

Electronically Filed  
Nov 21 2019 01:22 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**NOAS**

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*Attorneys for Plaintiff Jaqueline Fausto*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JAQUELINE FAUSTO, an individual,

Plaintiff,

v.

RICARDO SANCHEZ-FLORES, an individual;  
VERENICE RUTH FLORES, an individual;

Defendants.

Case No. A-19-797890-C

Dept. No. XXIII

**NOTICE OF APPEAL**

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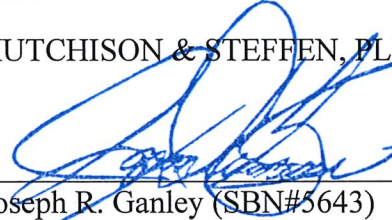
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1 Plaintiff, JAQUELINE FAUSTO, by and through her undersigned counsel of record,  
2 does hereby appeal the *Findings of Fact and Conclusions of Law, and Order Granting*  
3 *Defendants' Motion to Dismiss* ("Order") entered by this Court on October 17, 2019. A copy  
4 of the *Order* is attached as **Exhibit "1."**

5 DATED this 15 day of November, 2019.

6 HUTCHISON & STEFFEN, PLLC

7 

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22 *Attorneys for Plaintiff*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to N.R.C.P. 5(b), I, hereby certify that I am a non-party over the age of 18  
3 years, and that on the 15 day of November, 2019, I caused a true and correct copy of the  
4 **NOTICE OF APPEAL** to be electronically served through the Eighth Judicial District Court  
5 EFP System pursuant to NEFR 9 on the following:

6 **John Henry Wright, Esq. - john@wrightlawgroupnv.com**

7 **Christopher Phillips, Esq. - chris@wrightlawgroupnv.com**

8 **Amy J. Smith, Esq. - amys@wrightlawgroupnv.com**

*Attorneys for Defendants Ricardo Sanchez-Flores and Verenice Ruth Flores*

9 I hereby declare, under penalty of perjury by the laws of the State of Nevada, that the  
10 aforementioned is a true and correct statement of fact.

11 DATED: November 15, 2019

12 

13 \_\_\_\_\_  
Employee of Hutchison & Steffen, PLLC

# **EXHIBIT 1**

# **EXHIBIT 1**

*Steven D. Grierson*

1 **ORDG**  
2 JOHN HENRY WRIGHT, ESQ.  
3 Nevada Bar No. 6182  
4 AMY J. SMITH, ESQ.  
5 Nevada Bar No. 14954  
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12 [amys@wrightlawgroupnv.com](mailto:amys@wrightlawgroupnv.com)  
13 Attorneys for Defendants

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 JAQUELINE FAUSTO, an individual,  
11 Plaintiff,  
12 vs.  
13 RICARDO SANCHEZ-FLORES, an  
14 individual; VERENICE RUTH FLORES, an  
15 individual;  
16 Defendants.

CASE NO: A-19-797890-C

DEPT NO: XXIII

16 **FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ORDER GRANTING**  
17 **DEFENDANTS' MOTION TO DISMISS**

18 The above matter came before the Court on September 17, 2019 for hearing on Defendants'  
19 Motion to Dismiss or in the Alternative Motion to Stay<sup>1</sup>. Defendants RICARDO SANCHEZ-  
20 FLORES and VERENICE RUTH FLORES, were represented by JOHN HENRY WRIGHT, ESQ.,  
21 of The Wright Law Group, P.C., and Plaintiff JAQUELINE FAUSTO was represented by JOSEPH  
22 R. GANLEY, ESQ., of HUTCHINSON & STEFFEN, PLLC. The Court having considered the  
23 motion, the opposition, the reply, the addendum, the supplemental points and authority, and the  
24 arguments of counsel, the Court hereby finds and orders as follows:

25 ///

26 ///

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input checked="" type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

28 <sup>1</sup>Since the Court dismissed the Complaint in its entirety, the Court did not consider Defendants' Motion to Stay.





### FINDINGS OF FACT

1. Plaintiff's complaint alleges tort claims occurred on or about December 30, 2016 and/or December 31, 2016.
2. Plaintiff knew of her alleged injuries at that time because (1) she sought counseling, (2) she made two reports to the police, and (3) conducted a Sexual Assault Nurse Examiner Exam shortly following the alleged injury.
3. Plaintiff filed her complaint on July 3, 2019, more than two years and a half years after the date she alleged the torts occurred.
4. Plaintiff's complaint did not address the two year statute of limitation for the tort claims.
5. Plaintiff's complaint did allege that the statute of limitation should be tolled.
6. Plaintiff's complaint did not allege any facts which would warrant tolling of the statute of limitation.
7. On July 24, 2019, Defendants timely filed a motion to dismiss.
8. On August 9, 2019, Plaintiff's opposition to the motion to dismiss, for the first time, requested that statute of limitation be tolled on her tort claims.
9. On September 10, 2019, Plaintiff's addendum to her opposition to the motion to dismiss, for the first time, alleged that she was not sure what happened on the night in question.
10. The Court found that Plaintiff's complaint was filed more than two years after the accrual date.

### CONCLUSIONS OF LAW

1. None of the claims in Plaintiff's complaint were tolled.
2. The statute of limitation was not tolled by the Discovery Rule, because Plaintiff knew about her alleged injury on December 30, 2016, more than two years prior to filing her complaint on July 8, 2019.
3. Equitable tolling does not apply in this case, because Plaintiff was not prevented from obtaining vital information bearing on the existence of her claim.
4. Pursuant to NRS 11.190(4)(e), any action to recover damages for injuries to a person caused by a wrongful act or neglect must be commenced within two (2) years of the alleged



wrongful conduct or neglect. Therefore, NRS 11.190(4)(e) barred the Plaintiff from bringing tort claims any date after December 31, 2018.

5. Plaintiff's tort claims (1) sexual assault and battery, (2) intentional infliction of emotional distress (outrage), (3) false imprisonment, and (6) negligence are barred by the statute of limitation.

6. A claim for concerted action adopts the same statute of limitation as the underlying claim. Plaintiff's claim of concerted action (claim 5) is also barred by the two statute of limitation, because all of the underlying torts were subject to a two year statute of limitation.

7. Pursuant to *Short v. Hotel Riviera, Inc.* 79 Nev. 94, 104-106, 378 P.2d 979, 985 - 986 (Nev. 1963):

"[a]n act lawful when done by one may become wrongful when done by many acting in concert, taking on the form of a conspiracy which may be prohibited if the result be hurtful to the public or to the individual against whom the concerted action is directed." Fed. Trade Comm. v. Raymond, etc., Co., 263 U.S. 565, 574, 44 S.Ct. 162, 164, 68 L.Ed. 448; Grenada Lumber Co. v. Mississippi, 217 U.S. 433, 440, 30 S.Ct. 535, 54 L.Ed. 826; Bedford Cut Stone Co. v. Journeymen Stone Cutters Assn., 274 U.S. 37, 54, 47 S.Ct. 522, 71 L.Ed. 916.

