

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

DAPHNE WILLIAMS,
Appellant,

vs.

CHARLES "RANDY" LAZER,
Respondent

No. 80350

Electronically Filed
Jan 15 2020 05:38 p.m.

Elizabeth A. Brown
Nevada Supreme Court

**DOCKETING STATEMENT
CIVIL APPEALS**

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department XV
County Clark Judge Joe Hardy
District Ct. Case No. A797156

2. Attorney filing this docketing statement:

Attorney Marc J. Randazza Telephone 702-420-2001
Firm Randazza Legal Group, PLLC
Address 2764 Lake Sahara Drive, Suite 109
Las Vegas, Nevada 89117

Client(s) Daphne Williams

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Adam R. Trippiedi Telephone 702-642-3113
Firm Law Office of Michael F. Bohn, Esq., Ltd.
Address 2260 Corporate Cir, Suite 480
Henderson, Nevada 89074

Client(s) Charles "Randy" Lazer

Attorney Michael F. Bohn Telephone 702-642-3113
Firm Law Office of Michael F. Bohn, Esq., Ltd.
Address 2260 Corporate Cir, Suite 480
Henderson, Nevada 89074

Client(s) Charles "Randy" Lazer

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Judgment after bench trial | <input checked="" type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input checked="" type="checkbox"/> Other (specify): <u>NRS 41.660 Special Motion</u> |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify): _____ |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

None.

8. Nature of the action. Briefly describe the nature of the action and the result below:

Plaintiff alleges claims for (1) defamation; (2) defamation per se; (3) business disparagement; (4) intentional infliction of emotional distress; and (5) negligence. These claims are based on allegedly defamatory statements authored and published by Defendant Daphne Williams in a complaint to the Nevada Department of Business Industry, Real Estate Division ("NRED").

Ms. Williams filed a special motion to dismiss Plaintiff's claims under NRS 41.660. The district court denied this motion.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

The issues on appeal are whether:

(1) Ms. Williams met her burden under the first prong of the Anti-SLAPP analysis to show that she made her statements to the NRED in good faith, as that term is defined under NRS 41.637, when she provided multiple written communications and declarations (both from herself and third parties) showing that she did not believe any of her statements at issue were made with knowledge of their falsity; and

(2) Whether a complaint to the NRED, which results in an investigation of a real estate agent and an initial imposition of discipline based on the complaint, is privileged under Nevada's absolute litigation privilege.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

None.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: This Court has not yet addressed whether complaints to the NRED are protected under Nevada's litigation privilege.

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This matter is presumptively retained by the Supreme Court under NRAP 17(a)(14). The matter raises as a principal a question of statewide importance, namely, whether a complaint to the NRED is the type of communication protected under Nevada's litigation privilege.

Furthermore, the explicit language of the Anti-SLAPP statute provides that an appeal lies to the Supreme Court. NRS 41.670(4) provides that "[i]f the court denies the special motion to dismiss filed pursuant to NRS 41.660, an interlocutory appeal lies to the Supreme Court."

14. Trial. If this action proceeded to trial, how many days did the trial last? N/A

Was it a bench or jury trial? N/A

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from December 18, 2019

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served December 20, 2019

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ___, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed December 26, 2019

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|--|---------------------------------------|
| <input type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input checked="" type="checkbox"/> Other (specify) <u>NRS 41.670(4)</u> | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:
The order appealed from is a denial of a Special Motion to Dismiss under NRS 41.660. NRS 41.670(4) provides that "[i]f the court denies the special motion to dismiss filed pursuant to NRS 41.660, an interlocutory appeal lies to the Supreme Court."

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Plaintiff: Daphne Williams.

Defendant: Charles "Randy" Lazer.

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Plaintiff:

Count 1: Defamation; Count 2: Defamation per se; Count 3: business disparagement; Count 4: intentional infliction of emotional distress; Count 5: Negligence. No claims have been disposed of.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☐ Yes

☒ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:
All claims remain pending.

(b) Specify the parties remaining below:
All parties remain.

