argument by counsel regarding Defendants' Motion for Summary Judgment. Court stated a decision will be issued in a minute order today.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort****COURT MINUTES****October 04, 2018**

A-14-709851-C      Jane Doe, Plaintiff(s)  
                                  vs.  
                                  Western Property Holdings LLC, Defendant(s)

**October 04, 2018      2:00 PM      Minute Order**

**HEARD BY:** Earley, Kerry      **COURTROOM:** No Location

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- This matter came before the Court on both Plaintiff Jane Doe and Defendant La Fuente, Inc. s competing Motions for Summary Judgment on Employee/Independent Contractor Status. Having reviewed the matter, including all points, authorities, exhibits, and supplemental briefing, as well as oral argument from counsel, the Court hereby GRANTS Defendant s Motion for Summary Judgment. The Court uses the test set forth within NRS 608.0155 to determine whether the Plaintiff is an independent contractor and finds that NRS 608.0155(a), 608.0155(b), and 608.0155(c)(1) through (3) apply to the Plaintiff. Thus, Defendant is entitled to a judgment as a matter of law, since no genuine issue of material fact remains regarding the issue that Plaintiff is an independent contractor pursuant to NRS 608.0155. Plaintiff s Counter Motion is hereby DENIED. Counsel for Defendant to prepare and submit the order, to be approved as to form and content by Plaintiff s counsel.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Kimball Jones, Esq. (Bighorn Law), Andrew Sterling, Esq. (rusinglopez@rllaz.com) and Doreen Hartwell, Esq. (dhartwell@lionelsawyer.com) // ev 10/4/18

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort****COURT MINUTES****October 24, 2018**

A-14-709851-C      Jane Doe, Plaintiff(s)  
                                  vs.  
                                  Western Property Holdings LLC, Defendant(s)

<b>October 24, 2018</b>	<b>9:00 AM</b>	<b>Motion for Fees</b>	<b>COURT CALL - Plaintiffs' Motion for Fees and Costs in Pursuing Spoliated Materials</b>
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**HEARD BY:** Bulla, Bonnie**COURTROOM:** RJC Level 5 Hearing Room**COURT CLERK:** Jennifer Lott**RECORDER:** Francesca Haak**REPORTER:****PARTIES**

<b>PRESENT:</b>	Fuchs, Dean R.	Attorney
	Hartwell, Doreen M. Spears	Attorney
	Jones, Kimball	Attorney

**JOURNAL ENTRIES**

- Commissioner stated the Court Granted Summary Judgment. Mr. Jones stated the case will be on Appeal with other similar cases, but the fees and costs are still to be paid, and there is a Hearing before the Judge. Mr. Jones stated fees and costs were Granted as well as a rebuttable presumption. Arguments by counsel. Commissioner DEFERRED the Motion to the District Court Judge, and the Judge will consider it when the Judge decides fees and costs. Mr. Jones stated the District Court Judge told counsel to split fees and costs, and bring fees and costs up until April, already Recommended by Commissioner. Counsel were ordered by the Court to bring it back to the Discovery Commissioner. Arguments by counsel. COMMISSIONER RECOMMENDED, motion is UNDER ADVISEMENT, and Commissioner will issue a Decision.

CLERK'S NOTE: See Minute Order on 11-13-18. jl

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**November 01, 2018**

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A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

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**November 01, 2018      9:00 AM      Motion**

**HEARD BY:** Earley, Kerry      **COURTROOM:** RJC Courtroom 12D

**COURT CLERK:** Elizabeth Vargas

**RECORDER:** Sharon Nichols

**REPORTER:**

**PARTIES**

**PRESENT:**      Fuchs, Dean R.      Attorney  
                 Hartwell, Doreen M. Spears      Attorney  
                 Sterling, P. Andrew      Attorney

**JOURNAL ENTRIES**

- Mr. Fuchs and Mr. Sterling present via Court Call. Court noted the summary judgment was granted, and trial date was vacated, however these motions were filed after the summary judgment. Mr. Sterling stated the jury instructions were moot, and the remaining issue were fees and costs; argued there were no specific allegation that time entries were duplicative or improper in the opposition. Ms. Hartwell argued there was no way opposing counsel incurred over \$30,000 in attorney's fees for the Motion. Court noted it was aware of the arguments and positions of both counsel. Court determined it would wait to review Commissioner Bulla's ruling prior to making a ruling on the Motion. COURT ORDERED, matter TAKEN UNDER ADVISEMENT.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort****COURT MINUTES****November 13, 2018**

A-14-709851-C      Jane Doe, Plaintiff(s)  
                                  vs.  
                                  Western Property Holdings LLC, Defendant(s)

**November 13, 2018      11:55 AM      Minute Order      Regarding the 10-24-18 Hearing**

**HEARD BY:** Bulla, Bonnie**COURTROOM:** No Location**COURT CLERK:** Jennifer Lott**RECORDER:****REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The Discovery Commissioner having taken the above matter under advisement and having reviewed the prior hearing minutes, Report and Recommendations and applicable pleadings, as well as argument of counsel, recommends that the Plaintiffs' Motion for Fees and Costs in Pursuing Spoliated Materials be granted.