\*\*\*

When an act done by an individual is not actionable because justified by his rights, though harmful to another, such act becomes actionable when done in pursuance of combination of persons actuated by malicious motives and not having same justification as the individual.<sup>2</sup> Many other cases could be cited. The great weight of authority is in support of the rule last discussed and we accept the same as the correct one.

Further, a plaintiff must show the commission of an actionable underlying tort to establish a civil conspiracy claim.

8. Since counts (1) sexual assault and battery, (2) intentional infliction of emotional distress

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<sup>2</sup>*Clark v. Sloan*, 169 Okl. 347, 37 P.2d 263; *Starmer v. Mid-West Chevrolet Corporation*, 175 Okl. 160, 51 P.2d 786. *Accord: Deon v. Kirby Lumber Co.*, 162 La. 671, 111 So. 55, 52 A.L.R. 1023; *Ertz v. Produce Exchange Co.*, 79 Minn. 140, 81 N.W. 737, 48 L.R.A. 90; *Brown v. Jacobs Pharmacy Co.*, 115 Ga. 429, 41 S.E. 553, 57 L.R.A. 547; *Rosenblum v. Rosenblum*, 320 Penn. 103, 181 A. 583; *St. Luke's Hospital v. Industrial Commission*, 142 Colo. 28, 349 P.2d 995; *Texas Public Utilities Corporation v. Edwards* (Tex.Civ.App.), 99 S.W.2d 420; *Ingo v. Kock*, 2 Cir., 1942, 127 F.2d 667; *Pfoh v. Whitney*, Ohio App., 62 N.E.2d 744; *Bankers' Fire & Marine Ins. Co. v. Sloss*, 229 Ala. 26, 155 So. 371; Prosser, Torts (2d ed.) 731, 732. See 11 Harvard Law Review 449, 457.



1 (outrage), (3) false imprisonment, (5) concerted action, and (6) negligence are dismissed  
2 as barred by the statute of limitation, and no other tort claims remain, count (4) civil  
3 conspiracy cannot be maintained.

4 9. The Plaintiff's complaint is dismiss with prejudice in its entirety, because all of the  
5 underlying tort claims, and the concerted action claim are barred by a two year statute of  
6 limitation. Plaintiff's remaining claim for civil conspiracy is dismissed with prejudice,  
7 because Plaintiff failed to show that the defendants worked together in a way that could  
8 have injured her. Further, even if civil conspiracy only required more than one person  
9 committing a tort which stands on its own, all underlying torts are barred by the statute of  
10 limitation.

11 IT IS HEREBY ORDERED that Plaintiff's complaint is dismissed with prejudice.

12 IT IS FURTHER ORDERED, counts (1) sexual assault and battery, (2) intentional  
13 infliction of emotional distress (outrage), (3) false imprisonment, (5) concerted action and  
14 (6) negligence, are dismissed as untimely, because these claims are barred by the statute of  
15 limitation, which ran on December 31, 2018.

16 IT IS FURTHER ORDERED, the remaining count, (4) civil conspiracy, is  
17 dismissed, because Plaintiff cannot maintain a claim for an underlying illegal act conducted  
18 by multiple persons.

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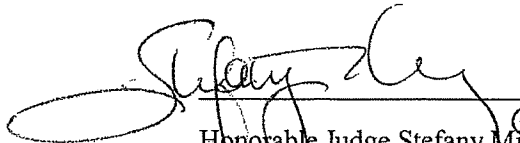
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Las Vegas, Nevada 89102  
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IT IS SO ORDERED.

DATED this 16<sup>th</sup> day of Oct, 2019.

  
Honorable Judge Stefany Miley  
**JUDGE STEFANY A. MILEY**

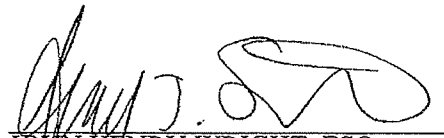
DATED this 11<sup>th</sup> day of October, 2019. DATED this \_\_\_\_ day of September, 2019.

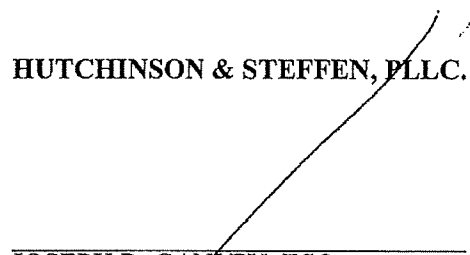
Respectfully submitted by:

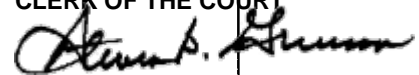
Approved as to form and content by:

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jguinasso@hutchlegal.com

*Attorneys for Plaintiff/Appellant Jaqueline Fausto*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JAQUELINE FAUSTO, an individual,

Plaintiff/Appellant,

v.

RICARDO SANCHEZ-FLORES, an individual;  
VERENICE RUTH FLORES, an individual;

Defendants.

Case No. A-19-797890-C

Dept. No. XXIII

**CASE APPEAL  
STATEMENT**

**CASE APPEAL STATEMENT**

COMES NOW, Plaintiff/Appellant, JAQUELINE FAUSTO ("Ms. Fausto"), by and through her undersigned counsel of record, and pursuant to NRAP 3(f) hereby submits her Case Appeal Statement as follows:

///

1       **1. The name of the judge who entered the orders being appealed.**

2       The Honorable Stefany Miley, Department XXIII, Eighth Judicial District Court.

3       **2. The name of each appellant and the name and address of counsel for each**  
4       **appellant.**

5       ▪ Jaqueline Fausto is represented by Joseph R. Ganley, Esq., Jason D. Guinasso,  
6 Esq., and Alex R. Velto of Hutchison & Steffen, PLLC.

7             ○ Appellate Counsel:       Joseph R. Ganley, Esq.  
8   Jason D. Guinasso, Esq.  
9   Alex R. Velto, Esq.

10            ○ Trial Counsel:           Joseph R. Ganley, Esq.  
11   Jason D. Guinasso, Esq.

12            ○ Firm address:           Hutchison & Steffen, PLLC  
13   10080 West Alta Drive, Suite 200  
14   Las Vegas, Nevada 89145

15   Hutchison & Steffen, PLLC  
16   500 Damonte Ranch Parkway, Suite 980  
17   Reno, Nevada 89511

18       **3. Identify each respondent and the name and address of appellate counsel, if**  
19       **known, for each respondent, but if the name of a respondent's appellate**  
20       **counsel is not known, then the name and address of that respondent's trial**  
21       **counsel.**

22       ▪ Ricardo Sanchez-Flores.

23             ○ Appellate Counsel:

24             ○ Trial Counsel:           John Henry Wright, Esq.  
25   Christopher Phillips, Esq.  
26   Amy J. Smith, Esq.