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

The order appealed from is a denial of a Special Motion to Dismiss under NRS 41.660. NRS 41.670(4) provides that "[i]f the court denies the special motion to dismiss filed pursuant to NRS 41.660, an interlocutory appeal lies to the Supreme Court."

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Daphne Williams

Name of appellant

Marc J. Randazza

Name of counsel of record

January 15, 2020

Date

s/ Marc J. Randazza

Signature of counsel of record

Clark County, Nevada

State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 15th day of January, 2020, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Adam R. Trippiedi

Michael F. Bohn

Law Office of Michael F. Bohn, Esq., Ltd.

2260 Corporate Cir, Suite 480

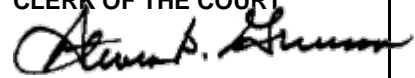
Henderson, Nevada 89074

Dated this 15th day of January, 2020

s/ Marc J. Randazza

Signature

Plaintiff Charles "Randy" Lazer's First Amended
Complaint



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13 Attorney for plaintiff Charles "Randy" Lazer

8 DISTRICT COURT
9
10 CLARK COUNTY, NEVADA

11 CHARLES "RANDY" LAZER,
12 Plaintiff,
13 vs.
14 DAPHNE WILLIAMS,
15 Defendant.

CASE NO.: A-19-797156-C
DEPT NO.: XV

**PLAINTIFF CHARLES "RANDY"
LAZER'S FIRST AMENDED COMPLAINT**

16 Plaintiff Charles "Randy" Lazer, by and through its attorney, the Law Offices of Michael F. Bohn,
17 Esq., Ltd., hereby alleges as follows:

- 18 1. Plaintiff is a licensed Nevada real estate agent and has been so licensed since 1991.
- 19 2. In the spring of 2017, plaintiff was representing Rosane Krupp, the seller of the real property
20 commonly known as 1404 Kilimanjaro Ln #202, Las Vegas, Nevada 89128 (hereinafter "**the property**"),
21 which is a condominium unit.
- 22 3. On May 20, 2017, defendant Daphne Williams, at the time a tenant renting the property,
23 entered into a contract to purchase the property from the seller.
- 24 4 Defendant did not employ a real estate agent to represent her in the purchase.
- 25 5. The original close of escrow date for the sale of the property to defendant was June 30, 2017.
- 26 6. On June 23, 2017, plaintiff learned defendant's lender had, just that day, obtained the
27 condominium certification package, also known as a condominium questionnaire, which is a requirement
28

1 to obtain financing for a condominium purchase.

2 7. Defendant's lender informed plaintiff that the reason for the delay in obtaining the
3 condominium questionnaire was because defendant neglected to pay for the questionnaire in a timely
4 manner.

5 8. As part of the sale of a condominium, a lender requires certain information, which is obtained
6 by way of a condominium certification package, also known as a condo questionnaire.

7 9. The condo questionnaire is a document filled out by a representative of the condo's
8 homeowner association and provides information such as what percentage of the units in the association
9 are owner-occupied versus renter-occupied; whether the condo association is currently involved in
10 litigation; what percentage of the units are delinquent in their HOA dues; and the financial health of the
11 HOA, such as whether it is meeting its reserve requirements.

12 10. If the figures provided in the condo questionnaire do not meet certain requirements, the lender
13 may refuse to provide financing for a condo purchase.

14 11. Because defendant was financing the purchase of the property, defendant and/or her lender
15 needed to obtain the condo questionnaire in order to obtain approval for a loan.

16 12. Defendant's lender, Bryan Jolly at Alterra Home Loans, received the fully executed contract
17 on May 23, 2017, more than a month prior to the June 30, 2017, close of escrow date.

18 13. However, Mr. Jolly did not receive the condo questionnaire until June 23, 2017.

19 14. Mr. Jolly disclosed to plaintiff that the reason for the delay in obtaining the condo
20 questionnaire was because defendant neglected to pay for the questionnaire in a timely manner.

21 15. Defendant's delay in obtaining the condo questionnaire ultimately delayed the close of the
22 deal for 24 days.