As a preliminary matter, the Commissioner takes the opportunity to set out the relevant procedural history. The Plaintiffs filed an initial motion to compel which was heard by the Commissioner on 9/27/17. At this hearing, the Commissioner stated her intention to award attorney fees and costs and Plaintiffs' counsel was instructed to prepare a Memorandum of Fees and Costs, applying the Brunzell factors. At the follow up hearing, Plaintiffs' counsel withdrew her request for fees and costs as a "gesture of good will" and none were awarded.

Subsequently, on 12/7/17, the Plaintiffs filed a Motion for Sanctions against Defendants in accordance with NRCP 37[c] for Spoliation Sanctions and Attorney Fees and Costs for the Defendants' failure to produce discovery as previously ordered. This motion was heard on 1/10/18. At the hearing, the Commissioner denied the Motion for Spoliation Sanctions without Prejudice and granted the Motion for Attorney Fees and Costs. Defendants were given additional time to comply

with the Discovery Commissioner's recommendations regarding document production, and Plaintiffs were instructed to file a Memorandum of Fees and Costs for having to bring the Motion for Sanctions, which the Commissioner essentially treated as a Motion to Compel, and apply the Brunzell factors. Of note, the Report and Recommendations from this hearing was filed on 3/14/18 and then again on 4/5/18.

On January 22, 2018, Plaintiffs filed their Memorandum of Fees and Costs, which included attorney fees in the amount of \$14,110.50 and costs in the amount of \$10.50 (filing fees). Defendants objected to the Plaintiffs' memorandum on 2/8/18. A follow up hearing to address the Plaintiffs' requested fees and costs was scheduled for 2/21/18, but had to be continued to 3/2/18 as Defendants' counsel failed to appear because she was in trial. In the interim, on 2/28/18, the parties engaged in a settlement conference. The case did not settle.

At the 3/2/18 hearing to address the award of fees from the 1/10/18 hearing, the Commissioner declined to award the entire amount of fees requested by Plaintiffs in light of Defendants' compliance and the number of documents that in fact were produced. The Plaintiffs, however, remained concerned that additional documents responsive to their requests remained outstanding. A site inspection of the location of the documents was agreed to by the parties and scheduled. Therefore, the Commissioner continued the matter for further compliance, and agreed to re-review the Memorandum of Fees and Costs submitted by the Plaintiffs.

When the parties returned for the follow up hearing on 3/30/18, it was apparent that there were potential issues involving spoliation. In light of the sanctions requested (case terminating sanctions), the Commissioner deferred any forthcoming Rule 37 sanctions to the District Court Judge, including any award of attorney fees and costs, and declined to take further action at that time.

Subsequently, on or about 10/4/18, the District Court Judge granted Defendants' Motion for Summary Judgment. Following this, the Plaintiffs filed Motions for Fees and Costs related to their unsuccessful efforts to obtain discovery, which Plaintiffs claim based on the site inspection was spoliated. One motion was filed before the District Court Judge and the other before the Discovery Commissioner. It is the understanding of the Commissioner that she is to consider Plaintiff's request for attorney fees and costs up until April 2018 for their efforts to obtain evidence that ultimately did not exist, and the Judge will consider the attorney fees and costs requested after that date. See October 24, 2018 minutes. It should be noted that at this point only monetary sanctions are available as a sanction for Defendants' failure to produce evidence since summary judgment has been granted in favor of the Defendants, thereby precluding imposition of evidentiary-type sanctions.

Based on the foregoing, the Discovery Commissioner reviewed Plaintiffs' Memorandums for Fees and Costs filed on 1/22/18 and 9/9/18. Preliminarily, the Commissioner accepts and adopts the Plaintiffs' analysis of the Brunzell factors and agrees to the Plaintiffs' hourly rates of \$400 an hour for Kimball Jones, \$375 and \$320 an hour for P. Andrew Sterling.

With respect to the requested costs, the Commissioner also accepts Plaintiffs' costs contained within

both memorandums with the exception of parking, which she routinely does not allow. Although the Plaintiffs could have ordered a more cost-effective disc of the hearing instead of a transcript, the Commissioner decided to permit the costs associated with the transcript of the 3/30/18 hearing, as this was the hearing that the sanction part of the motion was deferred to the Judge, and therefore relevant to the resolution of Plaintiffs' request for sanctions. Thus, the Commissioner recommends reimbursing Plaintiffs their costs in the amount of \$178.22.