27             ○ Firm address:           The Wright Law Group, P.C.  
28   2340 Paseo Del Prado Boulevard  
  Building D, Suite 305  
  Las Vegas, Nevada 89102

///

///

1       ▪ Verenice Ruth Flores.

2           ○ Appellate Counsel:

3           ○ Trial Counsel:       John Henry Wright, Esq.  
4                                      Christopher Phillips, Esq.  
5                                      Amy J. Smith, Esq.

6           ○ Firm address:       The Wright Law Group, P.C.  
7                                      2340 Paseo Del Prado Boulevard  
8                                      Building D, Suite 305  
9                                      Las Vegas, Nevada 89102

10       **4. Indicate whether an attorney identified in response to questions 2 or 3 is not**  
11       **licensed to practice law in Nevada, and if so, whether the District Court**  
12       **granted that attorney permission to appear under SCR 42, including a copy of**  
13       **any District Court order granting that permission.**

14       Not applicable.

15       **5. Indicate whether the appellant was represented by appointed counsel in the**  
16       **District Court.**

17       Appellant was represented by retained counsel.

18       **6. Indicate whether the appellant is represented by appointed counsel on appeal.**  
19       Appellant was represented by retained counsel.

20       **7. Indicate whether the District Court granted the appellant leave to proceed in**  
21       **forma pauperis, and if so, the date of the District Court's order granting that**  
22       **leave.**

23       Not applicable.

24       **8. Indicate the date that the proceedings commenced in the District Court.**

25       July 2, 2019.

26       **9. Provide a brief description of the nature of the action and result in the District**  
27       **Court, including the type of judgment or order being appealed and the relief**  
28       **granted by the District Court.**

///

1 Plaintiff brought a complaint in district court, alleging, sexual assault and battery,  
2 intentional infliction of emotional distress, false imprisonment, concerted action, conspiracy,  
3 and negligence. The Defendants moved to dismiss the claims, arguing the statute of limitations  
4 had run on the actions. Plaintiff argued the discovery rule and equitable tolling precluded the  
5 statute of limitations from running and that the concerted action and conspiracy claims were  
6 not barred. The District Court entered *Findings of Fact and Conclusions of Law, and Order*  
7 *Granting Defendants' Motion to Dismiss* in favor of Defendants on all claims on October 17,  
8 2019. The District Court's Order dismissed under Ms. Fausto's claims as a matter of law on  
9 the pleadings. Ms. Fausto appeals from the District Court's Order.

10 **10. Indicate whether the case has previously been the subject of an appeal to or**  
11 **original writ proceeding in the Supreme Court or Court of Appeals and, if so,**  
12 **the caption and docket number of the prior proceeding.**

13 This case has not previously been the subject of an appeal or original writ.

14 **11. Indicate whether the appeal involves child custody or visitation.**

15 This appeal does not involve child custody or visitation.

16 **12. If this is a civil case, indicate whether this appeal involves the possibility of**  
17 **settlement.**

18 Yes, this appeal does involve the possibility of settlement.

19 DATED this 15 day of November, 2019.

20 HUTCHISON & STEFFEN, PLLC

21   
22 JASON D. GUINASSO, ESQ. (SBN#8478)

23 ALEX R. VELTO, ESQ. (SBN#14961)

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*Attorneys for Plaintiff*

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**CERTIFICATE OF SERVICE**

Pursuant to N.R.C.P. 5(b), I, hereby certify that I am a non-party over the age of 18 years, and that on the 15 day of November, 2019, I caused a true and correct copy of the **CASE APPEAL STATEMENT** to be electronically served through the Eighth Judicial District Court EFP System pursuant to NEFR 9 on the following:

**John Henry Wright, Esq. - john@wrightlawgroupnv.com**

**Christopher Phillips, Esq. - chris@wrightlawgroupnv.com**

**Amy J. Smith, Esq. - amys@wrightlawgroupnv.com**

*Attorneys for Defendants Ricardo Sanchez-Flores and Verenice Ruth Flores*

I hereby declare, under penalty of perjury by the laws of the State of Nevada, that the aforementioned is a true and correct statement of fact.

DATED: November 15, 2019



\_\_\_\_\_  
Employee of Hutchison & Steffen, PLLC

**CASE SUMMARY****CASE NO. A-19-797890-C**

**Jaqueline Fausto, Plaintiff(s)**  
**vs.**  
**Ricardo Sanchez-Flores, Defendant(s)**

§  
 §  
 §  
 §  
 §

Location: **Department 23**  
 Judicial Officer: **Miley, Stefany**  
 Filed on: **07/03/2019**  
 Cross-Reference Case Number: **A797890**

**CASE INFORMATION****Statistical Closures**

10/17/2019 Motion to Dismiss by the Defendant(s)

Case Type: **Other Tort**

Case Status: **10/17/2019 Dismissed**

**DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number A-19-797890-C  
 Court Department 23  
 Date Assigned 07/03/2019  
 Judicial Officer Miley, Stefany

**PARTY INFORMATION****Plaintiff****Fausto, Jaqueline***Lead Attorneys*

**Guinasso, Jason D**  
*Retained*  
 775-853-8746(W)

**Defendant****Flores, Verence Ruth**

Removed: 10/17/2019  
 Dismissed

**Sanchez-Flores, Ricardo**

**Wright, John H.**  
*Retained*  
 702-405-0001(W)

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

07/03/2019



Complaint

Filed By: Plaintiff Fausto, Jaqueline  
*Complaint*

07/03/2019



Summons Electronically Issued - Service Pending

Party: Plaintiff Fausto, Jaqueline  
*Summons (Sanchez-Flores)*

07/03/2019



Summons Electronically Issued - Service Pending

Party: Plaintiff Fausto, Jaqueline  
*Summons (Verence Ruth Flores)*

07/17/2019



Notice of Appearance

Party: Defendant Sanchez-Flores, Ricardo; Defendant Flores, Verence Ruth  
*Notice of Appearance*

07/23/2019



Notice

Filed By: Plaintiff Fausto, Jaqueline

# CASE SUMMARY

CASE NO. A-19-797890-C

*Notice of Affidavit of Service*

07/24/2019



Motion to Dismiss

Filed By: Defendant Sanchez-Flores, Ricardo; Defendant Flores, Verenice Ruth  
*Motion to Dismiss or in the Alternative Motion to Stay*

07/24/2019



Initial Appearance Fee Disclosure

*Initial Appearance Fee Disclosure*

07/24/2019



Clerk's Notice of Hearing

*Notice of Hearing*

07/31/2019



Acceptance of Service

Filed By: Plaintiff Fausto, Jaqueline  
*Acceptance of Service of Summons and Complaint*

08/09/2019



Opposition to Motion to Dismiss

Filed By: Plaintiff Fausto, Jaqueline  
*Opposition to Defendants' Motion to Dismiss or in the Alternative Motion to Stay*

08/09/2019



Declaration

Filed By: Plaintiff Fausto, Jaqueline  
*Declaration of Jaqueline Fausto in Support of Opposition to Defendants' Motion to Dismiss or in the Alternative Motion to Stay*

08/14/2019



Stipulation and Order

*Stipulation and Order to Extend Time to Respond to Defendants' Motion to Dismiss*

08/15/2019



Notice of Entry of Stipulation and Order

*Notice of Entry of Stipulation and Order*

08/19/2019



Reply in Support

Filed By: Defendant Sanchez-Flores, Ricardo; Defendant Flores, Verenice Ruth  
*Reply in Support of Motion to Dismiss or in the Alternative Motion to Stay*

08/26/2019



Stipulation and Order

Filed by: Plaintiff Fausto, Jaqueline  
*Stipulation and Order*

09/10/2019



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Fausto, Jaqueline  
*NOTICE OF ENTRY OF STIPULATION AND ORDER*

09/10/2019



Addendum

Filed By: Plaintiff Fausto, Jaqueline  
*Addendum to Opposition to Defendants' Motion to Dismiss or in the Alternative Motion to Stay*

09/13/2019



Supplemental Points and Authorities

Filed by: Defendant Sanchez-Flores, Ricardo  
*Supplemental Points & Authorities In Response to Plaintiff's Addendum To Opposition To Defendants' Motion To Dismiss*

10/17/2019



Findings of Fact, Conclusions of Law and Order

# CASE SUMMARY

CASE NO. A-19-797890-C

Filed By: Defendant Sanchez-Flores, Ricardo; Defendant Flores, Verence Ruth  
*Findings of Fact and Conclusions of Law, and Order Granting Defendants' Motion to Dismiss*

10/17/2019



Notice of Entry of Findings of Fact, Conclusions of Law

Filed By: Defendant Sanchez-Flores, Ricardo; Defendant Flores, Verence Ruth  
*Notice of Entry*

10/18/2019



Recorders Transcript of Hearing

*Recorder's Transcript of Proceedings: Defendant's Motion to Dismiss or in the Alternative Motion to Stay, September 17, 2019*

11/15/2019



Case Appeal Statement

Filed By: Plaintiff Fausto, Jaqueline  
*Case Appeal Statement*

11/15/2019



Notice of Appeal

Filed By: Plaintiff Fausto, Jaqueline  
*Notice of Appeal*

## DISPOSITIONS

10/17/2019

**Order of Dismissal With Prejudice** (Judicial Officer: Miley, Stefany)

Debtors: Jaqueline Fausto (Plaintiff)

Creditors: Ricardo Sanchez-Flores (Defendant), Verence Ruth Flores (Defendant)

Judgment: 10/17/2019, Docketed: 10/17/2019

## HEARINGS

09/17/2019



**Motion to Dismiss** (9:30 AM) (Judicial Officer: Miley, Stefany)

*Defendant's Motion to Dismiss or in the Alternative Motion to Stay*

Granted in Part; Defendant's Motion to Dismiss or in the Alternative Motion to Stay

Journal Entry Details:

*Alexander Velto Esq., present on behalf of Plaintiff. Argument by Mr. Wright regarding Statute of Limitations. Argument by Mr. Velto. Court noted Plaintiff knew sexual assault had occurred when SANE exam had been completed as there was DNA on her clothes. Mr. Velto advised they did not have evidence at the time the claim was filed. Court reiterated Plaintiff knew. Further argument by Mr. Velto regarding equitable tolling and clear and binding laws. Objection by Mr. Wright. Additional argument by Mr. Velto noting 1998 case. Court pointed out it was not in the brief. Continued argument by Mr. Velto. Court pointed out the unlawful act is the rape itself. Mr. Vieto argued the Defendant helped get the Plaintiff intoxicated, driving her home and helped the rape occur. Statement by the Court regarding civil conspiracy. Mr. Vieto then argued the back log of rape kits. Argument by Mr. Wright regarding underlying tort. Additional argument by Mr. Vieto noting discovery is not completed, noted Plaintiff had trusted the process and stated she was waiting on the Attorney General's Office. Further argument by Mr. Wright regarding he said, she said case. COURT ORDERED, motion is GRANTED IN PART as to the Statute of Limitations and DEFERRED IN PART as to the civil conspiracy and concerted action. Mr. Wright to prepare the Order on the Statute of Limitations and is to wait to complete the order on the two pending issues. 10-18-3:00 AM DEFENDANT'S MOTION TO DISMISS AS TO CIVIL CONSPIRACY AND CONCERTED ACTION;*

09/17/2019



**Motion to Dismiss** (2:42 PM) (Judicial Officer: Miley, Stefany)

*Defendant's Motion to Dismiss as to Civil Conspiracy and Concerted Action*

Granted; Defendant's Motion to Dismiss as to Civil Conspiracy and Concerted Action

Journal Entry Details:

*The COURT GRANTS Defendant's Motion to Dismiss as to Plaintiff's fifth cause of action, Concerted Action. The dismissal of the other tortious causes of action found in Plaintiff's Complaint render the pleadings insufficient to satisfy the element that two or more persons act together while committing a tort pursuant to a common design or plan. Furthermore, this cause of action would also be barred by the two-year statute of limitations imposed on the*

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-19-797890-C**

*other dismissed causes of action. Plaintiff's attorney presented the COURT with Nevada Supreme Court case Dow Chem. Co. v. Mahlum 114 Nev. 1468 (1998), abrogated by GES, Inc. v. Corbitt, 117 Nev. 265, 21 P.3d 11 (2001) in support for Plaintiff's Opposition to dismissal of the fourth cause of action: Civil Conspiracy. The COURT FINDS that there are no remaining causes of action to satisfy the unlawful objective element presented in Dow. Id. at 1488. The United States District Court, District of Nevada more recently stated that under Nevada law, a plaintiff must show the commission of an underlying tort to establish a civil conspiracy claim. Boorman v. Nevada Memorial Cremation Society, Inc., 772 F. Supp. 2d 1309, 1315 (D. Nev. 2011). Any underlying torts have been dismissed in this action and the COURT grants Defendant's Motion to Dismiss in full. IT IS SO ORDERED CLERK'S NOTE: The above minute order has been distributed via e-mail to: John H. Wright Esq. and Joseph R. Ganley Esq. 09/17/19 kls The above minute order has been removed from the incorrect Motion to Dismiss and attached to the proper motion. 10/21/19 kls;*

DATE

FINANCIAL INFORMATION

**Defendant** Sanchez-Flores, Ricardo

Total Charges 253.00

Total Payments and Credits 0.00

**Balance Due as of 11/18/2019 253.00**

**Plaintiff** Fausto, Jaqueline

Total Charges 294.00

Total Payments and Credits 294.00

**Balance Due as of 11/18/2019 0.00**

**Plaintiff** Fausto, Jaqueline

Appeal Bond Balance as of 11/18/2019 500.00

# DISTRICT COURT CIVIL COVER SHEET

Clark County, Nevada  
 Case No. \_\_\_\_\_  
 (Assigned by Clerk's Office)

## I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Jaqueline Fausto, an individual	Defendant(s) (name/address/phone): Ricardo Sanchez-Flores, an individual Verence Ruth Flores, an Individual
Attorney (name/address/phone): Jason D. Guinasso, Esq., Hutchison & Steffen, PLLC 500 Damonte Ranch Parkway, Suite 980 Reno, NV 89521 P: (775) 853-8746; F: (775) 201-9611	Attorney (name/address/phone): _____ _____ _____

CASE NO: A-19-797890-C  
 Department 23

## II. Nature of Controversy (please select the one most applicable filing type below)

### Civil Case Filing Types

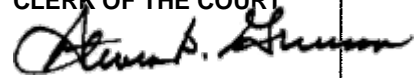
<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Torts</b> <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input checked="" type="checkbox"/> Other Tort
<b>Probate</b> <b>Probate</b> (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Judicial Review/Appeal</b> <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b> <b>Civil Writ</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		<b>Other Civil Filing</b> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

*Business Court filings should be filed using the Business Court civil cover sheet.*

7/2/2019  
 Date

\_\_\_\_\_  
 Signature of initiating party or representative

*See other side for family-related case filings.*



1 **ORDG**  
2 JOHN HENRY WRIGHT, ESQ.  
3 Nevada Bar No. 6182  
4 AMY J. SMITH, ESQ.  
5 Nevada Bar No. 14954  
6 **THE WRIGHT LAW GROUP, P.C.**  
7 2340 Paseo Del Prado, Suite D-305  
8 Las Vegas, Nevada 89102  
9 Telephone: (702) 405-0001  
10 Facsimile: (702) 405-8454  
11 Email: [john@wrightlawgroupnv.com](mailto:john@wrightlawgroupnv.com)  
12 [amys@wrightlawgroupnv.com](mailto:amys@wrightlawgroupnv.com)  
13 *Attorneys for Defendants*

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 JAQUELINE FAUSTO, an individual,

CASE NO: A-19-797890-C

11 Plaintiff,

DEPT NO: XXIII

12 vs.

13 RICARDO SANCHEZ-FLORES, an  
14 individual; VERENICE RUTH FLORES, an  
15 individual;

16 Defendants.

17 **FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ORDER GRANTING**  
18 **DEFENDANTS' MOTION TO DISMISS**

19 The above matter came before the Court on September 17, 2019 for hearing on Defendants'  
20 Motion to Dismiss or in the Alternative Motion to Stay<sup>1</sup>. Defendants RICARDO SANCHEZ-  
21 FLORES and VERENICE RUTH FLORES, were represented by JOHN HENRY WRIGHT, ESQ.,  
22 of The Wright Law Group, P.C., and Plaintiff JAQUELINE FAUSTO was represented by JOSEPH  
23 R. GANLEY, ESQ., of HUTCHINSON & STEFFEN, PLLC. The Court having considered the  
24 motion, the opposition, the reply, the addendum, the supplemental points and authority, and the  
25 arguments of counsel, the Court hereby finds and orders as follows:

26 ///

27 ///

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input checked="" type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

28 <sup>1</sup>Since the Court dismissed the Complaint in its entirety, the Court did not consider Defendants' Motion to Stay.





### FINDINGS OF FACT

1. Plaintiff's complaint alleges tort claims occurred on or about December 30, 2016 and/or December 31, 2016.
2. Plaintiff knew of her alleged injuries at that time because (1) she sought counseling, (2) she made two reports to the police, and (3) conducted a Sexual Assault Nurse Examiner Exam shortly following the alleged injury.
3. Plaintiff filed her complaint on July 3, 2019, more than two years and a half years after the date she alleged the torts occurred.
4. Plaintiff's complaint did not address the two year statute of limitation for the tort claims.
5. Plaintiff's complaint did allege that the statute of limitation should be tolled.
6. Plaintiff's complaint did not allege any facts which would warrant tolling of the statute of limitation.
7. On July 24, 2019, Defendants timely filed a motion to dismiss.
8. On August 9, 2019, Plaintiff's opposition to the motion to dismiss, for the first time, requested that statute of limitation be tolled on her tort claims.
9. On September 10, 2019, Plaintiff's addendum to her opposition to the motion to dismiss, for the first time, alleged that she was not sure what happened on the night in question.
10. The Court found that Plaintiff's complaint was filed more than two years after the accrual date.

### CONCLUSIONS OF LAW

1. None of the claims in Plaintiff's complaint were tolled.
2. The statute of limitation was not tolled by the Discovery Rule, because Plaintiff knew about her alleged injury on December 30, 2016, more than two years prior to filing her complaint on July 8, 2019.
3. Equitable tolling does not apply in this case, because Plaintiff was not prevented from obtaining vital information bearing on the existence of her claim.
4. Pursuant to NRS 11.190(4)(e), any action to recover damages for injuries to a person caused by a wrongful act or neglect must be commenced within two (2) years of the alleged



wrongful conduct or neglect. Therefore, NRS 11.190(4)(e) barred the Plaintiff from bringing tort claims any date after December 31, 2018.

5. Plaintiff's tort claims (1) sexual assault and battery, (2) intentional infliction of emotional distress (outrage), (3) false imprisonment, and (6) negligence are barred by the statute of limitation.

6. A claim for concerted action adopts the same statute of limitation as the underlying claim. Plaintiff's claim of concerted action (claim 5) is also barred by the two statute of limitation, because all of the underlying torts were subject to a two year statute of limitation.

7. Pursuant to *Short v. Hotel Riviera, Inc.* 79 Nev. 94, 104-106, 378 P.2d 979, 985 - 986 (Nev. 1963):

"[a]n act lawful when done by one may become wrongful when done by many acting in concert, taking on the form of a conspiracy which may be prohibited if the result be hurtful to the public or to the individual against whom the concerted action is directed." Fed. Trade Comm. v. Raymond, etc., Co., 263 U.S. 565, 574, 44 S.Ct. 162, 164, 68 L.Ed. 448; Grenada Lumber Co. v. Mississippi, 217 U.S. 433, 440, 30 S.Ct. 535, 54 L.Ed. 826; Bedford Cut Stone Co. v. Journeymen Stone Cutters Assn., 274 U.S. 37, 54, 47 S.Ct. 522, 71 L.Ed. 916.

\*\*\*

When an act done by an individual is not actionable because justified by his rights, though harmful to another, such act becomes actionable when done in pursuance of combination of persons actuated by malicious motives and not having same justification as the individual.<sup>2</sup> Many other cases could be cited. The great weight of authority is in support of the rule last discussed and we accept the same as the correct one.

Further, a plaintiff must show the commission of an actionable underlying tort to establish a civil conspiracy claim.

8. Since counts (1) sexual assault and battery, (2) intentional infliction of emotional distress

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<sup>2</sup>*Clark v. Sloan*, 169 Okl. 347, 37 P.2d 263; *Starmer v. Mid-West Chevrolet Corporation*, 175 Okl. 160, 51 P.2d 786. *Accord: Deon v. Kirby Lumber Co.*, 162 La. 671, 111 So. 55, 52 A.L.R. 1023; *Ertz v. Produce Exchange Co.*, 79 Minn. 140, 81 N.W. 737, 48 L.R.A. 90; *Brown v. Jacobs Pharmacy Co.*, 115 Ga. 429, 41 S.E. 553, 57 L.R.A. 547; *Rosenblum v. Rosenblum*, 320 Penn. 103, 181 A. 583; *St. Luke's Hospital v. Industrial Commission*, 142 Colo. 28, 349 P.2d 995; *Texas Public Utilities Corporation v. Edwards* (Tex.Civ.App.), 99 S.W.2d 420; *Ingo v. Kock*, 2 Cir., 1942, 127 F.2d 667; *Pfoh v. Whitney*, Ohio App., 62 N.E.2d 744; *Bankers' Fire & Marine Ins. Co. v. Sloss*, 229 Ala. 26, 155 So. 371; *Prosser, Torts* (2d ed.) 731, 732. See 11 Harvard Law Review 449, 457.



(outrage), (3) false imprisonment, (5) concerted action, and (6) negligence are dismissed as barred by the statute of limitation, and no other tort claims remain, count (4) civil conspiracy cannot be maintained.

9. The Plaintiff's complaint is dismissed with prejudice in its entirety, because all of the underlying tort claims, and the concerted action claim are barred by a two year statute of limitation. Plaintiff's remaining claim for civil conspiracy is dismissed with prejudice, because Plaintiff failed to show that the defendants worked together in a way that could have injured her. Further, even if civil conspiracy only required more than one person committing a tort which stands on its own, all underlying torts are barred by the statute of limitation.

IT IS HEREBY ORDERED that Plaintiff's complaint is dismissed with prejudice.

IT IS FURTHER ORDERED, counts (1) sexual assault and battery, (2) intentional infliction of emotional distress (outrage), (3) false imprisonment, (5) concerted action and (6) negligence, are dismissed as untimely, because these claims are barred by the statute of limitation, which ran on December 31, 2018.

IT IS FURTHER ORDERED, the remaining count, (4) civil conspiracy, is dismissed, because Plaintiff cannot maintain a claim for an underlying illegal act conducted by multiple persons.

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THE WRIGHT LAW GROUP P.C.  
2340 Paseo Del Prado, Suite D-305  
Las Vegas, Nevada 89102  
Tel: (702) 405-0001 Fax: (702) 405-8454



IT IS SO ORDERED.

DATED this 16<sup>th</sup> day of Oct, 2019.

  
Honorable Judge Stefany Miley  
**JUDGE STEFANY A. MILEY**


DATED this 11<sup>th</sup> day of October, 2019. DATED this \_\_\_\_\_ day of September, 2019.

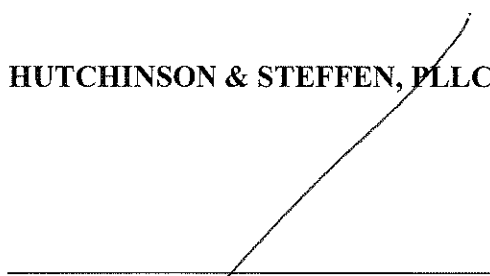
Respectfully submitted by:

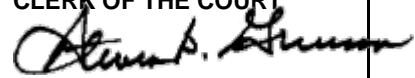
Approved as to form and content by:

**THE WRIGHT LAW GROUP, P.C.**

**HUTCHINSON & STEFFEN, PLLC.**

  
JOHN HENRY WRIGHT, ESQ.  
Nevada Bar No. 6182  
AMY J. SMITH, ESQ.  
Nevada Bar No. 14954  
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Las Vegas, Nevada 89102  
*Attorneys for Defendants*

  
JOSEPH R. GANLEY, ESQ.  
Nevada Bar No. 5643  
PIERS R. TUELLER, ESQ.  
Nevada Bar. No 14633  
10080 West Alta Drive, Suite 200  
Las Vegas, Nevada 89145  
*Attorneys for Plaintiff*



1 **NEFF**  
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[amys@wrightlawgroupnv.com](mailto:amys@wrightlawgroupnv.com)  
7 *Attorneys for Defendants'*  
RICARDO SANCHEZ-FLORES and  
8 VERENICE RUTH FLORES

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 JAQUELINE FAUSTO, an individual,  
12 Plaintiff,  
13 vs.  
RICARDO SANCHEZ-FLORES, an  
14 individual; VERENICE RUTH FLORES, an  
individual;  
15 Defendants.

CASE NO: A-19-797890-C

DEPT NO: XXIII

16  
17 **NOTICE OF ENTRY**

18 NOTICE IS HEREBY GIVEN that a Findings of Fact and Conclusions of Law, and Order  
19 Granting Defendants' Motion to Dismiss was entered on October 17, 2019, a copy of which is  
20 hereto attached as **Exhibit A**.

21 Dated this 17<sup>th</sup> day of October, 2019.

22 **THE WRIGHT LAW GROUP, P.C.**

23 /s/ Amy J. Smith, Esq.  
JOHN HENRY WRIGHT, ESQ.  
24 Nevada Bar No. 6182  
AMY J. SMITH, ESQ.  
25 Nevada Bar No. 14954  
*Attorneys for Defendants'*  
RICARDO SANCHEZ-FLORES and  
26 VERENICE RUTH FLORES





**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing NOTICE OF ENTRY OF ORDER was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 17<sup>th</sup> day of October, 2019. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

**HUTCHINSON & STEFFEN, PLLC**

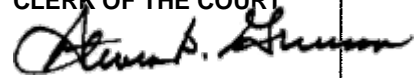
Joseph R. Ganley, Esq. [jganley@hutchlegal.com](mailto:jganley@hutchlegal.com)  
Piers R. Tueller, Esq. [ptueller@hutchlegal.com](mailto:ptueller@hutchlegal.com)  
Jason D. Guinasso, Esq. [jguinasso@hutchlegal.com](mailto:jguinasso@hutchlegal.com)  
*Attorneys for Plaintiff Jaqueline Fausto*

I further certify that I served a copy of this document by Electronic mail a true and correct copy, addressed to:

None.

/s/Candi Ashdown  
An employee of **THE WRIGHT LAW GROUP, P.C.**

# **EXHIBIT A**



1 **ORDG**  
2 JOHN HENRY WRIGHT, ESQ.  
3 Nevada Bar No. 6182  
4 AMY J. SMITH, ESQ.  
5 Nevada Bar No. 14954  
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11 Email: [john@wrightlawgroupnv.com](mailto:john@wrightlawgroupnv.com)  
12 [amys@wrightlawgroupnv.com](mailto:amys@wrightlawgroupnv.com)  
13 *Attorneys for Defendants*

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 JAQUELINE FAUSTO, an individual,

CASE NO: A-19-797890-C

11 Plaintiff,

DEPT NO: XXIII

12 vs.

13 RICARDO SANCHEZ-FLORES, an  
14 individual; VERENICE RUTH FLORES, an  
15 individual;

16 Defendants.

17 **FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ORDER GRANTING**  
18 **DEFENDANTS' MOTION TO DISMISS**

19 The above matter came before the Court on September 17, 2019 for hearing on Defendants'  
20 Motion to Dismiss or in the Alternative Motion to Stay<sup>1</sup>. Defendants RICARDO SANCHEZ-  
21 FLORES and VERENICE RUTH FLORES, were represented by JOHN HENRY WRIGHT, ESQ.,  
22 of The Wright Law Group, P.C., and Plaintiff JAQUELINE FAUSTO was represented by JOSEPH  
23 R. GANLEY, ESQ., of HUTCHINSON & STEFFEN, PLLC. The Court having considered the  
24 motion, the opposition, the reply, the addendum, the supplemental points and authority, and the  
25 arguments of counsel, the Court hereby finds and orders as follows:

26 ///

27 ///

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input checked="" type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

28 <sup>1</sup>Since the Court dismissed the Complaint in its entirety, the Court did not consider Defendants' Motion to Stay.





## FINDINGS OF FACT

1. Plaintiff's complaint alleges tort claims occurred on or about December 30, 2016 and/or December 31, 2016.
2. Plaintiff knew of her alleged injuries at that time because (1) she sought counseling, (2) she made two reports to the police, and (3) conducted a Sexual Assault Nurse Examiner Exam shortly following the alleged injury.
3. Plaintiff filed her complaint on July 3, 2019, more than two years and a half years after the date she alleged the torts occurred.
4. Plaintiff's complaint did not address the two year statute of limitation for the tort claims.
5. Plaintiff's complaint did allege that the statute of limitation should be tolled.
6. Plaintiff's complaint did not allege any facts which would warrant tolling of the statute of limitation.
7. On July 24, 2019, Defendants timely filed a motion to dismiss.
8. On August 9, 2019, Plaintiff's opposition to the motion to dismiss, for the first time, requested that statute of limitation be tolled on her tort claims.
9. On September 10, 2019, Plaintiff's addendum to her opposition to the motion to dismiss, for the first time, alleged that she was not sure what happened on the night in question.
10. The Court found that Plaintiff's complaint was filed more than two years after the accrual date.

## CONCLUSIONS OF LAW

1. None of the claims in Plaintiff's complaint were tolled.
2. The statute of limitation was not tolled by the Discovery Rule, because Plaintiff knew about her alleged injury on December 30, 2016, more than two years prior to filing her complaint on July 8, 2019.
3. Equitable tolling does not apply in this case, because Plaintiff was not prevented from obtaining vital information bearing on the existence of her claim.
4. Pursuant to NRS 11.190(4)(e), any action to recover damages for injuries to a person caused by a wrongful act or neglect must be commenced within two (2) years of the alleged



wrongful conduct or neglect. Therefore, NRS 11.190(4)(e) barred the Plaintiff from bringing tort claims any date after December 31, 2018.

5. Plaintiff's tort claims (1) sexual assault and battery, (2) intentional infliction of emotional distress (outrage), (3) false imprisonment, and (6) negligence are barred by the statute of limitation.

6. A claim for concerted action adopts the same statute of limitation as the underlying claim. Plaintiff's claim of concerted action (claim 5) is also barred by the two statute of limitation, because all of the underlying torts were subject to a two year statute of limitation.

7. Pursuant to *Short v. Hotel Riviera, Inc.* 79 Nev. 94, 104-106, 378 P.2d 979, 985 - 986 (Nev. 1963):

"[a]n act lawful when done by one may become wrongful when done by many acting in concert, taking on the form of a conspiracy which may be prohibited if the result be hurtful to the public or to the individual against whom the concerted action is directed." Fed. Trade Comm. v. Raymond, etc., Co., 263 U.S. 565, 574, 44 S.Ct. 162, 164, 68 L.Ed. 448; Grenada Lumber Co. v. Mississippi, 217 U.S. 433, 440, 30 S.Ct. 535, 54 L.Ed. 826; Bedford Cut Stone Co. v. Journeymen Stone Cutters Assn., 274 U.S. 37, 54, 47 S.Ct. 522, 71 L.Ed. 916.

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When an act done by an individual is not actionable because justified by his rights, though harmful to another, such act becomes actionable when done in pursuance of combination of persons actuated by malicious motives and not having same justification as the individual.<sup>2</sup> Many other cases could be cited. The great weight of authority is in support of the rule last discussed and we accept the same as the correct one.

Further, a plaintiff must show the commission of an actionable underlying tort to establish a civil conspiracy claim.

8. Since counts (1) sexual assault and battery, (2) intentional infliction of emotional distress

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<sup>2</sup>*Clark v. Sloan*, 169 Okl. 347, 37 P.2d 263; *Starmer v. Mid-West Chevrolet Corporation*, 175 Okl. 160, 51 P.2d 786. *Accord: Deon v. Kirby Lumber Co.*, 162 La. 671, 111 So. 55, 52 A.L.R. 1023; *Ertz v. Produce Exchange Co.*, 79 Minn. 140, 81 N.W. 737, 48 L.R.A. 90; *Brown v. Jacobs Pharmacy Co.*, 115 Ga. 429, 41 S.E. 553, 57 L.R.A. 547; *Rosenblum v. Rosenblum*, 320 Penn. 103, 181 A. 583; *St. Luke's Hospital v. Industrial Commission*, 142 Colo. 28, 349 P.2d 995; *Texas Public Utilities Corporation v. Edwards* (Tex.Civ.App.), 99 S.W.2d 420; *Ingo v. Kock*, 2 Cir., 1942, 127 F.2d 667; *Pfoh v. Whitney*, Ohio App., 62 N.E.2d 744; *Bankers' Fire & Marine Ins. Co. v. Sloss*, 229 Ala. 26, 155 So. 371; *Prosser, Torts* (2d ed.) 731, 732. See 11 Harvard Law Review 449, 457.



(outrage), (3) false imprisonment, (5) concerted action, and (6) negligence are dismissed as barred by the statute of limitation, and no other tort claims remain, count (4) civil conspiracy cannot be maintained.

9. The Plaintiff's complaint is dismissed with prejudice in its entirety, because all of the underlying tort claims, and the concerted action claim are barred by a two year statute of limitation. Plaintiff's remaining claim for civil conspiracy is dismissed with prejudice, because Plaintiff failed to show that the defendants worked together in a way that could have injured her. Further, even if civil conspiracy only required more than one person committing a tort which stands on its own, all underlying torts are barred by the statute of limitation.

IT IS HEREBY ORDERED that Plaintiff's complaint is dismissed with prejudice.

IT IS FURTHER ORDERED, counts (1) sexual assault and battery, (2) intentional infliction of emotional distress (outrage), (3) false imprisonment, (5) concerted action and (6) negligence, are dismissed as untimely, because these claims are barred by the statute of limitation, which ran on December 31, 2018.

IT IS FURTHER ORDERED, the remaining count, (4) civil conspiracy, is dismissed, because Plaintiff cannot maintain a claim for an underlying illegal act conducted by multiple persons.

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THE WRIGHT LAW GROUP P.C.  
2340 Paseo Del Prado, Suite D-305  
Las Vegas, Nevada 89102  
Tel: (702) 405-0001 Fax: (702) 405-8454



IT IS SO ORDERED.

DATED this 16<sup>th</sup> day of Oct, 2019.

  
Honorable Judge Stefany Miley  
**JUDGE STEFANY A. MILEY**


DATED this 11<sup>th</sup> day of October, 2019. DATED this \_\_\_\_\_ day of September, 2019.

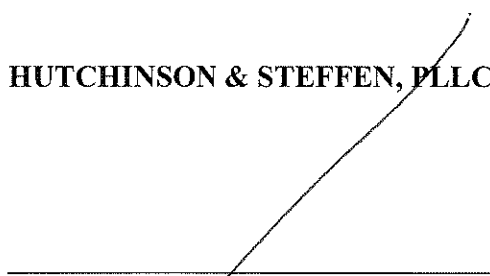
Respectfully submitted by:

Approved as to form and content by:

**THE WRIGHT LAW GROUP, P.C.**

**HUTCHINSON & STEFFEN, PLLC.**

  
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Tort

COURT MINUTES

September 17, 2019

A-19-797890-C      Jaqueline Fausto, Plaintiff(s)  
vs.  
Ricardo Sanchez-Flores, Defendant(s)

<b>September 17, 2019</b>	<b>9:30 AM</b>	<b>Motion to Dismiss</b>	<b>Defendant's Motion to Dismiss or in the Alternative Motion to Stay</b>
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**HEARD BY:** Miley, Stefany**COURTROOM:** RJC Courtroom 12C**COURT CLERK:** Katherine Streuber**RECORDER:** Maria Garibay**REPORTER:****PARTIES**

**PRESENT:**      Wright, John H.      Attorney

**JOURNAL ENTRIES**

- Alexander Velto Esq., present on behalf of Plaintiff. Argument by Mr. Wright regarding Statute of Limitations. Argument by Mr. Velto. Court noted Plaintiff knew sexual assault had occurred when SANE exam had been completed as there was DNA on her clothes. Mr. Velto advised they did not have evidence at the time the claim was filed. Court reiterated Plaintiff knew. Further argument by Mr. Velto regarding equitable tolling and clear and binding laws. Objection by Mr. Wright. Additional argument by Mr. Velto noting 1998 case. Court pointed out it was not in the brief. Continued argument by Mr. Velto. Court pointed out the unlawful act is the rape itself. Mr. Vieto argued the Defendant helped get the Plaintiff intoxicated, driving her home and helped the rape occur. Statement by the Court regarding civil conspiracy. Mr. Vieto then argued the back log of rape kits. Argument by Mr. Wright regarding underlying tort. Additional argument by Mr. Vieto noting discovery is not completed, noted Plaintiff had trusted the process and stated she was waiting on the Attorney General's Office. Further argument by Mr. Wright regarding he said, she said case. COURT ORDERED, motion is GRANTED IN PART as to the Statute of Limitations and DEFERRED IN PART as to the civil conspiracy and concerted action. Mr. Wright to prepare the Order on the Statute of Limitations and is to wait to complete the order on the two pending issues.

10-18-3:00 AM DEFENDANT'S MOTION TO DISMISS AS TO CIVIL CONSPIRACY AND  
CONCERTED ACTION

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Tort

COURT MINUTES

September 17, 2019

A-19-797890-C

Jaqueline Fausto, Plaintiff(s)

vs.

Ricardo Sanchez-Flores, Defendant(s)

September 17, 2019

2:42 PM

Motion to Dismiss

**Defendant's Motion  
to Dismiss as to Civil  
Conspiracy and  
Concerted Action**

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER:

REPORTER:

PARTIES

PRESENT:

**JOURNAL ENTRIES**

- The COURT GRANTS Defendant s Motion to Dismiss as to Plaintiff s fifth cause of action, Concerted Action. The dismissal of the other tortious causes of action found in Plaintiff s Complaint render the pleadings insufficient to satisfy the element that two or more persons act together while committing a tort pursuant to a common design or plan. Furthermore, this cause of action would also be barred by the two-year statute of limitations imposed on the other dismissed causes of action. Plaintiff s attorney presented the COURT with Nevada Supreme Court case Dow Chem. Co. v. Mahlum 114 Nev. 1468 (1998), abrogated by GES, Inc. v. Corbitt, 117 Nev. 265, 21 P.3d 11 (2001) in support for Plaintiff s Opposition to dismissal of the fourth cause of action: Civil Conspiracy. The COURT FINDS that there are no remaining causes of action to satisfy the unlawful objective element presented in Dow. Id. at 1488. The United States District Court, District of Nevada more recently stated that under Nevada law, a plaintiff must show the commission of an underlying tort to establish a civil conspiracy claim. Boorman v. Nevada Memorial Cremation Soc y, Inc., 772 F. Supp. 2d 1309, 1315 (D. Nev. 2011). Any underlying torts have been dismissed in this action and the COURT grants Defendant s Motion to Dismiss in full. IT IS SO ORDERED

CLERK'S NOTE: The above minute order has been distributed via e-mail to: John H. Wright Esq. and Joseph R. Ganley Esq. 09/17/19 kls The above minute order has been removed from the incorrect Motion to Dismiss and attached to the proper motion. 10/21/19 kls

# 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):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT  
DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT AND CONCLUSIONS OF LAW,  
AND ORDER GRANTING DEFENDANTS' MOTION TO DISMISS; NOTICE OF ENTRY;  
DISTRICT COURT MINUTES

JAQUELINE FAUSTO,

Plaintiff(s),

vs.

RICARDO SANCHEZ-FLORES; VERENICE  
RUTH FLORES,

Defendant(s),

Case No: A-19-797890-C

Dept No: XXIII

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 18 day of November 2019.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

**HUTCHISON & STEFFEN PLLC**

GENERAL ACCOUNT

10080 W. ALTA DR., STE 200  
LAS VEGAS, NV 891453985 S. DURANGO DRIVE  
LAS VEGAS, NV 89147

94-177/1224

11/15/19

PAY TO THE  
ORDER OF

Supreme Court of Nevada

\$ \*\*250.00

Two Hundred Fifty and 00/100\*\*\*\*\*

DOLLARS

Supreme Court of Nevada

MEMO

8498-001

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE. RED IMAGE DISAPPEARS WITH HEAT.

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HUTCHISON & STEFFEN PLLC  
GENERAL ACCOUNT

Supreme Court of Nevada

Client Cost

Supreme Court of Nevada - appeal filing fee

11/15/19

26042

250.00

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250.00