23 16. During the negotiation of defendant's purchase, plaintiff and the seller granted defendant
24 three extensions of the close of escrow in order for defendant's lender to review the condo questionnaire
25 and perform its analysis to determine whether it would finance defendant's purchase.

26 17. Plaintiff first became aware of the delay in obtaining the condo questionnaire as a result of
27 Mr. Jolly's June 23, 2017, email.

1 18. Following this email, plaintiff spoke with defendant to inform her that it would be necessary
2 to extend escrow due to her and/or her lender's failure to obtain the condo questionnaire until June 23,
3 2017.

4 19. After the June 23, 2017, phone call between plaintiff and defendant, defendant became
5 agitated and defensive, which started the chain of events that eventually led to her accusing plaintiff of
6 racism and sexism in her Nevada Real Estate Division ("NRED") "Statement of Fact" and, in turn, this
7 lawsuit.

8 20. On June 27, 2017, defendant sent a text message to plaintiff as follows:
9

10 Randy if this racist, sexi^{est} [sic - sexist] and unprofessional behavior of yours continues,
11 and Rosane [the seller] and I aren't able to close this deal, you will leave me with no other
12 remedy than to file a complaint with the Nevada Board of Realtors and HUD against you
and your broker for your unethical and unprofessional behavior as noted in the emails and
text messages you have sent during this process.

13 21. Defendant's very serious allegations that plaintiff is racist, sexist, unprofessional, and
14 unethical are based on plaintiff's alleged statement that he thinks the defendant will be successful in the
15 future and that plaintiff would like to represent defendant in any future real estate transactions.

16 22. Due to defendant's delay in paying for the condo questionnaire, the close of escrow had to
17 be extended from June 30, 2017, to July 17, 2017; then July 20, 2017; and finally, July 24, 2017.

18 23. Following the close of escrow, defendant submitted a "Statement of Facts" to NRED alleging
19 plaintiff was racist, sexist, unprofessional, and unethical, and which contained a number of false
20 statements of fact.

21 24. First, defendant stated on multiple occasions in her Statement of Facts that plaintiff engaged
22 in unethical, unprofessional, sexist, and racist behavior, largely based on the fact that he complimented
23 her on her purchase of the condo and that as she progressed with her career and became more successful,
24 I would be happy to represent her in future real estate purchases should her brother retire from real estate.
25 No reasonable person could believe, in good faith, that the statement defendant attributes to plaintiff
26 could possibly be racist, sexist, unprofessional, or unethical.

27 25. Second, defendant claimed in her Statement of Facts that plaintiff shared "confidential info"
28 with defendant regarding the seller, which [defendant] understood realtors aren't supposed to do. In

1 reality, plaintiff did not share any confidential information with defendant. Defendant lied in her
2 Statement of Facts by stating plaintiff told her he met the seller on a dating website, when in reality, the
3 seller told that piece of information to defendant. Regardless, defendant does not state how this is
4 confidential information that would be relevant to NRED. More importantly, defendant claims plaintiff
5 told defendant the amount of plaintiff's commission, which is confidential, but in reality, the seller
6 authorized plaintiff to release the amount of the commission to defendant in order to move the sale along
7 at the optimal price for seller. Accordingly, this information was not "confidential," and if defendant had
8 simply spoken to plaintiff or the seller about this issue, she would have known plaintiff was authorized
9 to release the commission amount.

10
11 26. Third, defendant claims plaintiff acted unethically because defendant attempted to
12 communicate with the appraiser. However, there is nothing unethical about a real estate agent
13 communicating with an appraiser. To the contrary, ethics require that when representing a seller, an agent
14 should communicate with the appraiser and provide information regarding comparable sales and upgrades
15 to the appraiser.

16 27. Fourth, defendant states plaintiff "lied on several occasions." To support this claim,
17 defendant states plaintiff lied about defendant not allowing plaintiff to remove all of her personal property
18 from the condo. However, plaintiff's statement is true. As stated in the seller's declaration, defendant
19 did in fact refuse to allow the seller to remove all of her personal property, and to this day, some of the
20 seller's personal property remains at the condo. Defendant also refused to sign an addendum providing
21 the seller access to remove her personal property from the condo.

22
23 28. Fifth, defendant claims plaintiff never provided her a "signed copy of the contract," which
24 is completely false. On May 18, 2017, plaintiff emailed defendant and attached the Residential Purchase
25 Agreement signed by the seller.

26 29. Sixth, defendant states plaintiff "falsely" accused her of failing to meet the due diligence
27 timeframes in the contract. Defendant blames plaintiff's alleged failure to provide her with the signed
28 contract for her inability to meet her obligation to pay for the condo questionnaire, but as noted above,
plaintiff had provided the signed contract to defendant more than a month prior to the close of escrow.

1 Accordingly, defendant's statement that plaintiff "falsely" accused her of failing to meet all requirements
2 to close escrow is false. Defendant also claims that plaintiff never provided her with "a receipt for
3 defendant's earnest money," but a real estate agent does not provide receipts for earnest money unless
4 the earnest money is deposited into a broker's trust account. When earnest money is deposited with the
5 title and/or escrow company, it was the case here, title and/or escrow be the entity to provide such a
6 receipt. Plaintiff did provide escrow company contact information to Bryan Jolly, defendant's lender,
7 so defendant's lender did have notice of who the escrow company was and could have obtained an earnest
8 money receipt from escrow. Thus, while defendant's statement that plaintiff did not provide an earnest
9 money receipt is technically true, it is also very misleading.

10
11 30. Seventh, defendant makes false allegations that the seller told defendant that plaintiff was
12 "trying to sabotage this deal" and that plaintiff had "an ulterior motive." However, as proven by the
13 declaration of the seller also attached to the opposition, the seller never told defendant that plaintiff was
14 trying to sabotage the deal or that plaintiff had an ulterior motive, so this is another false, defamatory
15 statement. In fact, plaintiff expended great effort to keep this deal alive, including securing three
16 extensions of the close of escrow, so clearly plaintiff had no intention of sabotaging the deal.

17 31. As a result of defendant's NRED complaint, plaintiff was then forced to defend himself
18 against for approximately eight months, including spending more than 50 hours responding to the
19 complaint and NRED's investigation.

20 32. Ultimately, NRED chose to dismiss the complaint and plaintiff was cleared of any
21 wrongdoing.

22 33. However, the damage had been done due to defendant's defamatory Statement of Facts which
23 in and of itself caused harm to plaintiff, and also caused other damage by forcing plaintiff to spend so
24 much time defending himself.

25 **FIRST CLAIM FOR RELIEF**

26
27 34. Plaintiff repeats, realleges, and incorporates the allegations contained in paragraphs 1 through
28 33 as though fully set forth herein.

35. Defendant made false and defamatory statements about plaintiff in her NRED Statement of

1 Facts, as outlined in detail above.

2 36. Defendant published the NRED Statement of Facts to NRED and NRED's employees and
3 investigators, which was an unprivileged publication.

4 37. Defendant either purposely or negligently published the Statement of Facts to NRED with
5 knowledge that many of her statements were false.

6 38. As a direct and proximate result of defendant's defamatory NRED Statement of Facts,
7 plaintiff has suffered damages in an amount in excess of \$15,000.00.

8 39. Plaintiff has had to retain an attorney and incur attorney's fees and costs in order to bring this
9 claim, and plaintiff is entitled to recover the same.
10

11 **SECOND CLAIM FOR RELIEF**

12 40. Plaintiff repeats, realleges, and incorporates the allegations contained in paragraphs 1 through
13 39 as though fully set forth herein.

14 41. Defendant's defamatory statements in her NRED Statement of Facts impute plaintiff's lack
15 of fitness for his chosen profession, real estate agents.

16 42. Defendant's defamatory statements do so by claiming plaintiff acted unethically and
17 unprofessionally; by claiming plaintiff was racist and sexist; by claiming plaintiff lied about his actions
18 in selling the subject property; by claiming plaintiff failed to act properly in completing the sale of the
19 subject property; by wrongly claiming plaintiff violated the seller's confidentiality by releasing the seller's
20 confidential information to a third-party; by falsely claiming plaintiff failed to provide defendant with a
21 copy of the purchase agreement signed by the seller; and by attributing to the seller statements impugning
22 plaintiff's behavior during the deal - statements which the seller never made.
23

24 43. Because defendant committed defamation imputing plaintiff's lack of fitness for his
25 profession, plaintiff's damages are presumed and plaintiff does not need to provide proof of such
26 damages.

27 44. As a direct and proximate result of defendant's defamatory NRED Statement of Facts,
28 plaintiff has suffered damages in an amount in excess of \$15,000.00.

45. Plaintiff has had to retain an attorney and incur attorney's fees and costs in order to bring this

1 claim, and plaintiff is entitled to recover the same.

2 **THIRD CLAIM FOR RELIEF**

3 46. Plaintiff repeats, realleges, and incorporates the allegations contained in paragraphs 1 through
4 45 as though fully set forth herein.

5 47. Defendant's defamatory statements to NRED served to disparage plaintiff's business by
6 falsely impugning his actions during the sale of the subject property.

7 48. As a direct and proximate result of defendant's defamatory NRED Statement of Facts,
8 plaintiff has suffered damages in an amount in excess of \$15,000.00.

9 49. Plaintiff has had to retain an attorney and incur attorney's fees and costs in order to bring this
10 claim, and plaintiff is entitled to recover the same.

11 **FOURTH CLAIM FOR RELIEF**

12 50. Plaintiff repeats, realleges, and incorporates the allegations contained in paragraphs 1 through
13 45 as though fully set forth herein.

14 51. By submitting her false NRED Statement of Facts, defendant acted with extreme and
15 outrageous conduct with either the intention of, or reckless disregard for, causing emotional distress,
16 because defendant had actual notice, as described herein, that her Statement of Facts contained numerous
17 false, disparaging statements about plaintiff.

18 52. Plaintiff suffered severe emotional distress as a result of defendant submitting her Statement
19 of Facts to NRED, and the ensuing investigation which consumed over 50 hours of plaintiff's time to
20 defend against.

21 53. Because of defendant's false Statement of Facts, plaintiff suffered from loss of sleep, stress
22 over the possible loss of his entire livelihood, and stress over the damage to his reputation with NRED,
23 the governing body of Nevada real estate agents.

24 54. Additionally, plaintiff developed pneumonia, fever, inflammation, and a serious cough due
25 to the stress he suffered after he learned defendant had reported him to NRED.

26 55. Defendant's conduct in submitting the NRED Statement of Fact was the actual or proximate
27 cause of plaintiff's distress discussed herein.

56. As a direct and proximate result of defendant's defamatory NRED Statement of Facts, plaintiff has suffered damages in an amount in excess of \$15,000.00.

57. Plaintiff has had to retain an attorney and incur attorney's fees and costs in order to bring this claim, and plaintiff is entitled to recover the same.

FIFTH CLAIM FOR RELIEF

58. Plaintiff repeats, realleges, and incorporates the allegations contained in paragraphs 1 through 57 as though fully set forth herein.

59. At a minimum, defendant acted negligently when she submitted a false Statement of Fact to NRED.

60. Defendant's submission of the false Statement of Fact resulted in plaintiff developing pneumonia, fever, inflammation, and a serious cough due to the stress he suffered.

61. As a direct and proximate result of defendant's defamatory NRED Statement of Facts, plaintiff has suffered damages in an amount in excess of \$15,000.00.

62. Plaintiff has had to retain an attorney and incur attorney's fees and costs in order to bring this claim, and plaintiff is entitled to recover the same.

WHEREFORE, plaintiff prays for relief as follows:

1. For judgment against defendant in an amount in excess of \$15,000.00;
2. Punitive damages in an amount to be proven at trial;
3. Attorney's fees and costs; and
4. Such further relief as the Court finds just and proper.

DATED this 8th day of October, 2019

LAW OFFICES OF
MICHAEL F. BOHN, ESQ., LTD.

By: /s/ Adam R. Trippiedi, Esq.
Michael F. Bohn, Esq.
Adam R. Trippiedi, Esq.
2260 Corporate Cir, Suite 480
Henderson, Nevada 89074
Attorney for plaintiff

1 **CERTIFICATE OF SERVICE**

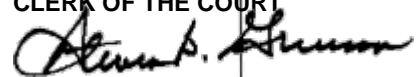
2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of Law
3 Offices of Michael F. Bohn., Esq., and on the 8th day of October, 2019, an electronic copy of the
4 PLAINTIFF CHARLES "RANDY" LAZER'S FIRST AMENDED COMPLAINT was served on
5 opposing counsel via the Court's electronic service system to the following counsel of record:
6

7
8 Marc J. Randazza, Esq.
9 Alex J. Shepard, Esq.
10 RANDAZZA LEGAL GROUP, PLLC
11 2764 Lake Sahara Dr, Suite 109
12 Las Vegas, Nevada 89117
13 Attorney for defendant
14

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/s/ /Marc Sameroff/
An Employee of the LAW OFFICES OF
MICHAEL F. BOHN, ESQ., LTD.

Order Denying Defendant Daphne Williams's
Second Anti-SLAPP Special Motion to Dismiss
Under NRS 41.660; and Denying Plaintiff Charles
“Randy” Lazer’s Counter-Motion for Attorney
Fees



1 **ORDR**

2 Marc J. Randazza (NV Bar No. 12265)
3 Alex J. Shepard (NV Bar No. 13582)
4 RANDAZZA LEGAL GROUP, PLLC
5 2764 Lake Sahara Drive, Suite 109
6 Las Vegas, Nevada 89117
7 Telephone: 702-420-2001
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9 Attorneys for Defendant
10 *Daphne Williams*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 CHARLES "RANDY" LAZER,
14
15 Plaintiff,

16 vs.

17 DAPHNE WILLIAMS,
18
19 Defendant.

CASE NO.: A-19-797156-C
DEPT NO.: XV

**ORDER DENYING DEFENDANT
DAPHNE WILLIAMS'S SECOND
ANTI-SLAPP SPECIAL MOTION TO
DISMISS UNDER NRS 41.660; and
DENYING PLAINTIFF CHARLES
"RANDY" LAZER'S COUNTER-
MOTION FOR ATTORNEY FEES**

DATE OF HEARING: December 9, 2019
TIME OF HEARING: 9:00 a.m.

20 Defendant Daphne Williams's anti-SLAPP special motion to dismiss under NRS 41.660,
21 and plaintiff Charles "Randy" Lazer's counter-motion for attorney fees, both coming on for
22 hearing on December 9, 2019, at 9:00 a.m., Adam R. Trippiedi, Esq. appearing on behalf of Charles
23 "Randy" Lazer, and Marc J. Randazza appearing on behalf of defendant Daphne Williams, and the
24 Court having reviewed the pleadings and having heard the arguments of the parties' respective
counsel, and for good cause appearing, finds as follows:

IT IS HEREBY ORDERED that defendant's anti-SLAPP special motion to dismiss ("anti-
SLAPP motion") is denied without prejudice.

1 IT IS FURTHER ORDERED that the court cannot find at this juncture, as a matter of law,
2 that defendant has proven by a preponderance of the evidence that she submitted her Nevada Real
3 Estate Division ("NRED") Statement of Fact in good faith as required under NRS 41.660(3)(a).
4 Specifically, the court cannot find at this point that defendant made her Statement of Fact in good
5 faith; that it was truthful; and that defendant made the Statement of Fact without knowledge of its
6 falsity, and the court denies defendant's anti-SLAPP motion without prejudice on that basis.

7 IT IS FURTHER ORDERED that even assuming defendant met her burden under NRS
8 41.660(3)(a) to show that she submitted her NRED Statement of Fact in good faith by a
9 preponderance of the evidence, plaintiff has made a prima facie evidentiary showing under NRS
10 41.660(3)(b) that he has a probability of prevailing on his claims. This is an independent basis for
11 denying defendant's anti-SLAPP motion without prejudice.

12 IT IS FURTHER ORDERED that plaintiff's counter-motion for attorney fees is denied.
13 The court does not find a proper basis to grant plaintiff attorney fees because defendant's anti-
14 SLAPP motion was properly brought in response to the filing of plaintiff's first amended complaint
15 and presented new evidence.

16 IT IS FURTHER ORDERED that plaintiff's request to strike defendant's anti-SLAPP
17 motion based on defendant's alleged violation of EDCR 2.20's page limit requirement is denied.

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1 IT IS FURTHER ORDERED that defendant is to answer plaintiff's first amended
2 complaint within twenty-one (21) days of notice of entry of this order.

3 DATED this 18th day of December, 2019.

4 
5 DISTRICT COURT JUDGE
6 Case No. A797156 10

7 Respectfully submitted by:

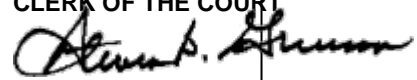
8 RANDAZZA LEGAL GROUP, PLLC

9
10 By: 

11 Marc J. Randazza
12 Alex J. Shepard
2764 Lake Sahara Dr, Suite 109
Las Vegas, Nevada 89117

13 Attorneys for Defendant
14 *Daphne Williams*

Notice of Entry of Order Denying Defendant
Daphne Williams's Second Anti-SLAPP Special
Motion to Dismiss Under NRS 41.660; and
Denying Plaintiff Charles "Randy" Lazer's
Counter-Motion for Attorney Fees



1 **NEOJ**

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9 Attorneys for Defendant,

10 Daphne Williams

11 **EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 **CHARLES "RANDY" LAZER,**

14 Plaintiff,

15 vs.

16 **DAPHNE WILLIAMS,**

17 Defendant.

Case No. A-19-797156-C

Dept. XV

**NOTICE OF ENTRY OF ORDER
DENYING DEFENDANT DAPHNE
WILLIAMS'S SECOND ANTI-SLAPP
MOTION TO DISMISS UNDER 41.660;
and DENYING PLAINTIFF CHARLES
"RANDY" LAZER'S COUNTER-MOTION
FOR ATTORNEY FEES**

1 **NOTICE OF ENTRY OF ORDER DENYING DEFENDANT DAPHNE WILLIAMS'S SECOND**
2 **ANTI-SLAPP MOTION TO DISMISS UNDER 41.660; and DENYING PLAINTIFF CHARLES**
3 **"RANDY" LAZER'S COUNTER-MOTION FOR ATTORNEY FEES**

4 TO: PLAINTIFF

5 PLEASE TAKE NOTICE that on December 18, 2019, the Court entered its
6 Order Denying Defendant Daphne Williams's Second Anti-SLAPP Motion to Dismiss
7 Under NRS 41.660; and Denying Plaintiff Charles "Randy" Lazer's Counter-Motion
8 for Attorney Fees, attached hereto as **Exhibit 1**.

9 Dated: December 20, 2019.

10 Respectfully submitted:

11
12 /s/ Alex J. Shepard

13 Marc J. Randazza (NV Bar No. 12265)

14 Alex J. Shepard (NV Bar No. 13582)

15 Randazza Legal Group, PLLC

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20 Attorneys for Defendant,

21 Daphne Williams
22
23
24
25
26

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of December 2019, I caused a true and correct copy of the foregoing document to be served via the Eighth Judicial District Court's Odyssey electronic filing system.

Respectfully submitted:

/s/ Crystal Sabala

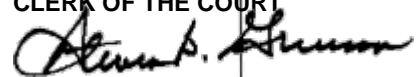
Employee,

Randazza Legal Group, PLLC

EXHIBIT 1

Filed Order Denying Defendant Daphne Williams's
Second Anti-SLAPP Special Motion to Dismiss
Under NRS 41.660; and Denying Plaintiff Charles
“Randy” Lazer’s Counter Motion for Attorney
Fees.

EXHIBIT 1



1 **ORDR**

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11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

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16 vs.

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3 DATED this 18th day of December, 2019.

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6 DISTRICT COURT JUDGE
Case No. A797156 10

7 Respectfully submitted by:

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13 Attorneys for Defendant
14 *Daphne Williams*
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