With respect to the attorney fees, the Commissioner did not include fees associated with preparing Reports and Recommendations (required), the memorandums of fees and costs (required), administrative-type tasks, or entries after 3/31/18, which would be outside of the time frame of Commissioner Bulla's focus. In summary, the Commissioner only allowed for the recovery of attorney fees related to the Motion for Sanctions filed in January 2018, and to the follow up hearings and activities related to the discovery of Defendants' documents.

Based on the foregoing, the Commissioner recommends reimbursing Plaintiffs their attorney fees from the following entries set forth in the 1/22/18 memorandum: 12/9/17; 12/24/17; 1/1/18; 1/4/18; and, 1/10/18. The total of these attorney fees are in the amount of \$4312.50. Further, the Commissioner recommends reimbursing Plaintiffs their attorney fees from the following entries set forth in the 9/19/18 memorandum, which are not duplicative of those recommended above: 1/10/18 (KJ); 1/31/18; 2/19/18 (two entries); 2/20/18 (second entry); 2/21/18 (first entry); 3/2/18 (both entries); 3/6/18 (KJ); 3/6/18; 3/13/18; 3/14/18 (four entries); 3/15/18; and, 3/20/18 (two entries, one LC and one KJ). The total of these attorney fees are in amount of \$7565.

Therefore, the Commissioner recommends that Plaintiffs be awarded costs in the amount of \$178.22, and attorney fees in the amount of \$11,877.50, for a total award of \$12,055.72. The total amount will be due and owing from the Defendants, not their attorneys, to the Plaintiff within thirty (30) days after the Report and Recommendations is signed by the District Court Judge. Mr. Jones is to prepare the Report and Recommendations, to include the analysis of the Brunzell factors set forth in both memorandums, and Defense counsel is to approve as to form and content. The Report is due within 10 days after being served with these minutes.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Employment Tort**

**COURT MINUTES**

**February 01, 2019**

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A-14-709851-C      Jane Doe, Plaintiff(s)  
vs.  
Western Property Holdings LLC, Defendant(s)

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**February 01, 2019      3:00 AM      Minute Order**

**HEARD BY:** Earley, Kerry      **COURTROOM:** Chambers

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The District Court, having taken the Plaintiff s Motion for Order on Proposed Jury Instructions and Fees and Costs under advisement until the Discovery Commissioner ruled on Plaintiff s Motion for Sanctions and Fees and Costs pertaining to the fees and costs prior to April 2018, renders its ruling pertaining to fees and costs after April 2018 on this matter.

Having reviewed all points, authorities, and exhibits, as well as considering the oral arguments of counsel at the previous hearing and after an analysis of the Brunzell factors, The Court finds that Plaintiff is not entitled to costs incurred for an Airline Ticket for P. Andrew Sterling to attend the hearing totaling \$379.96, Parking totaling \$13.00, and a Taxi totaling \$56.55. The Court further finds, in relation to the attorney s fees requested by The Law Offices of Bighorn Law, that Plaintiff is not entitled to fee entry dated 05/04/2018 and titled "Reviewed and Finalized DCR&R from 03/30/2018" totaling \$160.00 and fee entry dated 06/11/2018 and titled "Prepared Memo of Fees and Costs" totaling \$320.00. The Court further finds, in relation to the attorney s fees requested by the Law Offices of Rusing, Lopez & Lizardi, PLLC, the Plaintiff is not entitled to the full fee entry dated 08/08/2018 totaling 11.8 hours titled "Prepare for and attend hearing;" the Court will allow 3.5 hours for this entry.

Therefore, the Court finds that Plaintiff shall be awarded costs in the amount of \$6.00, and attorney

fees in the amount of \$29,493.50, for a total award of \$29,499.50. The total amount will be due and owing from the Defendants, not their attorneys, to the Plaintiff within thirty (30) days after the Order is served on Defendants. Counsel for Plaintiff to prepare the Order, to include the analysis of the Brunzell factors as set forth in its Motion, to be approved as to form and content by counsel for Defendant. The Order is due within ten (10) days of this Minute Order.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Ryan Andersen, Esq. (ryan@bighornlaw.com) and Doreen Hartwell, Esq. (doreen@hartwellthalacker.com). //ev  
2/1/19

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

AMENDED NOTICE OF APPEAL; CASE APPEAL STATEMENT;  
DISTRICT COURT DOCKET ENTRIES; DISCOVERY COMMISSIONER'S REPORT AND  
RECOMMENDATIONS; NOTICE OF ENTRY OF DECISION AND ORDER; ORDER ON  
PLAINTIFFS' MOTION FOR ORDER ON PROPOSED JURY INSTRUCTIONS AND FEES AND  
COSTS; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES

JANE DOE DANCER, I THROUGH V,

Plaintiff(s),

vs.

LA FUENTE, INC.; WESTERN PROPERTY  
HOLDINGS, LLC DBA CHEETAHS LAS  
VEGAS, DBA THE NEW CHEETAHS  
GENTLEMAN'S CLUB,

Defendant(s),

Case No: A-14-709851-C

Dept No: IV

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 14 day of March 2019.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk