

**In the  
Supreme Court of the State of Nevada**

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Elizabeth A. Brown  
Clerk of Supreme Court

DAPHNE WILLIAMS,

*Defendant-Appellant,*

vs.

CHARLES “RANDY” LAZER,

*Plaintiff-Respondent.*

**Supreme Court No. 80350**

Appeal from the  
Eighth Judicial District Court  
for Clark County, Nevada

District Court Case No.  
A-19-797156-C

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**APPELLANT’S APPENDIX  
VOLUME III OF III**

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DATED this 1<sup>st</sup> day of June, 2020.

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## **CERTIFICATE OF SERVICE**

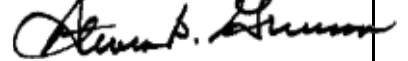
I hereby certify that on this 1st day of June, 2020, a true and correct copy of this Appendix was served upon all counsel of record by electronically filing the document using the Nevada Supreme Court's electronic filing system.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Tim Rothwell", is written over a horizontal line.

Employee,  
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14 DISTRICT COURT

15 CLARK COUNTY, NEVADA

16 CHARLES "RANDY" LAZER,

17 Plaintiff,

18 vs.

19 DAPHNE WILLIAMS,

20 Defendant.

CASE NO.: A-19-797156-C

DEPT NO.: XV

**PLAINTIFF'S OPPOSITION TO  
DEFENDANT DAPHNE WILLIAMS'S  
ANTI-SLAPP SPECIAL MOTION TO  
DISMISS UNDER NRS 41.660; and  
COUNTER-MOTION FOR ATTORNEY'S  
FEES**

21 Plaintiff Charles "Randy" Lazer, by and through its attorney, the Law Offices of Michael F. Bohn,  
22 Esq., Ltd., hereby submits his opposition to defendant Daphne Williams's Anti-Slapp Special Motion to  
23 Dismiss Under NRS 41.660 filed on October 22, 2019; and plaintiff's counter-motion for attorney's fees.  
24 This opposition and counter-motion is based on the points and authorities contained herein, and any oral  
25 argument presented at the time of the hearing.

26 **INTRODUCTION**

27 Once again, defendant is attempting to have this case dismissed under the same factual and legal  
28 arguments upon which defendant's first anti-SLAPP motion was based. This is simply defendant's  
second bite at the same apple. This court denied defendant's first anti-SLAPP motion, finding defendant  
could not show, or the court could not find, at this early juncture of the case, that defendant filed her  
NRED Statement of Fact in good faith. Undeterred, defendant now seeks to completely bypass written  
discovery, depositions, and any other form of discovery, and have this court find, based on declarations,

1 that defendant acted in good faith when she filed her NRED Statement of Fact. However, plaintiff  
2 provides ample evidence that defendant's NRED Statement of Fact was not made in good faith, and in  
3 fact that defendant knew her statements were false. Thus, as with defendant's initial motion to dismiss,  
4 this second motion to dismiss should also be denied.

5 The remainder of defendant's motion to dismiss fails for various reasons as stated herein.

6 Further, plaintiff would like to highlight the fact that defendant, in her NRED Statement of Fact,  
7 characterized plaintiff as racist, sexist, and unprofessional. Defendant stated that plaintiff had sent  
8 defendant racist and sexist texts and emails, but defendant never produced any such texts and emails. The  
9 defendant also wondered if plaintiff would have treated her differently had she been a white male, with  
10 no basis for making this statement. These characterizations, in tandem with the various verifiable  
11 falsehoods contained in defendant's NRED Statement of Fact, have caused plaintiff very serious harm.  
12

13 Additionally, because defendant has filed essentially the same exact motion to dismiss that this  
14 court previously denied, and because this court told the parties at the last hearing that it could not find  
15 good faith at this time, plaintiff seeks attorney's fees and costs for having to respond to this frivolous  
16 motion.

### 17 FACTS<sup>1</sup>

#### 18 **1. Background.**

19 Plaintiff is a licensed Nevada real estate agent and has been for over 25 years.

20 In the spring of 2017, plaintiff was representing Rosane Krupp, the seller of the real property  
21 commonly known as 1404 Kilimanjaro Ln #202, Las Vegas, Nevada 89128 (hereinafter "**the property**").  
22 The property is a condominium. On May 21, 2017, defendant, at the time a tenant renting the property,  
23 entered into a Residential Purchase Agreement to purchase the property from its then-owner. See Exhibit  
24 1, Residential Purchase Agreement (hereinafter, "**the contract**"). Defendant was financing the purchase  
25 of the property. Defendant did not retain a real estate agent to represent her in the purchase. The fact that  
26 defendant did not retain a real estate agent was the genesis of the problems that arose during the sale and  
27  
28

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<sup>1</sup>This facts section is supported by the declaration of plaintiff attached hereto.

1 persist to this day.

2 As part of the sale of a condominium, a lender requires certain information, which is obtained by  
3 way of a condominium certification package, also known as a condo questionnaire. The condo  
4 questionnaire is a document filled out by a representative of the condo's homeowner association and  
5 provides information such as what percentage of the units in the association are owner-occupied versus  
6 renter-occupied; whether the condo association is currently involved in litigation; what percentage of the  
7 units are delinquent in their HOA dues; and the financial health of the HOA, such as whether it is meeting  
8 its reserve requirements. If the figures provided in the condo questionnaire do not meet certain  
9 requirements, the lender may refuse to provide financing for a condo purchase.

10  
11 Because defendant was financing the purchase of the property, defendant and/or her lender needed  
12 to obtain the condo questionnaire in order to obtain approval for a loan. Defendant's lender, Bryan Jolly  
13 at Alterra Home Loans, received the fully executed contract on May 23, 2017, more than a month prior  
14 to the June 30, 2017, close of escrow date. See Exhibit 2, email communication between plaintiff and  
15 Mr. Jolly dated June 26, 2017, at 7:54 AM. First Residential, the community manager for the property's  
16 HOA, could have provided a completed condo questionnaire within 10 days. Id. However, Mr. Jolly did  
17 not receive the condo questionnaire until June 23, 2017. Id., at June 23, 2017, email from Mr. Jolly. Mr.  
18 Jolly disclosed to plaintiff that the reason for the delay in obtaining the condo questionnaire was because  
19 defendant neglected to pay for the questionnaire in a timely manner.

20  
21 Defendant also created a delay in the closing because she changed her down payment amount from  
22 20% to 5%, which necessitated additional delays on the part of defendant's lender.

23 Defendant's delay in obtaining the condo questionnaire and reducing her down payment ultimately  
24 delayed the close of the deal for 24 days. During the negotiation of defendant's purchase, plaintiff and  
25 the seller granted defendant three extensions of the close of escrow in order for defendant's lender to  
26 review the condo questionnaire and perform its analysis to determine whether it would finance  
27 defendant's purchase.

28 Exhibit 2, referenced above, is a series of emails between plaintiff and Mr. Jolly, the loan officer  
working on the financing of defendant's purchase. Plaintiff first became aware of the delay in obtaining

1 the condo questionnaire as a result of Mr. Jolly's June 23, 2017, email. Following this email, plaintiff  
2 spoke with defendant over the phone to inform her that it would be necessary to extend escrow due to her  
3 and/or her lender's failure to obtain the condo questionnaire until June 23, 2017. Plaintiff also informed  
4 defendant that there was no guarantee the seller would grant an extension if defendant did not close the  
5 deal per the terms of the Purchase Agreement, on or before June 30, 2017, and that plaintiff would be  
6 discussing the request for an extension with the seller. After the June 23, 2017, phone call between  
7 plaintiff and defendant, defendant became agitated and defensive, which started the chain of events that  
8 eventually led to her accusing plaintiff of racism and sexism in her Nevada Real Estate Division  
9 ("NRED") "Statement of Fact" and, in turn, this lawsuit.

10  
11 On June 27, 2017, defendant sent a text message to plaintiff as follows:

12 Randy if this racist, sexist [sic - sexist] and unprofessional behavior of yours continues,  
13 and Rosane [the seller] and I aren't able to close this deal, you will leave me with no other  
14 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.

15 See Exhibit 3, text message from defendant to plaintiff. As stated at page 3, lines 1-8 of defendant's  
16 motion to dismiss, defendant's very serious allegations that plaintiff is racist, sexist, unprofessional, and  
17 unethical are somehow based on plaintiff's alleged statement that he thinks the defendant will be  
18 successful in the future and that he would like the opportunity to represent her in future real estate  
19 transactions. To a reasonable person, this comment would be taken as a compliment, or at worst, an  
20 innocuous offer to represent defendant in future real estate transactions. Somehow, defendant took this  
21 statement as Mr. Lazer being racist, sexist, unprofessional, and unethical.

22 Defendant also apparently based her belief that plaintiff was racist, sexist, unprofessional, and  
23 unethical on plaintiff's mention of defendant's brother. Defendant took this reference to mean plaintiff  
24 believed defendant was reliant on her brother, perhaps a sexist comment that she was unable to fend for  
25 herself. However, defendant's apparent belief was a wild misconstruing of plaintiff's comment, which  
26 was clearly aimed at the fact that defendant's brother is a real estate agent. Thus, plaintiff was simply  
27 saying if defendant's brother was no longer practicing real estate, plaintiff would be happy to represent  
28 defendant in a future purchase or sale.

1 On August 24, 2017, after the sale of the property to defendant closed, defendant filed a  
2 "Statement of Fact" with the Nevada Real Estate Division ("NRED"), claiming again that plaintiff was  
3 racist, sexist, unprofessional, and unethical, and also made several other false accusations. See Exhibit  
4 4, defendant's NRED Statement of Facts and narrative.

5 On the first page of her narrative attached to the NRED Statement of Facts, defendant states the  
6 following:

7 On May 13, 2017, or there about, Mr. Lazer came to the property which I have been renting  
8 from the seller since Jan. 15, 2017 to take pictures of the property. During that meeting, he  
9 made an unprofessional, racist and sexist comment. He said, "Daphne, I think you are going  
10 to be successful. When you become successful and you want to buy a bigger house and if  
your brother is retired by then, I'd be glad to be your realtor."

11 See Exhibit 3. Again, defendant believes it is unprofessional, racist, and sexist to tell someone they will  
12 be successful and offer to represent them in future real estate transactions.

13 To clarify, defendant's recitation of what she claims plaintiff told her is not entirely accurate.  
14 What actually happened during that conversation was plaintiff complimented defendant on her success  
15 of being able to purchase the condo, as plaintiff would normally compliment someone on the purchase  
16 of a home. Plaintiff then mentioned that real estate may appreciate in the coming years, and as  
17 defendant's career progressed and she achieved even greater success, she may choose to rent the condo  
18 out and hopefully have a positive cash flow, and purchase another primary residence. Plaintiff then  
19 mentioned that he respected defendant's brother as a real estate agent and that should he retire, plaintiff  
20 would be happy to work with defendant in the future.

21 Plaintiff was then forced to defend himself against defendant's NRED Statement of Facts for  
22 approximately eight months, including spending more than 50 hours responding to the Statement of Fact  
23 and NRED's investigation. Ultimately, NRED chose to close its file and plaintiff was vindicated and  
24 cleared of any wrongdoing. NRED's legal counsel found no basis for proceeding against plaintiff.  
25 However, the damage had been done due to defendant's defamatory Statement of Facts which in and of  
26 itself caused harm to plaintiff, and also caused other damage by forcing plaintiff to spend so much time  
27 defending himself.  
28

## **2. Response to defendant's Factual Background.**

1 Defendant has filed a separate pleading containing her statement of the facts of this case. Within  
2 this pleading, defendant makes several untrue statements.

- 3 1. At page 2, lines 14-22 of her facts pleading, defendant states that plaintiff does not dispute  
4 making the statement which defendant took as racist and sexist. Plaintiff disputes this  
5 characterization. While plaintiff did say something similar to what defendant claims,  
6 defendant's quotation is not an accurate, word-for-word recitation of what plaintiff said.
- 7 2. At page 3, lines 3-5, defendant claims plaintiff "does not dispute" that he told defendant  
8 confidential information including the amount of his commission and details about the  
9 seller's romantic life. Plaintiff denies that he discussed the seller's romantic life with  
10 defendant. As to his commission, plaintiff did disclose his commission to defendant, but  
11 the seller authorized this disclosure in order to facilitate the sale of the property.
- 12 3. At pages 3-4, lines 21-14, defendant makes several representations regarding plaintiff's  
13 attempted contact with the appraiser. Plaintiff responds that when he represents sellers,  
14 he routinely speaks with appraisers in order to provide them comparable sale information  
15 and information about upgrades to the property. Further, plaintiff finds it highly unlikely  
16 that NRED would tell defendant that agents are not supposed to speak with appraisers  
17 because it is not an ethical issue unless the agent attempts to influence the appraiser
- 18 4. At page 4-5, lines 15-19, defendant claims that plaintiff "falsely" alleged defendant  
19 refused to allow the seller to remove personal property from the condo. However, it is  
20 true that defendant refused to allow the seller to remove all of her personal property, as  
21 proven by the declaration of the seller attached hereto.
- 22 5. At page 6, footnote 5, defendant claims plaintiff "did not provide [defendant] with a  
23 receipt for [defendant's] earnest money.... However, because defendant placed her earnest  
24 money deposit with the escrow company, plaintiff had no duty or obligation to provide  
25 a receipt for the earnest money. It would have been improper for plaintiff to provide such  
26 a receipt, as plaintiff did not receive the earnest money. It was up to the escrow company  
27 to provide an earnest money receipt. Further, the lender would not have completed the  
28

1 transaction without an earnest money receipt, so it seems extremely unlikely the lender  
2 did not receive an earnest money receipt.

- 3 6. At pages 5 and 6, defendant claims plaintiff never provided Ms. Williams with a signed  
4 copy of the contract. However, on May 18, 2017, plaintiff emailed defendant the contract  
5 signed by the seller. See Exhibit 5, which is the email to defendant containing the  
6 contract signed by seller, and Exhibit 6, a copy of the contract signed by the seller which  
7 was attached to plaintiff's May 18, 2017, email. See also plaintiff's declaration, where  
8 plaintiff states he provided defendant with a signed copy of the purchase agreement. Later,  
9 plaintiff and defendant met at a Whole Foods market where defendant made three minor  
10 changes which the seller agreed to, and defendant signed the contract on May 21.  
11 Defendant then instructed plaintiff to send the fully executed purchase agreement to her  
12 lender, which plaintiff did on May 23. Defendant also states that this failure to provide  
13 a signed copy of the contract interfered with her ability to meet her contractual  
14 obligations, but again, because plaintiff did provide a signed contract to defendant and  
15 defendant's lender, defendant is incorrect.
- 17 7. At page 10, lines 2-3, defendant claims that the seller told defendant, "Plaintiff had  
18 ulterior motives in acting as [the seller's] real estate agent and that he was trying to  
19 sabotage the transaction." Defendant also made this accusation in her NRED Statement  
20 of Facts. Attached to this opposition is a declaration from the seller that she never made  
21 any such statements to defendant. Plaintiff's declaration is also attached wherein plaintiff  
22 also disputes that the seller ever made any such statement.

### 24 PROCEDURAL HISTORY

25 As a brief history, this court will recall that on August 9, 2019, defendant filed her first "anti-  
26 SLAPP  
27 special motion to dismiss under NRS 41.660." After full briefing and argument, this court denied  
28 defendant's first motion to dismiss without prejudice.

On October 3, 2019, plaintiff filed this court's order denying the first motion to dismiss. Pertinent

1 for purposes of the instant motion, the October 3 order states:

2 [T]he court cannot find at this juncture, as a matter of law, that defendant has proven by a  
3 preponderance of the evidence that she submitted her Nevada Real Estate Division  
4 (“NRED”) Statement of Fact in good faith as required under NRS 41.660(3)(a).  
5 Specifically, the court cannot find at this point that defendant made her Statement of Fact  
in good faith; that it was truthful; and that defendant made the Statement of Fact without  
knowledge of its falsity.

6 As part of the October 3, 2019, order, this court also granted plaintiff leave to file a first amended  
7 complaint. Plaintiff filed his first amended complaint on October 8, 2019, ultimately leading defendant  
8 to file the instant second motion to dismiss.

### 9 LEGAL ARGUMENT

#### 10 **1. Plaintiff requests this court strike defendant’s entire motion, as it exceeds EDCR 2.20’s limit** 11 **of 30 pages for a pretrial motion.**

12 Defendant’s “Anti-Slapp Motion to Dismiss” is 22 pages. Defendant’s “Statement of Facts in  
13 Support” of its motion is 12 pages. By simple math, this totals 34 pages in one motion.

14 EDCR 2.20 states in pertinent part:

15 (a) Unless otherwise ordered by the court, papers submitted in support of pretrial and  
16 post-trial briefs shall be limited to 30 pages, excluding exhibits.

17 Defendant’s motion is 34 pages long in violation of EDCR 2.20(a). Even if page 22 of the motion  
18 is not counted because it only contains a signature block, this is still a 33 page motion. There is no way  
19 to get around the fact that the motion is more than 30 pages. The fact that defendant made the strange  
20 decision to segregate the facts from the law does not change the fact that both are parts of the same  
21 motion.

22 If defendant wanted or needed additional pages in its motion, it could have filed a request with  
23 the court to do so. However, defendant did not seek leave from this court to file a motion in excess of  
24 the page limit. Instead, plaintiff is left to deal with a meandering motion of excessive length.  
25 Accordingly, plaintiff requests this court strike defendant’s motion to dismiss in its entirety.

#### 26 **2. Standard for an Anti-SLAPP motion to dismiss.**

27 Defendant’s motion to dismiss is a very specific type of statutory motion brought under NRS  
28 41.635 et seq. Defendant’s motion alleges that her NRED Statement of Fact cannot be the source of a



1 defamation complaint because it is protected under this statute. However, defendant cannot meet her  
2 burden to show she is entitled to anti-SLAPP protection under NRS 41.

3 NRS 41.650 lays out the heart of Nevada's anti-SLAPP provisions:

4 A person who engages in a good faith communication in furtherance of the right to petition  
5 or the right to free speech in direct connection with an issue of public concern is immune  
6 from any civil action for claims based upon the communication.

7 Other portions of NRS 41 lay out the definitions of the different sections of NRS 41.650.

8 First, NRS 41.637 defines "Good faith communication in furtherance of the right to petition or  
9 the right to free speech in direct connection with an issue of public concern" as any of the following:

- 10 1. Communication that is aimed at procuring any governmental or electoral action, result or  
11 outcome;
- 12 2. Communication of information or a complaint to a Legislator, officer or employee of the  
13 Federal Government, this state or a political subdivision of this state, regarding a matter  
14 reasonably of concern to the respective governmental entity;
- 15 3. Written or oral statement made in direct connection with an issue under consideration by  
16 a legislative, executive or judicial body, or any other official proceeding authorized by law;  
17 or
- 18 4. Communication made in direct connection with an issue of public interest in a place open  
19 to the public or in a public forum,  
20 which is truthful or is made without knowledge of its falsehood.

21 Defendant's motion to dismiss does not allege that defendant's NRED is protected under sections  
22 1 or 4 of this statute. Thus, the focus is on sections 2 and 3.

23 The burden is on the moving party, here, defendant, to prove "by a preponderance of the evidence  
24 that her claim is based upon a good faith communication in furtherance of the right to petition or the right  
25 to free speech in direct connection with an issue of public concern." NRS 41.660(3)(a). Defendant  
26 cannot meet this burden.

27 As defendant states on page 3 of her motion, if a defendant is able to meet its burden as defined  
28 in NRS 41.637, then the burden shifts to plaintiff to make a prima facie showing that he has a reasonable  
probability of prevailing on his claim. NRS 41.660(3)(b). Plaintiff's first amended complaint meets this  
burden.

This court found in its October 3, 2019, order that defendant met her burden under NRS

1 41.637(2). Thus, plaintiff will not address NRS 41.637(2).

2 **3. Defendant cannot meet her burden under NRS 41.637(3).**

3 NRS 41.637(3) requires that in order to invoke the statute's protections, the oral or written  
4 communication in question must be "made in direct connection with an issue under consideration by a  
5 legislative, executive or judicial body, or any other official proceeding authorized by law."

6 Defendant's NRED Statement of Fact does not fall into any of these categories.

7 First, when defendant filed her NRED Statement of Fact, the "issue" was not under consideration  
8 at all. Defendant was instigating the "issue" by filing the Statement of Fact. The idea that an issue is  
9 under consideration requires that one of the official bodies in question is already considering an issue,  
10 such as where a witness testifies in an ongoing criminal investigation. The language of NRS 41.637(3)  
11 could have stated that it includes communications instigating or starting official proceedings, but such  
12 language is not present in the statute. The statute specifically requires that the communication be made  
13 in a proceeding already "under consideration."

15 Second, defendant did not make her communication during an "official proceeding." The  
16 Statement of Fact defendant delivered to NRED was in no way a "proceeding." It was a form defendant  
17 filled out and sent to NRED. It is defendant's burden to explain how sending a Statement of Fact to  
18 NRED is part of an "official proceeding." Defendant states on the bottom of page 8 and the top of page  
19 9 of her motion to dismiss that her Statement of Fact "initiated the Division's investigation of Plaintiff,  
20 an official proceeding of an executive body," but this argument is devoid of any legal authority or support.  
21 Defendant has no legal authority to say that defendant's filing of the NRED Statement of Fact, or NRED's  
22 investigation into that Statement of Fact, is an official proceeding under NRS 41.

24 Although it is a different privilege, the common law fair report privilege does provide for an  
25 "official action or proceeding" exception to defamation claims. In Wynn v. Smith, the Nevada Supreme  
26 Court determined that a confidential, private report, not generally available to the public, did not fall  
27 under the fair report privilege:

28 We... hold that unauthorized or confidential investigatory reports do not qualify as an  
"official action or proceeding" under the fair report privilege. The policies underlying the  
privilege are simply not served by the rule urged by Stuart and Barricade. The privilege is

1 an exception to the common law rule that attaches liability for libel to a party who  
2 publishes a defamatory statement. The purpose of this exception is to obviate any chilling  
effect on the reporting of statements already accessible to the public.

3 117 Nev. 6, 15–16, 16 P.3d 424, 430 (2001) (Internal citations omitted). Likewise, here, defendant’s  
4 NRED Statement of Fact is a confidential statement or report not available to the public. The policies  
5 underlying the fair report privilege are different than those underlying the anti-SLAPP provisions, but the  
6 Nevada Supreme Court’s holding in Wynn is still applicable for the same reasons - a “statement of facts”  
7 made to NRED, which is not officially or formally adjudicated, is not an official proceeding.

8 The Wynn Court later states of the fair report privilege:

9  
10 We conclude that this privilege should not be extended to allow the spread of common  
11 innuendo that is not afforded the protection accorded to official or judicial proceedings.  
Accordingly, we hold that the statement at issue is not subject to the protection afforded by  
the fair report privilege because the report was not official.

12 117 Nev. 6, 16, 16 P.3d 424, 430 (2001). Plaintiff requests this court apply the same line of thinking  
13 here: Defendant’s statement to NRED was not an official proceeding. It was an informal Statement of  
14 Fact, not part of an official proceeding, and certainly not a public record or action of any sort, such as a  
15 civil or criminal complaint. It is not even part of any formal or official administrative action. Perhaps  
16 if defendant’s claim had escalated to the point of an official hearing or a formal adjudication of her claim,  
17 she would have a better argument. However, a statement made to NRED which NRED later took no  
18 action on is not an official proceeding. Accordingly, the protections discussed in NRS 41.637(3) do not  
19 apply to defendant’s statement to NRED, and her statement is therefore not privileged.

20  
21 Further, “good faith” is the first part of the term “good faith communication in furtherance of the  
22 right to petition or the right to free speech in direct connection with an issue of public concern,” which  
23 is the primary argument of defendant’s motion. However, looking at defendant’s Statement of Fact,  
24 wherein she characterizes plaintiff as unprofessional, racist, and sexist” because he told her he thinks she  
25 will be successful and that he would like to represent her in future real estate deals, it is hard to view  
26 defendant’s Statement of Fact as being made in good faith. Telling a person they will be successful and  
27 requesting to represent them in future real estate transactions, without mentioning the person’s race or  
28 sex, is so far removed from any common sense understanding of racism or sexism, that plaintiff requests

1 this court find defendant did not submit her NRED Statement of Fact in good faith, and thus defendant  
2 is not entitled to anti-SLAPP protection.

3 Most disconcertingly, this court has already ruled that it cannot find defendant at this juncture that  
4 defendant submitted her NRED Statement of Fact in good faith. This finding alone, as memorialized in  
5 the order denying defendant's first motion to dismiss, is sufficient to warrant denial of defendant's second  
6 motion to dismiss.

7 As further proof defendant did not submit her NRED Statement of Fact in good faith, defendant  
8 only filed the NRED Statement of Fact in anticipatory retaliation of plaintiff's threatened lawsuit for  
9 defamation against defendant. On July 25, 2017, plaintiff sent defendant a demand letter for damages.  
10 See Exhibit 7, plaintiff's demand letter. In response, defendant retained legal counsel from the law firm  
11 of Gamage & Gamage. See Exhibit 8, Gamage & Gamage response letter. From that point forward, the  
12 plaintiff engaged in negotiation with defendant's counsel throughout most of August 2017. Ultimately,  
13 on or about August 23, 2017, plaintiff informed defendant's counsel that a lawsuit was imminent in the  
14 next few days. Thereafter, on August 24, 2017, defendant submitted her NRED Statement of Fact. Thus,  
15 given the timing of defendant's NRED Statement of Fact, it is clear that defendant only submitted the  
16 Statement of Fact as a form of retaliation and not in good faith.

17  
18 **4. Defendant was aware of the false statements in her NRED Statement of Fact when she**  
19 **submitted it.**

20 A separate requirement for anti-SLAPP protections under NRS 41.637 is that the communication  
21 must be "truthful or is made without knowledge of its falsehood." Defendant made several false  
22 statements in her NRED Statement of Facts, so she cannot meet this burden.

23 The following is a catalogue of the false, defamatory, and damaging statements defendant made  
24 in her NRED Statement of Fact, as outlined in the Facts section above and the declarations of plaintiff  
25 and the seller, attached hereto:

- 26 1. Defendant stated on multiple occasions in her Statement of Facts that plaintiff engaged  
27 in unethical, unprofessional, sexist, and racist behavior, largely based on the fact that he  
28 complimented her on her purchase of the condo and that as she progressed with her career

1 and became more successful, he would be happy to represent her in future real estate  
2 purchases should her brother retire from real estate. No reasonable person could believe,  
3 in good faith, that the statement defendant attributes to plaintiff could possibly be racist,  
4 sexist, unprofessional, or unethical. Defendant also claims at page 2 of her NRED  
5 complaint that she was in possession of emails and text messages to support plaintiff's  
6 alleged racism and sexism, but defendant never produced any such evidentiary support.  
7 Defendant also baselessly claimed that plaintiff may have treated her differently if she was  
8 a white male and if her lender was not black.

9  
10 2. Defendant claimed in her Statement of Facts that plaintiff shared "confidential info" with  
11 defendant regarding the seller, which [defendant] understood realtors are not supposed to  
12 do. In reality, plaintiff did not share any confidential information with defendant.  
13 Defendant lied in her Statement of Facts by stating plaintiff told her he met the seller on  
14 a dating website, when in reality, the seller told that piece of information to defendant.  
15 Regardless, defendant does not state how this is confidential information that would be  
16 relevant to NRED. More importantly, defendant claims plaintiff told defendant the  
17 amount of plaintiff's commission, which is confidential, but in reality, the seller  
18 authorized plaintiff to release the amount of the commission to defendant in order to move  
19 the sale along at the optimal price for seller. Accordingly, this information was not  
20 "confidential," and if defendant had simply spoken to plaintiff or the seller about this  
21 issue, she would have known plaintiff was authorized to release the commission amount.

22 3. Defendant claims plaintiff acted unethically because defendant attempted to communicate  
23 with the appraiser. However, there is nothing unethical about a real estate agent  
24 communicating with an appraiser. To the contrary, ethics require that when representing  
25 a seller, an agent should communicate with the appraiser and provide information  
26 regarding comparable sales and upgrades to the appraiser.

27  
28 4. Defendant states plaintiff "lied on several occasions." To support this claim, defendant  
states plaintiff lied about defendant not allowing plaintiff to remove all of her personal

1 property from the condo. However, plaintiff's statement is true. As stated in the seller's  
2 declaration attached hereto, defendant did in fact refuse to allow the seller to remove all  
3 of her personal property, and to this day, some of the seller's personal property remains  
4 at the condo. Defendant also refused to sign an addendum providing the seller access to  
5 remove her personal property from the condo. See Exhibit 9, a copy of the addendum  
6 signed by the seller, but which defendant refused to sign.

7  
8 5. Defendant claims plaintiff never provided her a "signed copy of the contract," which is  
9 completely false. On May 18, 2017, plaintiff emailed defendant and attached the  
10 Residential Purchase Agreement signed by the seller. See Exhibit 5. Later, on May 21,  
11 2017, plaintiff and defendant met at Whole Foods market and defendant signed the  
12 Residential Purchase Agreement after making some minor edits, and as instructed to do  
13 by defendant, plaintiff sent the signed contract to defendant's lender. See Exhibit 10,  
14 email correspondence to defendant's letter attaching the signed contract. Thus, not only  
15 did defendant have a signed copy of the contract, but plaintiff also sent the contract  
16 including defendant's signature to defendant's lender, at defendant's insistence.

17 6. Defendant states plaintiff "falsely" accused her of failing to meet the due diligence  
18 timeframes in the contract. In defendant's first motion to dismiss, defendant blamed  
19 plaintiff's alleged failure to provide her with the signed contract for her inability to meet  
20 her obligation to pay for the condo questionnaire, but as noted above, plaintiff had  
21 provided the signed contract to defendant more than a month prior to the close of escrow.  
22 See defendant's motion to dismiss filed August 29, 2019, page 4, lines 16-19, where  
23 defendant claims "[plaintiff's] failure to provide [defendant] with [a signed contract and  
24 earnest money receipt] interfered with her ability to" meet due diligence timeframes.  
25 Now, at page 11 of her new motion to dismiss, defendant has changed her story on this  
26 issue and claims "[t]he appraisal of the condo was delayed due to scheduling issues and  
27 not Ms. Williams's fault." Defendant then cites to various declarations and exhibits and  
28 tries to explain away her delays. However, defendant is not permitted to turn her motion

1 to dismiss into an evidentiary hearing or trial on each and every point of contention. The  
2 bottom line is defendant did not timely order the condo certification, and it was the late  
3 condo certification that caused the various delays in this transaction. Defendant made a  
4 strategic decision to wait until after the appraisal was completed to order the condo  
5 certification, and then also made the decision not to rush the order of the condo  
6 certification. Regardless of her reasons for doing so, this does not change the fact that  
7 plaintiff was correct in stating that defendant failed to meet the due diligence timeframes.  
8 Accordingly, defendant's statement that plaintiff "falsely" accused her of failing to meet  
9 all requirements to close escrow is false.

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

18 8. Defendant also claims that plaintiff never provided her with "a receipt for defendant's  
19 earnest money," but a real estate agent does not provide receipts for earnest money unless  
20 the earnest money is deposited into a broker's trust account. When earnest money is  
21 deposited with the title and/or escrow company, a was the case here, title and/or escrow  
22 be the entity to provide such a receipt. Plaintiff did provide escrow company contact  
23 information to Bryan Jolly, defendant's lender, so defendant's lender did have notice of  
24 who the escrow company was and could have obtained an earnest money receipt from  
25 escrow. Thus, while defendant's statement that plaintiff did not provide an earnest money  
26 receipt is technically true, it is also very misleading.

27  
28 These are all verifiably false, defamatory statements made by defendant in her NRED Statement  
of Facts, which defendant published to NRED, resulting in harm to plaintiff's business and emotional

1 well-being, as well as costing plaintiff over 50 hours in defending himself. Defendant had notice that  
2 these statements were false by way of email communications and the declarations of plaintiff and the  
3 seller. Accordingly, defendant cannot claim she did not know of, for instance, the falseness of her claim  
4 that she did not receive the signed contract, because that claim is belied by the attachments to this motion  
5 and logic, which dictates she must have seen the signed contract in order for this deal to commence.

6 **5. Defendant has not met her burden to show that her NRED Statement of Fact was an “issue**  
7 **of public concern” entitled to NRS 41's anti-SLAPP protections.**

8 In addition to the above requirements, NRS 41.650 also mandates that the party asserting anti-  
9 SLAPP protections must show the communication in question involves an “issue of public concern.”  
10 Defendant has not made such a showing or even addressed this requirement.

11 The Nevada Supreme Court has adopted California’s interpretation of an issue of public interest,  
12 which involves five separate elements:

13 (1) “public interest” does not equate with mere curiosity;

14 (2) a matter of public interest should be something of concern to a substantial number of  
15 people; a matter of concern to a speaker and a relatively small specific audience is not a  
16 matter of public interest;

17 (3) there should be some degree of closeness between the challenged statements and the  
18 asserted public interest—the assertion of a broad and amorphous public interest is not  
sufficient;

19 (4) the focus of the speaker's conduct should be the public interest rather than a mere effort  
20 to gather ammunition for another round of private controversy; and

21 (5) a person cannot turn otherwise private information into a matter of public interest  
simply by communicating it to a large number of people.

22 Shapiro v. Welt, 133 Nev. 35, 39, 389 P.3d 262, 268 (2017). Defendant has failed to address any of these  
23 five factors. This matter essentially amounts to the defendant crying foul because she did not like  
24 plaintiff’s attitude during the transaction. Such an issue is certainly not one of public concern. Such a  
25 result would pervert the true purpose of the anti-SLAPP statute, which is to prevent chilling of speech  
26 aimed at matters of true public interest. Accordingly, defendant’s anti-SLAPP motion fails.

27 **6. Even if defendant meets the first prong of anti-SLAPP protections, plaintiff can still make**  
28 **a prima facie showing that he has a probability of prevailing on his claim, thereby defeating**  
**defendant’s anti-SLAPP motion.**



1 As stated in NRS 41.660(3)(b), even if defendant meets its burden to prove by a preponderance  
2 of the evidence that she made a good faith communication as defined in NRS 41.637, the plaintiff can  
3 still defeat the special motion to dismiss by demonstrating with prima facie evidence a probability of  
4 prevailing on his claim. Here, plaintiff can make such a prima facie showing.

5 Black's Law Dictionary defines a "prima facie case" as:

- 6 1. The establishment of a legally required rebuttable presumption.
- 7 2. A party's production of enough evidence to allow the fact-trier to infer the fact at issue
- 8 and rule in the party's favor.

9 Black's Law Dictionary, p. 1382 (10<sup>th</sup> ed. 2014). This is a very low standard, requiring plaintiff only to  
10 provide evidence that, on its face, would allow the fact-finder to rule in plaintiff's favor.

11 As noted in section 4 above, defendant made several false statements in her NRED Statement of  
12 Facts. The fact that these statements are false is verified by the exhibits attached to this opposition, as  
13 well as the declarations of plaintiff and the seller, which are also attached to this opposition. Accordingly,  
14 plaintiff has made, at a minimum, a prima facie case for defamation because plaintiff has either  
15 established a rebuttable presumption that defendant lied in her NRED Statement of Fact; and/or plaintiff  
16 has produced sufficient evidence to allow this court to infer the facts at issue. Thus, defendant's anti-  
17 SLAPP motion fails.

18  
19 **7. The absolute privilege for "quasi-judicial" proceedings does not apply here.**

20 At pages 14 and 15, defendant argues the "absolute privilege" applies to defendant's NRED  
21 Statement of Facts because defendant made the Statement of Facts as part of a "quasi-judicial  
22 proceeding." In support of this argument, defendant cites to Sahara Gaming Corp. v. Culinary Workers  
23 Union Local 226, where the Nevada Supreme Court held:

24 We must decide as a matter of law if a republication of a judicial proceeding constitutes an  
25 absolute privilege, when the statements are false or malicious and are republished with the  
26 intent to harm another. We hold the privilege is absolute.

27 115 Nev. 212, 213, 984 P.2d 164, 165 (1999). Contrary to defendant's assertion in its motion to dismiss,  
28 Sahara Gaming Corp. does not include a holding that a Statement of Fact filed with the real estate  
regulatory board, which is then investigated and closed without a formal hearing, is a judicial or quasi-

1 judicial proceeding.

2 Defendant also cites to Lewis v. Benson, where the Nevada Supreme Court found that a privilege  
3 applied to a complaint filed against two police officers with the Internal Affairs Bureau of the Las Vegas  
4 Metropolitan Police Department. 101 Nev. 300, 300–01, 701 P.2d 751, 752 (1985). The Court found  
5 that “[i]n certain situations it is in the public interest that a person speak freely. Where this is so, the law  
6 is willing to assume the risk that from time to time the privilege will be abused. This case represents just  
7 such a situation.” Id. at 301. Later, the court expounded as follows:

8  
9 The extension of the privilege promotes the public's interest by allowing civilian  
10 complaints against **public officials** to be aired in the proper forum without fear of civil  
11 liability. Absent the extension of such privilege, the protection from civil liability afforded  
12 the complainant hinges on an ad hoc determination that the particular proceeding will be  
13 deemed quasi-judicial in nature. Such an uncertainty could result in deterring citizens from  
14 filing legitimate complaints. Thus, the application of an absolute privilege to civilians  
15 filing complaints with an internal affairs bureau sufficiently promotes the interests of the  
16 public to warrant the availability of an absolute privilege.

17 101 Nev. 300, 301, 701 P.2d 751, 752 (Emphasis added). A police officer is a public official who has  
18 the authority to take another person’s life if necessary in the course of scope and employment. A real  
19 estate agent is not a public official, and the risks of a real estate agent’s course of scope and employment  
20 are far more innocuous than that of a police officer. Thus, the public’s interest in filing a complaint with  
21 the internal affairs department of a police department are much higher than complaining to the governing  
22 body of real estate agents. Accordingly, Lewis v. Benson is certainly not analogous to the instant matter,  
23 and an initial Statement of Facts lodged with NRED is not a quasi-judicial proceeding affording  
24 defendant an absolute privilege entitling her to freely lie about plaintiff’s actions. The wording of Lewis  
25 v. Benson does not allow its holding to be applied outside of the internal affairs context, nor does the  
26 holding expand further than civilian complaints against public officials. Further, in Lewis v. Benson, the  
27 court specifically states that the record contained “little evidence concerning the procedure followed by  
28 the Internal Affairs Bureau during the investigation.” Id. However, here, we know that the process  
consisted of defendant filing a Statement of Facts; NRED investigating the Statement of Facts; and  
NRED ultimately deciding not to hold a hearing, instead closing the file. If a hearing had been held and  
defendant made statements during that hearing, defendant would have a much better argument that such

1 statements in a formal hearing are quasi-judicial. However,

2 In Jacobs v. Adelson, the Nevada Supreme Court applied the following test for application of the  
3 absolute privilege:

4 In order for the absolute privilege to apply to defamatory statements made in the context of  
5 a judicial or quasi-judicial proceeding, “(1) a judicial proceeding must be contemplated in  
6 good faith and under serious consideration, and (2) the communication must be related to  
7 the litigation.” Therefore, the privilege applies to communications made by either an  
attorney or a nonattorney that are related to ongoing litigation or future litigation  
contemplated in good faith.

8 130 Nev. 408, 413, 325 P.3d 1282, 1285 (2014) (Internal citations omitted). Here, plaintiff posits that  
9 defendant did not make the claims in her NRED Statement of Facts in good faith. She lodged the  
10 Statement of Facts because she was upset about how her purchase of the property was progressing. She  
11 lied in the Statement of Facts and baselessly branded plaintiff as a racist, sexist, unprofessional, and  
12 unethical, and to make things worse, she made these statements to the body tasked with investigating the  
13 ethics of real estate agents. Her Statement of Facts was not made in good faith; it was made in a  
14 vindictive fashion in order to get back at plaintiff for what defendant perceived as “unprofessional”  
15 conduct. See paragraph 11 of defendant’s declaration. She also admits she was “frustrated with  
16 Plaintiff’s conduct.” See paragraph 12 of defendant’s declaration. Finally, plaintiff posits that  
17 defendant’s NRED Statement of Facts was made in retaliation to plaintiff’s demand letter sent to  
18 defendant following the completion of the sale of the property. Retaliation is not a good faith reason to  
19 report an agent to NRED. Accordingly, defendant cannot utilize the absolute privilege.

21 Further, the test outlined in Jacobs requires that a judicial proceeding must be under serious  
22 consideration. First, no judicial proceeding was under contemplation, as NRED is not a judicial body.  
23 To the extent NRED can be considered a quasi-judicial body, it is unclear at this point how seriously  
24 NRED was contemplating a quasi-judicial proceeding against plaintiff. That is a fact-intensive inquiry  
25 which will require discovery, including the possible testimony of an NRED official and/or a review of  
26 the internal documents from NRED. A motion to dismiss is not the proper time for the court to decide  
27 a factual issue such as whether NRED was seriously contemplating proceeding against plaintiff.

28 The fact that defendant’s absolute immunity privilege argument is premature is also echoed in

1 Sahara Gaming Corp, which was an appeal from a motion for summary judgment, not a motion to  
2 dismiss. Likewise, Lewis v. Benson was also an appeal from a motion for summary judgment.

3 **8. Plaintiff's complaint satisfies the elements for defamation.**

4 Defamation requires the following four elements:

- 5 (1) a false and defamatory statement by defendant concerning the plaintiff; (2) an  
6 unprivileged publication to a third person; (3) fault, amounting to at least negligence; and  
7 (4) actual or presumed damages

8 Chowdhry v. NLVH, Inc., 109 Nev. 478, 483, 851 P.2d 459, 462 (1993). Plaintiff's claims satisfy these  
9 elements. First, plaintiff is alleging defendant made several false and defamatory statements as outlined  
10 above. Second, plaintiff is alleging defendant published the false and defamatory statements to NRED  
11 and that the publication was unprivileged. Third, plaintiff is alleging defendant knowingly made these  
12 false statements. Finally, plaintiff is claiming he has suffered actual damages as well as presumed  
13 damages. Accordingly, plaintiff has alleged sufficient facts to survive a motion to dismiss as to his  
14 defamation claim.

15 **9. Plaintiff's first amended complaint satisfies the elements for business disparagement.**

16 A claim for business disparagement requires the following:

- 17 (1) a false and disparaging statement, (2) the unprivileged publication by the defendant, (3)  
18 malice, and (4) special damages.

19 Clark Cty. Sch. Dist. v. Virtual Educ. Software, Inc., 125 Nev. 374, 386, 213 P.3d 496, 504 (2009).

20 Plaintiff believes defendant acted with malice; specifically, defendant did not submit the NRED  
21 Statement of Facts in good faith, but only did so as an act of retaliation after plaintiff informed defendant  
22 that she had caused a delay in the sale which needed to be corrected. The special damages element  
23 requires

24 evidence proving economic loss that is attributable to the defendant's disparaging remarks.  
25 [Or], if the plaintiff cannot show the loss of specific sales attributable to the disparaging  
statement, the plaintiff may show evidence of a general decline of business.

26 Id. at 387, 505. Plaintiff believes he suffered a decline in his business as a result of defendant's NRED  
27 Statement of Fact. Certain client relationships were damaged after defendant submitted the NRED  
28 Statement of Fact. Plaintiff has made these claims in his first amended complaint. Accordingly, plaintiff

1 has met the elements for a claim of business disparagement.

2 **10. Plaintiff's first amended complaint satisfies the elements for intentional infliction of**  
3 **emotional distress.**

4 At pages 20 and 21 of her motion, defendant alleges that plaintiff's claim for intentional infliction  
5 of emotional distress fails because "the majority of the statements at issue are undeniably true." However,  
6 plaintiff has outlined in his first amended complaint and herein that defendant made several false  
7 statements in her NRED Statement of Facts. Defendant also argues that there was nothing extreme or  
8 outrageous about defendant's conduct. However, this is yet another example of defendant wanting to use  
9 a motion to dismiss as a way to bypass discovery entirely and go right to the summary judgment stage.  
10 A motion to dismiss is not the proper vehicle for what plaintiff is attempting to do. This court must take  
11 plaintiff's allegations as true in a motion to dismiss.

12 The elements of intentional infliction of emotional distress are:

13 (1) extreme and outrageous conduct with either the intention of, or reckless disregard for,  
14 causing emotional distress, (2) the plaintiff's having suffered severe or extreme emotional  
15 distress and (3) actual or proximate causation.

16 Barmettler v. Reno Air, Inc., 114 Nev. 441, 447, 956 P.2d 1382, 1386 (1998). Defendant engaged in  
17 extreme and outrageous conduct by spitefully submitting a false and defamatory Statement of Fact to  
18 NRED, the governing body of real estate agents. Plaintiff believes defendant had intent to cause  
19 emotional distress because defendant submitted the Statement of Fact as a vindictive response to  
20 plaintiff's communications made during the sale of the property. At a minimum, when defendant  
21 submitted her false statements to NRED, she displayed a reckless disregard for the fact that such an act  
22 could cause plaintiff great emotional distress and stress because he would then be subjected to a possibly  
23 career-ending investigation. Second, plaintiff suffered severe and extreme emotional distress, to the point  
24 where he became physically ill and contracted pneumonia and a severe cough, resulting in him being bed-  
25 ridden for more than two weeks. Third, defendant's Statement of Fact was the actual cause of plaintiff's  
26 distress as he did not have any other reason to suffer such distress at that point in his life. Plaintiff has  
27 made these allegations in his first amended complaint, and they must be accepted as true. Accordingly,  
28 plaintiff's intentional infliction of emotional distress claim is not subject to dismissal at this time.

1 **11. Plaintiff's first amended complaint satisfies the elements for negligence.**

2 At the middle of page 21, defendant strangely argues that plaintiff's negligence claim is  
3 "completely subsumed by his defamation claims" and thus plaintiff's negligence claim must be dismissed.  
4 Defendant cites no source for this unique legal argument. Plaintiff is permitted to plead alternate claims.  
5 Thus, defendant's motion to dismiss fails as to plaintiff's negligence claim.

6 **COUNTER-MOTION FOR ATTORNEY'S FEES AND/OR SANCTIONS**

7 **1. Defendant's second motion is frivolous and brought without any reasonable basis**  
8 **because it is in all material respects indistinguishable from defendant's first motion to**  
9 **dismiss, which this court has already denied. Thus, plaintiff is entitled for attorney's**  
10 **fees for having to defend against this matter.**

11 NRS 18.010(2) states, in pertinent part:

12 **NRS 18.010 Award of attorney's fees.**

13 2. In addition to the cases where an allowance is authorized by specific statute, the court  
14 may make an allowance of attorney's fees to a prevailing party:

15 ...

16 (b) Without regard to the recovery sought, when the court finds that the claim, counterclaim,  
17 cross-claim or third-party complaint or defense of the opposing party was brought or  
18 maintained **without reasonable ground or to harass the prevailing party. The court**  
19 **shall liberally construe the provisions of this paragraph in favor of awarding**  
20 **attorney's fees in all appropriate situations.** It is the intent of the Legislature that the  
court award attorney's fees pursuant to this paragraph and impose sanctions pursuant to  
Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for  
and deter frivolous or vexatious claims and defenses because such claims and defenses  
overburden limited judicial resources, hinder the timely resolution of meritorious claims and  
increase the costs of engaging in business and providing professional services to the public.

21 Emphasis added. Thus, when a party brings a defense - such as a motion to dismiss - without  
22 reasonable grounds or to harass the prevailing party, the court may award attorney's fees to the  
23 prevailing party. See Rivero v. Rivero, 125 Nev. 410, 440, 216 P.3d 213, 234 where the Nevada  
24 Supreme Court stated that attorney fees may be awarded "as a sanction for filing a frivolous  
25 motion...." The Court further stated that "[a]lthough a district court has discretion to award attorney  
26 fees as a sanction, there must be evidence supporting the district court's finding that the claim or  
27 defense was unreasonable or brought to harass." Id. at 441.

28 Here, defendant has brought this second motion to dismiss without reasonable grounds or to

1 harass plaintiff. Defendant's first motion to dismiss was fully briefed. It was argued at a hearing  
2 where this court generously heard ample argument from both sides. The court then gave a thorough  
3 basis for denial of the first motion to dismiss, primarily on the basis that the court could not at this  
4 juncture find in good faith that defendant made her NRED Statement of Fact in good faith. Implied in  
5 the court's ruling was that the court needed some discovery done on the specific issue of good faith  
6 before it could dismiss plaintiff's complaint. No discovery has been done since this court denied the  
7 first motion to dismiss.

8  
9 To the contrary, defendant has gone back to the well and filed a nearly identical second  
10 motion to dismiss. There is no reasonable basis to bring a virtually identical motion which was  
11 already denied. There is nothing in defendant's second motion to dismiss that materially  
12 distinguishes it from the original motion to dismiss. Defendant has added a declaration from  
13 defendant's mother, but that declaration contains no substance which would allow this court to  
14 change its mind as to defendant's good faith in filing her NRED Statement of Fact. Defendant has  
15 also added a declaration from Bryan Jolley. However, that declaration does nothing except explain  
16 the reasons why defendant chose to delay obtaining a condo certification, which was the basis for the  
17 numerous extensions of the close of escrow. These declarations do not get the court any closer to  
18 determining whether defendant made her NRED Statement of Fact in good faith. There is nothing in  
19 the 34 pages of the second motion to dismiss that would serve to change this court's analysis of  
20 defendant's good faith from the first motion to dismiss. At pages 6 through 13 of the second motion  
21 to dismiss, defendant treads over the same exact ground and same exact factual issues that the parties  
22 argued in the initial motion to dismiss. These include whether plaintiff sent defendant a signed copy  
23 of the purchase agreement; whether plaintiff shared confidential information with defendant; whether  
24 plaintiff contacted the appraiser; whether defendant allowed the seller to remove personal property  
25 from the condo; and whether plaintiff falsely claimed defendant was responsible for the delays in  
26 closing escrow. These issues all probably look familiar to the court because they are the exact same  
27 issues from defendant's motion to dismiss.

28  
Nothing has changed since the first motion to dismiss. This second motion to dismiss is a

1 frivolous attempt by defendant to harass plaintiff into dropping his lawsuit. It is brought without a  
2 reasonable basis because it could not possibly change the court's previous finding regarding  
3 defendant's good faith.

4 If this court grants plaintiff's counter-motion for attorney's fees, plaintiff will provide the  
5 court with a full accounting of his fees and costs.

### 6 CONCLUSION

7 Defendant repeatedly claims in her motion that most of the statements in her NRED Statement  
8 of Facts are true. See, for instance, page 13, lines 11-12 where defendant argues that her statements  
9 "are by and large true, and any dispute Plaintiff may have with the majority of them are insignificant."  
10 Defendant also opines that plaintiff is nitpicking with his first amended complaint. This may be easy  
11 for defendant to say. However, plaintiff has been a realtor in good standing in Nevada for 26 years.  
12 When defendant assailed plaintiff, to the governing body of plaintiff's profession, as a liar, a racist,  
13 and a sexist, and attacked his character and professionalism through a series of falsehoods, it was not  
14 "insignificant" to plaintiff. It was a threat to his very livelihood and reputation that caused plaintiff  
15 such great stress that the stress manifested itself in the form of various physical illnesses. So while  
16 defendant attempts to brush this entire situation off as insignificant nitpicking, the reality is this was a  
17 full-blown nightmare for plaintiff, caused by defendant's false, defamatory statements to NRED, as  
18 well as the character assassination accompanying those statements, and the ensuing investigation.

19 First, plaintiff requests this court strike defendant's motion to dismiss as it violates EDCR  
20 2.20's page limits.

21 Second, defendant cannot meet the requirements for anti-SLAPP relief against plaintiff  
22 because defendant did not make her Statement of Fact regarding an issue under consideration by  
23 NRED; defendant did not make her Statement of Fact during an "official proceeding"; and  
24 defendant's submission to NRED was not made in good faith. As this court has already ruled, at this  
25 juncture of the case, the court cannot find defendant made her NRED Statement of Fact in good faith.  
26 Further, defendant was aware that several of her statements to NRED were false when she made those  
27 statements, which defeats her anti-SLAPP request. Defendant's good faith is thrown into doubt, not  
28



1 only because she knew many of her statements were false when she made them, but because her  
2 motivation for submitting her NRED Statement of Fact was clearly retaliation against plaintiff for  
3 threatening a defamation lawsuit. Finally, even if defendant did meet her initial anti-SLAPP burden,  
4 plaintiff can meet its burden to make a prima facie case for defamation, as shown by the declarations  
5 and exhibits attached hereto.

6 Further, defendant's NRED Statement of Fact was not an absolutely privileged  
7 communication because it was not part of a judicial or quasi-judicial proceeding, and because  
8 defendant did not make the Statement of Fact in good faith.

9 Finally, plaintiff requests this court grant plaintiff his attorney fees for having to defend  
10 against this motion to dismiss, as defendant's second motion to dismiss is materially indistinguishable  
11 from defendant's first motion to dismiss, and thus there was no good reason to bring this frivolous  
12 second motion to dismiss.

13 DATED this 14<sup>th</sup> day of November 2019.

14 LAW OFFICES OF  
15 MICHAEL F. BOHN, ESQ., LTD.  
16

17 By: /s/ Adam R. Trippiedi, Esq.  
18 Michael F. Bohn, Esq.  
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22 Attorneys for plaintiff Charles "Randy" Lazer  
23  
24  
25  
26  
27  
28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of  
3 Law Offices of Michael F. Bohn., Esq., and on the 14<sup>th</sup> day of November, 2019, an electronic copy of  
4 the **PLAINTIFF'S OPPOSITION TO DEFENDANT DAPHNE WILLIAMS'S ANTI-SLAPP**  
5 **SPECIAL MOTION TO DISMISS UNDER NRS 41.660; and COUNTER-MOTION FOR**  
6 **ATTORNEY'S FEES** was served on opposing counsel via the Court's electronic service system to  
7 the following counsel of record:

8 Marc J. Randazza, Esq.  
9 Alex J. Shepard, Esq.  
10 RANDAZZA LEGAL GROUP, PLLC  
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12 Las Vegas, Nevada 89117  
13 Attorneys for defendant

14 /s/ /Marc Sameroff /  
15 An employee of the LAW OFFICES  
16 OF MICHAEL F. BOHN, ESQ., LTD.  
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1 **DECL**  
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LAW OFFICES OF  
5 MICHAEL F. BOHN, ESQ., LTD.  
2260 Corporate Cir, Suite 480  
6 Henderson, Nevada 89074  
(702) 642-3113/ (702) 642-9766 FAX  
7 Attorney for plaintiff Charles "Randy" Lazer

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

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

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

**SUPPLEMENTAL DECLARATION OF  
CHARLES "RANDY" LAZER IN SUPPORT  
OF PLAINTIFF'S OPPOSITION TO  
DEFENDANT DAPHNE WILLIAMS'S  
ANTI-SLAPP SPECIAL MOTION TO  
DISMISS UNDER NRS 41.660**

16  
17 STATE OF NEVADA                    }  
18 COUNTY OF CLARK                }ss:

19 CHARLES "RANDY" LAZER, being first duly sworn upon oath and says:

20 1. Declarant is the plaintiff in this matter and he makes this declaration in support of his  
21 opposition to defendant Daphne Williams's anti-SLAPP special motion to dismiss under NRS 41.660.

22 2. I make this supplemental declaration in order to provide further clarification on certain  
23 factual issues in this matter.

24 3. Regarding defendant's claim that I never provided her with a signed copy of the Residential  
25 Purchase Agreement, I respond as follows:

- 26 a. On May 18, 2017, the seller, Rosane Krupp, signed the Residential Purchase  
27 Agreement.  
28 b. On May 18, 2017, I sent defendant the Residential Purchase Agreement signed

- 1 by Ms. Krupp.
- 2 c. On May 21, 2017, I met with defendant at a Whole Foods market, where she
- 3 made three very minor changes to the Residential Purchase Agreement and
- 4 signed it.
- 5 d. I had Ms. Krupp's authority to accept those changes and use her already-
- 6 existing signature as the binding signature, which I did.
- 7 e. During a phone call on or about May 22, 2017, defendant instructed me to
- 8 send the fully executed Residential Purchase Agreement to her lender, Alterra,
- 9 which I did by emailing it to Bryan Jolly on May 23, 2017. See Exhibit XXX,
- 10 email to Bryan Jolly with the executed Residential Purchase Agreement.
- 11 f. After May 22, 2017, defendant never requested I send her an executed copy of
- 12 the Residential Purchase Agreement.
- 13
- 14 4. The sales price of defendant's purchase of the property was \$86,000.00.
- 15 5. Originally, defendant was supposed to make a 20% down payment.
- 16 6. However, during the course of defendant's purchase, she changed her down payment
- 17 amount to 5%.
- 18 7. Defendant's reduced down payment amount necessitated additional delays in the close of
- 19 escrow on top of the delays created when defendant failed to timely obtain a condo certification.
- 20 8. Lastly, during a June 23, 2017, phone call, I informed defendant that the seller may not go
- 21 through with the deal because defendant failed to meet her due diligence deadlines, and that the seller
- 22 may cancel the transaction on July 1, 2017, if defendant breached the Agreement, and thus that defendant
- 23 would be best served closing the deal by June 30, 2017, per the Agreement.
- 24 9. During and after the June 23, 2017, phone call, defendant became defensive and agitated,
- 25 likely realizing she could lose the ability to purchase the condo and lose her earnest money, while
- 26 incurring the expenses of moving out, which I believe led her to make her false claims regarding facts of
- 27 the sale and attacks against my character with the Nevada Real Estate Board.
- 28 10. Two days before I was going to file suit against defendat in small claims court for

1 defamation, defendant submitted her NRED Statement of Fact, which indicates that she was not filing the  
2 Statement of Fact in good faith, but as a form of preemptively retaliating against my ensuing lawsuit.

3 11. If called upon to testify to the above facts, declarant could do so competently.

4 12. I declare under penalties of perjury under the law of the state of Nevada that the foregoing  
5 is true and correct.

6 DATED this 14<sup>th</sup> day of November, 2019.

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9 CHARLES "RANDY" LAZER

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1 **DECL**  
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13 Attorney for plaintiff Charles "Randy" Lazer

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

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

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

**DECLARATION OF CHARLES "RANDY"  
LAZER IN SUPPORT OF PLAINTIFF'S  
OPPOSITION TO DEFENDANT DAPHNE  
WILLIAMS'S ANTI-SLAPP SPECIAL  
MOTION TO DISMISS UNDER NRS 41.660**

16 STATE OF NEVADA }  
17 COUNTY OF CLARK } ss:

18 CHARLES "RANDY" LAZER, being first duly sworn upon oath and says:

- 19 1. Declarant is the plaintiff in this matter and he makes this declaration in support of his  
20 opposition to defendant Daphne Williams's anti-SLAPP special motion to dismiss under NRS 41.660.  
21 2. I have been licensed as a real estate agent in Nevada since 1991.  
22 3. I have an impeccable record with the Nevada Real Estate Division ("NRED") and have  
23 never been sanctioned.  
24 4. In the spring of 2017, I was representing the seller of the real property commonly known as  
25 1404 Kilimanjaro Ln #202, Las Vegas, Nevada 89128 (hereinafter "**the property**"), which is a  
26 condominium unit.  
27 5. On May 20, 2017, defendant Daphne Williams, at the time a tenant renting the property,  
28 entered into a contract to purchase the property from its then-owner, my client.

1           6. Defendant did not employ a real estate agent to represent her in the purchase.

2           7. The original close of escrow date for the sale of the property to defendant was June 30,  
3 2017.

4           8. On June 23, 2017, I learned defendant's lender had, just that day, obtained the  
5 condominium certification package, also known as a condominium questionnaire, which is a requirement  
6 to obtain financing for a condominium purchase. Defendant's lender informed me that the reason for the  
7 delay in obtaining the package was because defendant neglected to pay for the package in a timely  
8 manner.

9           9. The condominium certification package is required because this package contains  
10 documents disclosing what percentage of the condos in the community are owner-occupied versus renter-  
11 occupied, and lenders will not lend money to fund a condo purchase if certain specific requirements are  
12 met.

13           10. Upon learning of defendant and/or her lender's failure to obtain the condominium  
14 certification package until June 23, 2017 - more than a month after entering into the purchase agreement  
15 - I realized we would need to extend escrow in order to close the sale of the property.

16           11. If the sale did not close on time due to defendant's default, my client - the seller - could  
17 have kept defendant's earnest money deposit and sold the property to another buyer.

18           12. However, because we had already come so far in this deal, I believed it was in the best  
19 interest of my client to complete the sale to defendant, and my client simply wanted to complete the sale,  
20 so we went forward. I took great time and effort to speak with defendant's lender and the seller in order  
21 to secure an extension on the close of escrow.

22           13. On June 23, 2017, I spoke with defendant to inform her that we would need to extend  
23 escrow due to her and/or her lender's failure to obtain condominium documents until June 23, 2017.

24           14. Following my June 23, 2017, phone call with defendant, defendant became agitated and  
25 defensive, culminating in her sending me a text on June 27, 2017, which accused me of racism, sexism,  
26 and unprofessionalism, and threatened in which she threatened to file a complaint against me with  
27 NRED.

1           15. That same day, I also attempted to contact Bryan Jolly, defendant's loan officer, but he  
2 did not respond to my phone call.

3           16. Thereafter, the morning of June 26, 2017, I emailed Mr. Jolly with my concerns regarding  
4 his delay in obtaining the condominium package, and let him know that this delay had put the entire deal  
5 in jeopardy.

6           17. Based on the delay itself and other complications caused by the delay, I made certain  
7 demands as outlined in my June 26, 2017, email, which is attached to the opposition as an exhibit.

8           18. Although such negotiations and demands as contained in my email are very common in  
9 the real estate world when something goes wrong in a sale, I believe my June 23, 2017, phone call with  
10 defendant, as well as the June 26 and 27, 2017, emails with Mr. Jolly were the reasons defendant became  
11 vindictive and verbally aggressive toward me, ultimately resulting in the chain of events that led to this  
12 lawsuit.

13           19. Defendant's text message left me extremely upset and disturbed, as throughout my life I  
14 have dedicated many hours to the causes of equality for all races, sexes, and religions, a passion created  
15 by my family history which includes family members who were killed in the Holocaust due to their  
16 religion.

17           20. After speaking at length with defendant's lender and the seller, I draft an addendum to  
18 extend escrow for 17 days to July 17, 2019.

19           21. Defendant was still unable to close by July 17, 2019, so escrow was extended a second  
20 time to July 20, 2017, and then a third time to July 24, 2017, when the sale was finally completed.

21           22. I filed suit for defamation because defendant made several false statements in her  
22 Statement of Facts she provided to NRED. I will take the next several paragraphs to explain the  
23 falsehoods in defendant's NRED Statement which form the basis of my complaint.

24           23. First, defendant stated on multiple occasions in her Statement of Facts that I engaged in  
25 unethical, unprofessional, sexist, and racist behavior, largely based on the fact that I complimented her on  
26 her purchase of the condo and that as she progressed with her career and became more successful, I  
27 would be happy to represent her in future real estate purchases should her brother retire from real estate.  
28



1           24. Although I do not think defendant quoted me word for word, I do believe I said something  
2 similar to the quote contained in defendant's Statement of Facts.

3           25. The reason I mentioned defendant's brother is because defendant's brother is a real estate  
4 agent, so I was informing defendant that if her brother retired or was no longer working as an agent, I  
5 could represent her.

6           26. Defendant, like any reasonable person, knew that my statement, which is about as benign  
7 as can be, was not in any way based on racism or sexism and was in no way unprofessional or unethical,  
8 yet she characterized me as such to NRED.

9           27. Second, defendant stated in her Statement of Facts that I shared "confidential information"  
10 with [defendant] regarding the seller, which [defendant] understood realtors aren't supposed to do."

11           28. In reality, I did not share any "confidential information" with defendant that in any way  
12 would have violated my ethical duties.

13           29. Defendant's first claim of "confidential information" is apparently that I had met the seller  
14 on an online dating website and had helped her move some personal property. I never informed  
15 defendant that I had met the seller on a dating website, so this is a knowingly false statement. It was the  
16 seller who informed defendant that the seller and I had met on a dating website. I also never had a  
17 romantic relationship with the seller. Regardless, defendant does not explain in what way this is  
18 confidential information that would in any way subject me to discipline by NRED.

19           30. Defendant further states that I told her: "To help Rosana out because she has been through  
20 so much this year, I talked my broker into only charging her 1000.00 in commission to do this deal."

21           31. I did not say these exact words to defendant. However, while I did mention the amount of  
22 the commission to defendant, the seller had authorized me to disclose this information in order to  
23 complete the sale and ensure to defendant that she was getting the property at the lowest possible price.  
24 Defendant was offering a lower price than the minimal required net proceeds of the seller. The seller  
25 authorized me to disclose all costs involved so defendant would have knowledge of the minimal price that  
26 would be acceptable to the seller.

27           32. Accordingly, this information was not "confidential," and if defendant had simply spoken  
28

1 to me or the seller about it, she would have understood I was authorized to disclose the amount of the  
2 commission.

3 33. Third, defendant questions my ethics because I attempted to communicate with the  
4 appraiser.

5 34. However, there is nothing unethical about a real estate agent communicating with the  
6 appraiser's office when the agent is representing a seller. To the contrary, ethics require that when  
7 representing a seller, the agent should communicate with the appraiser and provide information regarding  
8 comparable sales and upgrades to the appraiser.

9 35. Fourth, defendant states that I "lied on several occasions," which is untrue and  
10 defamatory.

11 36. Contrary to defendant's assertion in her Statement of Facts, she did not allow the seller to  
12 remove all of her personal property, and to this day, some of the seller's personal property still remains at  
13 the property. Defendant also refused to sign an addendum providing the seller access to remove her  
14 personal property from the condo.

15 37. Further, and more simply, I never made any statement regarding defendant's refusal to  
16 provide access to the unit to the seller.

17 38. Accordingly, I did not lie about defendant's refusal to allow the seller to remove all of her  
18 personal property, and this is another false statement by defendant.

19 39. Fifth, defendant states I never provided her "a signed copy of the contract," which is  
20 another false statement.

21 40. My May 18, 2017, email to defendant attaching the Residential Purchase Agreement  
22 signed by the seller is attached as an exhibit to the opposition, proving that this is yet another false  
23 statement by defendant.

24 41. Sixth, defendant states that I "falsely" accused her of failing to meet the due diligence  
25 timeframes in the contract. She blames my alleged failure to provide her with the signed contract for her  
26 inability to meet her obligations, but as noted above, I had provided the signed contract to defendant  
27 more than a month prior to the close of escrow.

1           42. Accordingly, defendant's statement that I "falsely" accused her of failing to meet all  
2 requirements to close escrow is another false, defamatory statement.

3           43. Defendant also mentions that I never provided her with "a receipt for defendant's earnest  
4 money," but a real estate agent does not provide receipts for earnest money unless the earnest money is  
5 deposited into a broker's trust account.

6           44. When earnest money is deposited with the title and/or escrow company, it was the case  
7 here, title and/or escrow be the entity to provide such a receipt.

8           45. I did provide escrow company contact information to Bryan Jolly, defendant's lender, so  
9 defendant's lender did have notice of who the escrow company was and could have obtained an earnest  
10 money receipt from escrow.

11           46. Thus, while defendant's statement that I did not provide an earnest money receipt is  
12 technically true, it is also very misleading.

13           47. Seventh, defendant makes false allegations that the seller told her I was "trying to  
14 sabotage this deal" and that I had "an ulterior motive."

15           48. As proven by the declaration of the seller also attached to the opposition, the seller never  
16 told defendant that I was trying to sabotage the deal or that I had an ulterior motive, so this is another  
17 false, defamatory statement.

18           49. I expended tremendous time and effort to keep this deal alive, including speaking with  
19 defendant's lender after each of the three escrow extensions necessitated by defendant's negligence, so I  
20 clearly had no intention of sabotaging this deal.

21           50. The fact that defendant made these numerous false, defamatory, and malicious statements  
22 is bad enough by itself.

23           51. However, when defendant published these statements to NRED, the entity responsible for  
24 governing the ethics of real estate agents and punishing those who violate the code of ethics, the damage  
25 to my professional reputation and the stress I experienced was tremendously magnified.

26           52. Based on defendant's false Statement of Facts, the NRED regulators and investigators  
27 were questioning my ethics and I was forced to defend myself and my good name.  
28

1           53. The NRED investigation process dragged on for eight months, during which time I spent  
2 over 50 hours defending myself, and many more stressing over the damage to my reputation and the  
3 possible loss of my livelihood.

54. If called upon to testify to the above facts, declarant could do so competently.

5 55. I declare under penalties of perjury under the law of the state of Nevada that the foregoing  
6 is true and correct.

**DATED this 18<sup>th</sup> day of August, 2019.**

Charles "Randy" Lazer  
CHARLES "RANDY" LAZER

1 **DECL**  
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7 Attorney for plaintiff Charles “Randy” Lazer

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

10 CHARLES “RANDY” LAZER,  
11 Plaintiff,  
12 vs.  
13 DAPHNE WILLIAMS,  
14 Defendant.  
15

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

**DECLARATION OF ROSANE CARDOSO  
FERREIRA IN SUPPORT OF PLAINTIFF’S  
OPPOSITION TO DEFENDANT DAPHNE  
WILLIAMS’S ANTI-SLAPP SPECIAL  
MOTION TO DISMISS UNDER NRS 41.660**

16 STATE OF MARYLAND )  
17 COUNTY OF PRINCE GEORGE ) ss:

18 ROSANE CARDOSO FERREIRA, being first duly sworn upon oath and says:

19 1. Declarant is makes this declaration in support of Charles “Randy” Lazer’s opposition to  
20 defendant Daphne Williams’s anti-SLAPP special motion to dismiss under NRS 41.660.

21 2. I was the seller of the real property commonly known as 1404 Kilimanjaro Ln #202, Las  
22 Vegas, Nevada 89128 (hereinafter “**the property**”) in the transaction which forms the background of  
23 this case.

24 3. I knew defendant Daphne Williams for approximately eight months prior to the sale of the  
25 property, which she was renting from me beginning in January 2017.

26 4. Mr. Lazer represented me during the sale of the property.

27 5. Mr. Lazer was very professional throughout the transaction.

28 6. I am making this declaration to correct some false statements defendant made in her

1 Statement of Facts, which she lodged with the Nevada Real Estate Division ("NRED").

2 7. During the course of the transaction, I authorized Mr. Lazer to disclose his commission and  
3 all closing costs to the defendant because defendant wanted to pay only \$85,000.00 for the property,  
4 which I would not accept.

5 8. Apparently, defendant wrongly assumed that I had not authorized Mr. Lazer to disclose this  
6 information, and she never asked me if I had made such an authorization.

7 9. Disclosing the commission and the closing costs allowed Mr. Lazer to go over those  
8 amounts with defendant and explain to her why I was insistent on an \$86,000.00 price.

9 10. I informed defendant that Mr. Lazer and I had met on a dating website. To my  
10 knowledge, Mr. Lazer did not inform defendant of how Mr. Lazer and I first met.

11 11. Defendant refused to allow me to remove certain items of personal property from the unit,  
12 all of which, to my knowledge, remain in the unit to this day.

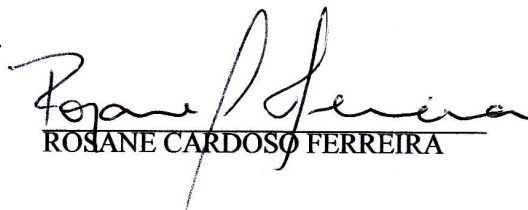
13 12. To the contrary of what defendant stated in her Statement of Facts lodged with NRED, I  
14 did not make any statement to defendant to the effect of me moving in with Mr. Lazer, and I also did not  
15 make any statement to defendant that Mr. Lazer "likes me like that, but I don't like him like that."

16 13. I also never stated to defendant that Mr. Lazer had an ulterior motive or acted to sabotage  
17 the transaction.

18 14. If called upon to testify to the above facts, declarant could do so competently.

19 15. I declare under penalties of perjury under the law of the state of Nevada that the foregoing  
20 is true and correct.

21 DATED this 19<sup>th</sup> day of August, 2019.

22  
23  
24   
25 ROSANE CARDOSO FERREIRA  
26  
27  
28

1 Statement of Facts, which she lodged with the Nevada Real Estate Division (“**NRED**”).

2 7. During the course of the transaction, I authorized Mr. Lazer to disclose his commission and  
3 all closing costs to the defendant because defendant wanted to pay only \$85,000.00 for the property,  
4 which I would not accept.

5 8. Apparently, defendant wrongly assumed that I had not authorized Mr. Lazer to disclose this  
6 information, and she never asked me if I had made such an authorization.

7 9. Disclosing the commission and the closing costs allowed Mr. Lazer to go over those  
8 amounts with defendant and explain to her why I was insistent on an \$86,000.00 price.  
9

10 10. I informed defendant that Mr. Lazer and I had met on a dating website. To my  
11 knowledge, Mr. Lazer did not inform defendant of how Mr. Lazer and I first met.

12 11. Defendant refused to allow me to remove certain items of personal property from the unit,  
13 all of which, to my knowledge, remain in the unit to this day.

14 12. To the contrary of what defendant stated in her Statement of Facts lodged with NRED, I  
15 did not make any statement to defendant to the effect of me moving in with Mr. Lazer, and I also did not  
16 make any statement to defendant that Mr. Lazer “likes me like that, but I don’t like him like that.”

17 13. I also never stated to defendant that Mr. Lazer had an ulterior motive or acted to sabotage  
18 the transaction.

19 14. If called upon to testify to the above facts, declarant could do so competently.

20 15. I declare under penalties of perjury under the law of the state of Nevada that the foregoing  
21 is true and correct.  
22

23 DATED this 19<sup>th</sup> day of August, 2019.

24  
25 ROSANE CARDOSO FERREIRA  
26  
27  
28

# EXHIBIT 1

# EXHIBIT 1





## RESIDENTIAL PURCHASE AGREEMENT

(Joint Escrow Instructions)

Date: 5/16/17

X@ Daphne Williams ("Buyer"), hereby offers to purchase  
1404 Kilamogard #202 ("Property"), within the  
city or unincorporated area of Las Vegas, County of Clark, State of Nevada,  
Zip 89128, A.P.N. # 138-28-513-274 for the purchase price of \$ 86,000  
(Eighty Six Thousand) dollars ("Purchase Price") on the terms and conditions  
contained herein. BUYER ☐ does -OR- ☐ does not intend to occupy the Property as a residence.

### Buyer's Offer

#### 1. FINANCIAL TERMS & CONDITIONS:

\$ 1,000 A. EARNEST MONEY DEPOSIT ("EMD") is ☒ presented with this offer -OR- ☐ \_\_\_\_\_. Upon Acceptance, Earnest Money to be deposited within one (1) business day from acceptance of offer (as defined in Section 23 herein) or \_\_\_\_\_ business days if wired to: ☐ Escrow Holder, ☐ Buyer's Broker's Trust Account, -OR- ☐ Seller's Broker's Trust Account. (NOTE: It is a felony in the State of Nevada—punishable by up to four years in prison and a \$5,000 fine—to write a check for which there are insufficient funds. NRS 193.130(2)(d).)

\$ \_\_\_\_\_ B. ADDITIONAL DEPOSIT to be placed in escrow on or before (date) \_\_\_\_\_. The additional deposit ☐ will -OR- ☐ will not be considered part of the EMD. (Any conditions on the additional deposit should be set forth in Section 28 herein.)

\$ 69,800 C. THIS AGREEMENT IS CONTINGENT UPON BUYER QUALIFYING FOR A NEW LOAN:  
☒ Conventional, ☐ FHA, ☐ VA, ☐ Other (specify) \_\_\_\_\_.

\$ \_\_\_\_\_ D. THIS AGREEMENT IS CONTINGENT UPON BUYER QUALIFYING TO ASSUME THE FOLLOWING EXISTING LOAN(S):  
☐ Conventional, ☐ FHA, ☐ VA, ☐ Other (specify) \_\_\_\_\_.  
Interest: ☐ Fixed rate, \_\_\_\_\_ years -OR- ☐ Adjustable Rate, \_\_\_\_\_ years. Seller further agrees to provide the Promissory Note and the most recent monthly statement of all loans to be assumed by Buyer within FIVE (5) calendar days of acceptance of offer.

\$ \_\_\_\_\_ E. BUYER TO EXECUTE A PROMISSORY NOTE SECURED BY DEED OF TRUST PER TERMS IN "FINANCING ADDENDUM" which is attached hereto.

\$ 16,200 F. BALANCE OF PURCHASE PRICE (Balance of Down Payment) in Good Funds to be paid prior to Close of Escrow ("COE").

\$ 86,000 G. TOTAL PURCHASE PRICE. (This price DOES NOT include closing costs, prorations, or other fees and costs associated with the purchase of the Property as defined herein.)

#### 2. ADDITIONAL FINANCIAL TERMS & CONTINGENCIES:

A. NEW LOAN APPLICATION: Done Within \_\_\_\_\_ business days of Acceptance, Buyer agrees to (1) submit a completed loan application to a lender of Buyer's choice and (2) furnish a preapproval letter to Seller based upon a standard factual credit report and review of debt to income ratios. If Buyer fails to complete any of these conditions within the

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 Kilamogard #202 LV NV

Rev. 05/16

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X BUYER(S) INITIALS: DW

X SELLER(S) INITIALS: SK

Page 1 of 10

This form presented by Victor Hecker | Hecker Real Estate & Develop | 702-247-7788 | heckerrealestate@hotmail.com

InstantFORMS

applicable time frame, Seller reserves the right to terminate this Agreement. In such event, both parties agree to cancel the escrow and return EMD to Buyer. Buyer shall use Buyer's best efforts to obtain financing under the terms and conditions outlined in this Agreement.

**B. APPRAISAL CONTINGENCY:** Buyer's obligation to purchase the property is contingent upon the property appraising for not less than the Purchase Price. If after the completion of an appraisal by a licensed appraiser, Buyer receives written notice from the lender or the appraiser that the Property has appraised for less than the purchase price (a "Notice of Appraised Value") Buyer may attempt to renegotiate or cancel the RPA by providing written notice to the Seller (with a copy of the Appraisal) no later than 25 calendar days after Acceptance of the RPA; whereupon the EMD shall be released to the Buyer without the requirement of written authorization from Seller. IF this Residential Purchase Agreement is not cancelled, in writing on or before the Appraisal Deadline, Buyer shall be deemed to have waived the appraisal contingency.

**C. LOAN CONTINGENCY:** Buyer's obligation to purchase the property is contingent upon Buyer obtaining the loan referenced in Section 1(C) or 1(D) of the RPA unless otherwise agreed in writing. Buyer shall remove the loan contingency in writing, attempt to renegotiate, or cancel the RPA by providing written notice to the Seller no later than 30 calendar days after Acceptance of the RPA; whereupon the EMD shall be released to the Buyer without the requirement of written authorization from Seller. IF this Residential Purchase Agreement is not cancelled, in writing on or before the Loan Contingency Deadline, Buyer shall be deemed to have waived the loan contingency.

**D. CASH PURCHASE:** Within \_\_\_\_\_ business days of Acceptance, Buyer agrees to provide written evidence from a bona fide financial institution of sufficient cash available to complete this purchase. If Buyer does not submit the written evidence within the above period, Seller reserves the right to terminate this Agreement.

**3. SALE OF OTHER PROPERTY:** This Agreement ☒ is not -OR- ☐ is contingent upon the sale (and closing) of another property which address is \_\_\_\_\_  
Said Property ☐ is ☐ is not currently listed -OR- ☐ is presently in escrow with \_\_\_\_\_  
Escrow Number: \_\_\_\_\_ Proposed Closing Date: \_\_\_\_\_

When Buyer has accepted an offer on the sale of this other property, Buyer will promptly deliver a written notice of the sale to Seller. If Buyer's escrow on this other property is terminated, abandoned, or does not close on time, this Agreement will terminate without further notice unless the parties agree otherwise in writing. If Seller accepts a bona fide written offer from a third party prior to Buyer's delivery of notice of acceptance of an offer on the sale of Buyer's property, Seller shall give Buyer written notice of that fact. Within three (3) calendar days of receipt of the notice, Buyer will waive the contingency of the sale and closing of Buyer's other property, or this Agreement will terminate without further notice. In order to be effective, the waiver of contingency must be accompanied by reasonable evidence that funds needed to close escrow will be available and Buyer's ability to obtain financing is not contingent upon the sale and/or close of any other property.

**4. FIXTURES AND PERSONAL PROPERTY:** The following items will be transferred, free of liens, with the sale of the Property with no real value unless stated otherwise herein. Unless an item is covered under Section 7(F) of this Agreement, all items are transferred in an "AS IS" condition. All EXISTING fixtures and fittings including, but not limited to: electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fan(s), fireplace insert(s), gas logs and grates, solar power system(s), built-in appliance(s) including ranges/ovens, window and door screens, awnings, shutters, window coverings, attached floor covering(s), television antenna(s), satellite dish(es), private integrated telephone systems, air coolers/conditioner(s), pool/spa equipment, garage door opener(s)/remote control(s), mailbox, in-ground landscaping, trees/shrub(s), water softener(s), water purifiers, security systems/alarms(s);

The following additional items of personal property: Refrigerator, Washer, Dryer

**5. ESCROW:**

**A. OPENING OF ESCROW:** The purchase of the Property shall be consummated through Escrow ("Escrow"). Opening of Escrow shall take place by the end of one (1) business day after Acceptance of this Agreement ("Opening of Escrow"), at Tilco or other title or escrow company ("Escrow Company" or "ESCROW HOLDER") with Jodie Henley or other ("Escrow Officer") (or such other escrow officer as Escrow Company may assign). Opening of Escrow shall occur upon Escrow Company's receipt of this fully accepted Agreement. ESCROW HOLDER is instructed to notify the Parties (through their respective Agents) of the opening date and

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams  
Property Address: 1404 Kilanagaro #202 W, NV

BUYER(S) INITIALS: DW

SELLER(S) INITIALS: KL

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1 the Escrow Number.

2  
3 **B. EARNEST MONEY:** Upon Acceptance, Buyer's EMD as shown in Section 1(A), and 1(B) if applicable, of  
4 this Agreement, shall be deposited pursuant to the language in Section 1(A) and 1(B) if applicable.

5  
6 **C. CLOSE OF ESCROW:** Close of Escrow ("COE") shall be on or before:  
7 6/30/17 (date). If the designated date falls on a weekend or holiday, COE shall be the next business  
8 day.

9  
10 **D. IRS DISCLOSURE:** Seller is hereby made aware that there is a regulation that requires all ESCROW  
11 HOLDERS to complete a modified 1099 form, based upon specific information known only between parties in this transaction  
12 and the ESCROW HOLDER. Seller is also made aware that ESCROW HOLDER is required by federal law to provide this  
13 information to the Internal Revenue Service after COE in the manner prescribed by federal law.

14  
15 **6. TITLE INSURANCE:** This Purchase Agreement is contingent upon the Seller's ability to deliver, good and  
16 marketable title as evidenced by a policy of title insurance, naming Buyer as the insured in an amount equal to the purchase  
17 price, furnished by the title company identified in Section 5(A). Said policy shall be in the form necessary to effectuate  
18 marketable title or its equivalent and shall be paid for as set forth in Section 8(A).

19  
20 **7. BUYER'S DUE DILIGENCE:** Buyer's obligation is X is not \_\_\_\_\_ conditioned on the Buyer's Due Diligence as  
21 defined in this section 7(A) below. This condition is referred to as the "Due Diligence Condition" if checked in the affirmative,  
22 Sections 7 (A) through (C) shall apply; otherwise they do not. Buyer shall have 10 calendar days from Acceptance (as  
23 defined in Section 23 herein) to complete Buyer's Due Diligence. Seller agrees to cooperate with Buyer's Due Diligence.  
24 Seller shall ensure that all necessary utilities (gas, power and water) and all operable pilot lights are on for Buyer's  
25 investigations and through the close of escrow. Due Diligence Period to commence upon  
26 buyer's receipt of appraisal DW

27 **A. PROPERTY INSPECTION/CONDITION:** During the Due Diligence Period, Buyer shall take such  
28 action as Buyer deems necessary to determine whether the Property is satisfactory to Buyer including, but not limited to,  
29 whether the Property is insurable to Buyer's satisfaction, whether there are unsatisfactory conditions surrounding or otherwise  
30 affecting the Property (such as location of flood zones, airport noise, noxious fumes or odors, environmental substances or  
31 hazards, whether the Property is properly zoned, locality to freeways, railroads, places of worship, schools, etc.) or any other  
32 concerns Buyer may have related to the Property. During such Period, Buyer shall have the right to conduct, non-invasive/  
33 non-destructive inspections of all structural, roofing, mechanical, electrical, plumbing, heating/air conditioning,  
34 water/well/septic, pool/spa, survey, square footage, and any other property or systems, through licensed and bonded contractors  
35 or other qualified professionals. Seller agrees to provide reasonable access to the Property to Buyer and Buyer's inspectors.  
36 Buyer agrees to indemnify and hold Seller harmless with respect to any injuries suffered by Buyer or third parties present at  
37 Buyer's request while on Seller's Property conducting such inspections, tests or walk-throughs. Buyer's indemnity shall not  
38 apply to any injuries suffered by Buyer or third parties present at Buyer's request that are the result of an intentional tort, gross  
39 negligence or any misconduct or omission by Seller, Seller's Agent or other third parties on the Property. Buyer is advised to  
40 consult with appropriate professionals regarding neighborhood or Property conditions, including but not limited to: schools;  
41 proximity and adequacy of law enforcement; proximity to commercial, industrial, or agricultural activities; crime statistics; fire  
42 protection; other governmental services; existing and proposed transportation; construction and development; noise or odor  
43 from any source; and other nuisances, hazards or circumstances. If Buyer cancels this Agreement due to a specific inspection  
44 report, Buyer shall provide Seller at the time of cancellation with a copy of the report containing the name, address, and  
45 telephone number of the inspector.

46  
47 **B. BUYER'S RIGHT TO CANCEL OR RESOLVE OBJECTIONS:** If Buyer determines, in Buyer's sole  
48 discretion, that the results of the Due Diligence are unacceptable, Buyer may either: (i) no later than the Due Diligence  
49 Deadline referenced in Section 7, cancel the Residential Purchase Agreement by providing written notice to the Seller,  
50 whereupon the Earnest Money Deposit referenced in Section 1(A) shall be released to the Buyer without the requirement of  
51 further written authorization from Seller; or (ii) no later than the Due Diligence Deadline referenced in Section 7, resolve in  
52 writing with Seller any objections Buyer has arising from Buyer's Due Diligence.

53  
54 **C. FAILURE TO CANCEL OR RESOLVE OBJECTIONS:** If Buyer fails to cancel the Residential  
55 Purchase Agreement or fails to resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence, as  
56 provided in Section 7, Buyer shall be deemed to have waived the Due Diligence Condition.

57 X Buyer's Initials \_\_\_\_\_ Buyer's Initials \_\_\_\_\_

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is  
otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 Kilamajero

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X BUYER(S) INITIALS: DW

X SELLER(S) INITIALS: DK

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**D. INSPECTIONS:** Acceptance of this offer is subject to the following reserved right. Buyer may have the Property inspected and select the licensed contractors, certified building inspectors and/or other qualified professionals who will inspect the Property. Seller will ensure that necessary utilities (gas, power and water and all operable pilot lights) are turned on and supplied to the Property within two (2) business days after Acceptance of this Agreement, to remain on until COE. *It is strongly recommended that Buyer retain licensed Nevada professionals to conduct inspections.* If any inspection is not completed and requested repairs are not delivered to Seller within the Due Diligence Period, Buyer is deemed to have waived the right to that inspection and Seller's liability for the cost of all repairs that inspection would have reasonably identified had it been conducted, except as otherwise provided by law. The foregoing expenses for inspections will be paid outside of Escrow unless the Parties present instructions to the contrary prior to COE, along with the applicable invoice.

(Identify which party shall pay for the inspection noted below either: SELLER, BUYER, 50/50, WAIVED or N/A.)

Type	Paid By	Type	Paid By	Type	Paid By
Energy Audit		Fungal Contaminant Inspection		Well Inspection (Quantity)	
Home Inspection	Buyer	Mechanical Inspection		Well Inspection (Quality)	
Termite/Pest Inspection		Pool/Spa Inspection		Wood-Burning Device/Chimney Inspection	
Roof Inspection		Soils Inspection		Septic Inspection	
Septic Lid Removal		Septic Pumping		Structural Inspection	
Survey (type):		Other:		Other:	

**E. CERTIFICATIONS:** In the event an inspection reveals areas of concern with the roof, septic system, well, wood burning device/chimney or the possible presence of a fungal contaminant, Buyer reserves the right to require a certification. The expenses for certifications will be paid outside of Escrow unless the Parties present instructions to the contrary prior to COE (along with the applicable invoice). A certification is not a warranty.

**F. BUYER'S REQUEST FOR REPAIRS:** It is Buyer's responsibility to inspect the Property sufficiently as to satisfy Buyer's use. Buyer reserves the right to request repairs, based upon the Seller's Real Property Disclosure or items which materially affect value or use of the Property revealed by an inspection, certification or appraisal. Items of a general maintenance or cosmetic nature which do not materially affect value or use of the Property, which existed at the time of Acceptance and which are not expressly addressed in this Agreement are deemed accepted by the Buyer, except as otherwise provided in this Agreement. The Brokers herein have no responsibility to assist in the payment of any repair, correction or deferred maintenance on the Property which may have been revealed by the above inspections, agreed upon by the Buyer and Seller or requested by one party.

**8. FEES, AND PRORATIONS** (Identify which party shall pay the costs noted below either: SELLER, BUYER, 50/50, WAIVED or N/A.)

**A. TITLE, ESCROW & APPRAISAL FEES:**

Type	Paid By	Type	Paid By	Type	Paid By
Escrow Fees	50/50	Lender's Title Policy	Buyer	Owner's Title Policy	Seller
Real Property Transfer Tax	Seller	Appraisal	Buyer pays for appraisal \$350	Other:	

**B. PRORATIONS:** Any and all rents, taxes, interest, homeowner association fees, trash service fees, payments on bonds, SIDs, LIDs, and assessments assumed by the Buyer, and other expenses of the property shall be prorated as of the date of the recordation of the deed. Security deposits, advance rentals or considerations involving future lease credits shall be credited to the Buyer. All prorations will be based on a 30-day month and will be calculated as of COE. Prorations will be based upon figures available at closing. Any supplementals or adjustments that occur after COE will be handled by the parties outside of Escrow.

**C. PRELIMINARY TITLE REPORT:** Within ten (10) business days of Opening of Escrow, Title Company shall provide Buyer with a Preliminary Title Report ("PTR") to review, which must be approved or rejected within five (5) business days of receipt thereof. If Buyer does not object to the PTR within the period specified above, the PTR shall be deemed accepted. If Buyer makes an objection to any item(s) contained within the PTR, Seller shall have five (5) business days after receipt of objections to correct or address the objections. If, within the time specified, Seller fails to have each such

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 Williams Dr #202 W, NV

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X BUYER(S) INITIALS: DW

X SELLER(S) INITIALS: RK

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exception removed or to correct each such objection, Buyer shall have the option to: (a) terminate this Agreement by providing notice to Seller and Escrow Officer, entitling Buyer to a refund of the EMD or (b) elect to accept title to the Property as is. All title exceptions approved or deemed accepted are hereafter collectively referred to as the "Permitted Exceptions."

**D. LENDER AND CLOSING FEES:** In addition to Seller's expenses identified herein, Seller will contribute \$ 0 to Buyer's Lender's Fees and/or Buyer's Title and Escrow Fees ☐ including -OR- ☐ excluding costs which Seller must pay pursuant to loan program requirements. Different loan types (e.g., FHA, VA, conventional) have different appraisal and financing requirements, which will affect the parties' rights and costs under this Agreement.

**E. HOME PROTECTION PLAN:** Buyer and Seller acknowledge that they have been made aware of Home Protection Plans that provide coverage to Buyer after COE. Buyer ☐ waives -OR- ☒ requires a Home Protection Plan with old plan or new. ☐ Seller -OR- ☐ Buyer will pay for the Home Protection Plan at a price not to exceed \$ 350. Buyer will order the Home Protection Plan. Neither Seller nor Brokers make any representation as to the extent of coverage or deductibles of such plans. Buyer will Home Protection Plan to be extended to 1 year from the close of escrow.

**9. TRANSFER OF TITLE:** Upon COE, Buyer shall tender to Seller the agreed upon Purchase Price, and Seller shall tender to Buyer marketable title to the Property free of all encumbrances other than (1) current real property taxes, (2) covenants, conditions and restrictions (CC&R's) and related restrictions, (3) zoning or master plan restrictions and public utility easements; and (4) obligations assumed and encumbrances accepted by Buyer prior to COE. Buyer is advised the Property may be reassessed after COE which may result in a real property tax increase or decrease.

**10. COMMON-INTEREST COMMUNITIES:** If the Property is subject to a Common Interest Community ("CIC"), Seller shall provide AT SELLER'S EXPENSE the CIC documents as required by NRS 116.4109 (collectively, the "resale package"). Seller shall request the resale package within two (2) business days of Acceptance and provide the same to Buyer within one (1) business day of Seller's receipt thereof.

- Pursuant to NRS 116.4109, Buyer may cancel this Agreement without penalty until midnight of the fifth (5th) calendar day following the date of receipt of the resale package. If Buyer elects to cancel this Agreement pursuant to this statute, he/she must deliver, via hand delivery or prepaid U.S. mail, a written notice of cancellation to Seller or his authorized agent.
- If Buyer does not receive the resale package within fifteen (15) calendar days of Acceptance, this Agreement may be cancelled in full by Buyer without penalty. Notice of cancellation shall be delivered pursuant to Section 24 of the RPA.
- Upon such written cancellation, Buyer shall promptly receive a refund of the EMD. The parties agree to execute any documents requested by ESCROW HOLDER to facilitate the refund. If written cancellation is not received within the specified time period, the resale package will be deemed approved. Seller shall pay all outstanding CIC fines or penalties at COE.

**A. CIC RELATED EXPENSES:** (Identify which party shall pay the costs noted below either: SELLER, BUYER, 50/50, WAIVED or N/A.)

Type	Paid By	Type	Paid By	Type	Paid By
CIC Demand	<u>Seller</u>	CIC Capital Contribution	<u>Buyer</u>	CIC Transfer Fees	<u>Buyer</u>
Other: _____					

**11. DISCLOSURES:** Within five (5) calendar days of Acceptance of this Agreement, Seller will provide the following Disclosures and/or documents. Check applicable boxes.

- ☒ Seller Real Property Disclosure Form: (NRS 113.130) ☐ Open Range Disclosure: (NRS 113.065)
- ☐ Construction Defect Claims Disclosure: If Seller has marked "Yes" to Paragraph 1(d) of the Sellers Real Property Disclosure Form (NRS 40.688)
- ☐ Lead-Based Paint Disclosure and Acknowledgment: required if constructed before 1978 (24 CFR 745.113)
- ☐ Other: (list) \_\_\_\_\_

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 Kilmanjaro #202 LV, NV

X BUYER(S) INITIALS: DW

X SELLER(S) INITIALS: RE

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12. **FEDERAL FAIR HOUSING COMPLIANCE AND DISCLOSURES:** All properties are offered without regard to race, color, religion, sex, national origin, age, gender identity or expression, familial status, sexual orientation, ancestry, or handicap and any other current requirements of federal or state fair housing laws.

13. **WALK-THROUGH INSPECTION OF PROPERTY:** Buyer is entitled under this Agreement to a walk-through of the Property within 5 calendar days prior to COE to ensure the Property and all major systems, appliances, heating/cooling, plumbing and electrical systems and mechanical fixtures are as stated in Seller's Real Property Disclosure Statement, and that the Property and improvements are in the same general condition as when this Agreement was Accepted by Seller and Buyer. To facilitate Buyer's walk-through, Seller is responsible for keeping all necessary utilities on, including all operable pilot lights. If any systems cannot be checked by Buyer on walk-through due to non-access or no power/gas/water, then Buyer reserves the right to hold Seller responsible for defects which could not be detected on walk-through because of lack of such access or power/gas/water. The purpose of the walk-through is to confirm (a) the Property is being maintained (b) repairs, if any, have been completed as agreed, and (c) Seller has complied with Seller's other obligations. If Buyer elects not to conduct a walk-through inspection prior to COE, then all systems, items and aspects of the Property are deemed satisfactory, and Buyer releases Seller's liability for costs of any repair that would have reasonably been identified by a walk-through inspection, except as otherwise provided by law.

14. **DELIVERY OF POSSESSION:** Seller shall deliver the Property along with any keys, alarm codes, garage door opener/controls and, if freely transferable, parking permits and gate transponders outside of Escrow, upon COE. Seller agrees to vacate the Property and leave the Property in a neat and orderly, broom-clean condition and tender possession no later than COE OR 10 business days. In the event Seller does not vacate the Property by this time, Seller shall be considered a trespasser in addition to Buyer's other legal and equitable remedies. Any personal property left on the Property after the date indicated in this section shall be considered abandoned by Seller. *Buyer warranty accepts the property as a tenant*

15. **RISK OF LOSS:** Risk of loss shall be governed by NRS 113.040. This law provides generally that if all or any material part of the Property is destroyed before transfer of legal title or possession, Seller cannot enforce the Agreement and Buyer is entitled to recover any portion of the sale price paid. If legal title or possession has transferred, risk of loss shall shift to Buyer.

16. **ASSIGNMENT OF THIS AGREEMENT:** Unless otherwise stated herein, this Agreement is non-assignable unless agreed upon in writing by all parties.

17. **CANCELLATION OF AGREEMENT:** In the event this Agreement is properly cancelled in accordance with the terms contained herein, then Buyer will be entitled to a refund of the EMD. Neither Buyer nor Seller will be reimbursed for any expenses incurred in conjunction with due diligence, inspections, appraisals or any other matters pertaining to this transaction (unless otherwise provided herein or except as otherwise provided by law).

18. **DEFAULT:**

A. **MEDIATION:** Before any legal action is taken to enforce any term or condition under this Agreement, the parties agree to engage in mediation, a dispute resolution process, through GLVAR. Notwithstanding the foregoing, in the event the Buyer finds it necessary to file a claim for specific performance, this section shall not apply. Each party is encouraged to have an independent lawyer of their choice review this mediation provision before agreeing thereto. By initialing below, the parties confirm that they have read and understand this section and voluntarily agree to the provisions thereof.

45. ☒ BUYER(S) INITIALS: DW ☒ SELLER(S) INITIALS: RK

B. **IF SELLER DEFAULTS:** If Seller defaults in performance under this Agreement, Buyer reserves all legal and/or equitable rights (such as specific performance) against Seller, and Buyer may seek to recover Buyer's actual damages incurred by Buyer due to Seller's default.

C. **IF BUYER DEFAULTS:** If Buyer defaults in performance under this Agreement, as Seller's sole legal recourse, Seller may retain, as liquidated damages, the EMD. In this respect, the Parties agree that Seller's actual damages would be difficult to measure and that the EMD is in fact a reasonable estimate of the damages that Seller would suffer as a result of Buyer's default. Seller understands that any additional deposit not considered part of the EMD in Section 1(B) herein will be immediately released by ESCROW HOLDER to Buyer.

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams  
Property Address: 1404 Kalamazoo #202 W. NV

☒ BUYER(S) INITIALS: DW  
☒ SELLER(S) INITIALS: RK

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## Instructions to Escrow

19. **ESCROW:** If this Agreement or any matter relating hereto shall become the subject of any litigation or controversy, Buyer and Seller agree, jointly and severally, to hold ESCROW HOLDER free and harmless from any loss or expense, except losses or expenses as may arise from ESCROW HOLDER'S negligence or willful misconduct. If conflicting demands are made or notices served upon ESCROW HOLDER with respect to this Agreement, the parties expressly agree that Escrow is entitled to file a suit in interpleader and obtain an order from the Court authorizing ESCROW HOLDER to deposit all such documents and monies with the Court, and obtain an order from the Court requiring the parties to interplead and litigate their several claims and rights among themselves. Upon the entry of an order authorizing such Interpleader, ESCROW HOLDER shall be fully released and discharged from any obligations imposed upon it by this Agreement; and ESCROW HOLDER shall not be liable for the sufficiency or correctness as to form, manner, execution or validity of any instrument deposited with it, nor as to the identity, authority or rights of any person executing such instrument, nor for failure of Buyer or Seller to comply with any of the provisions of any agreement, contract or other instrument filed with ESCROW HOLDER or referred to herein. ESCROW HOLDER'S duties hereunder shall be limited to the safekeeping of all monies, instruments or other documents received by it as ESCROW HOLDER, and for their disposition in accordance with the terms of this Agreement. In the event an action is instituted in connection with this escrow, in which ESCROW HOLDER is named as a party or is otherwise compelled to make an appearance, all costs, expenses, attorney fees, and judgments ESCROW HOLDER may expend or incur in said action, shall be the responsibility of the parties hereto.

20. **UNCLAIMED FUNDS:** In the event that funds from this transaction remain in an account, held by ESCROW HOLDER, for such a period of time that they are deemed "abandoned" under the provisions of Chapter 120A of the Nevada Revised Statutes, ESCROW HOLDER is hereby authorized to impose a charge upon the dormant escrow account. Said charge shall be no less than \$5.00 per month and may not exceed the highest rate of charge permitted by statute or regulation. ESCROW HOLDER is further authorized and directed to deduct the charge from the dormant escrow account for as long as the funds are held by ESCROW HOLDER.

## Brokers

21. **BROKER'S COMPENSATION/FEE:** Buyer herein requires, and Seller agrees, as a condition of this Agreement, that Seller will pay Listing Broker and Buyer's Broker, who becomes by this clause a third party beneficiary to this Agreement, that certain sum and/or percentage of the Purchase Price (commission), that Seller, or Seller's Broker, offered for the procurement of ready, willing and able Buyer via the Multiple Listing Service, any other advertisement or written offer. Seller understands and agrees that if Seller defaults hereunder, Buyer's Broker, as a third-party beneficiary of this Agreement, has the right to pursue all legal recourse against Seller for any commission due. In addition to any amount due to Buyer's Broker from Seller or Seller's Broker, Buyer ☐ will -OR- ☐ will not pay Buyer's Broker additional compensation in an amount determined between the Buyer and Buyer's Broker.

22. **WAIVER OF CLAIMS:** Buyer and Seller agree that they are not relying upon any representations made by Brokers or Broker's agent. Buyer acknowledges that at COE, the Property will be sold AS-IS, WHERE-IS without any representations or warranties, unless expressly stated herein. Buyer agrees to satisfy himself/herself, as to the condition of the Property, prior to COE. Buyer acknowledges that any statements of acreage or square footage by Brokers are simply estimates, and Buyer agrees to make such measurements, as Buyer deems necessary, to ascertain actual acreage or square footage. Buyer waives all claims against Brokers or their agents for (a) defects in the Property; (b) inaccurate estimates of acreage or square footage; (c) environmental waste or hazards on the Property; (d) the fact that the Property may be in a flood zone; (e) the Property's proximity to freeways, airports or other nuisances; (f) the zoning of the Property; (g) tax consequences; or (h) factors related to Buyer's failure to conduct walk-throughs or inspections. Buyer assumes full responsibility for the foregoing and agrees to conduct such tests, walk-throughs, inspections and research, as Buyer deems necessary. In any event, Broker's liability is limited, under any and all circumstances, to the amount of that Broker's commission/fee received in this transaction.

## Other Matters

23. **DEFINITIONS:** "Acceptance" means the date that both parties have consented to a final, binding contract by affixing their signatures to this Agreement and all counteroffers and said Agreement and all counteroffers have been delivered to both parties pursuant to Section 24 herein. "Agent" means a licensee working under a Broker or licensees working under a

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 Biltmore Court #202, W. Las Vegas

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X BUYER(S) INITIALS: DW

SELLER(S) INITIALS: PK

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1 developer. "Agreement" includes this document as well as all accepted counteroffers and addenda. "Appraisal" means a  
2 written appraisal or Notice of Value as required by any lending institution prepared by a licensed or certified professional.  
3 "Bona Fide" means genuine. "Buyer" means one or more individuals or the entity that intends to purchase the Property.  
4 "Broker" means the Nevada licensed real estate broker listed herein representing Seller and/or Buyer (and all real estate agents  
5 associated therewith). "Business Day" excludes Saturdays, Sundays, and legal holidays. "Calendar Day" means a calendar  
6 day from/to midnight unless otherwise specified. "CFR" means the Code of Federal Regulations. "CIC" means Common  
7 Interest Community (formerly known as "HOA" or homeowners associations). "CIC Capital Contribution" means a one-  
8 time non-administrative fee, cost or assessment charged by the CIC upon change of ownership. "CIC Transfer Fees" means  
9 the administrative service fee charged by a CIC to transfer ownership records. "Close of Escrow (COE)" means the time of  
10 recordation of the deed in Buyer's name. "Default" means the failure of a Party to observe or perform any of its material  
11 obligations under this Agreement. "Delivered" means personally delivered to Parties or respective Agents, transmitted by  
12 facsimile machine, electronic means, overnight delivery, or mailed by regular mail. "Down Payment" is the Purchase Price  
13 less loan amount(s). "EMD" means Buyer's earnest money deposit. "Escrow Holder" means the neutral party that will  
14 handle the closing. "FHA" is the U.S. Federal Housing Administration. "GLVAR" means the Greater Las Vegas Association  
15 of REALTORS®. "Good Funds" means an acceptable form of payment determined by ESCROW HOLDER in accordance  
16 with NRS 645A.171. "IRC" means the Internal Revenue Code (tax code). "LID" means Limited Improvement District.  
17 "N/A" means not applicable. "NAC" means Nevada Administrative Code. "NRS" means Nevada Revised Statutes as  
18 Amended. "Party" or "Parties" means Buyer and Seller. "PITI" means principal, interest, taxes, and hazard insurance.  
19 "PMI" means private mortgage insurance. "PST" means Pacific Standard Time, and includes daylight savings time if in  
20 effect on the date specified. "PTR" means Preliminary Title Report. "Property" means the real property and any personal  
21 property included in the sale as provided herein. "Receipt" means delivery to the party or the party's agent. "RPA" means  
22 Residential Purchase Agreement. "Seller" means one or more individuals or the entity that is the owner of the Property.  
23 "SID" means Special Improvement District. "Title Company" means the company that will provide title insurance. "USC" is  
24 the United States Code. "VA" is the Veterans Administration.

25  
26 **24. SIGNATURES, DELIVERY, AND NOTICES:**

27  
28 A. This Agreement may be signed by the parties on more than one copy, which, when taken together, each  
29 signed copy shall be read as one complete form. This Agreement (and documents related to any resulting transaction) may be  
30 signed by the parties manually or digitally. Facsimile signatures may be accepted as original.

31  
32 B. Except as otherwise provided in Section 10, when a Party wishes to provide notice as required in this  
33 Agreement, such notice shall be sent regular mail, personal delivery, by facsimile, overnight delivery and/or by email to the  
34 Agent for that Party. The notification shall be effective when postmarked, received, faxed, delivery confirmed, and/or read  
35 receipt confirmed in the case of email. Delivery of all instruments or documents associated with this Agreement shall be  
36 delivered to the Agent for Seller or Buyer if represented. Any cancellation notice shall be contemporaneously delivered to  
37 Escrow in the same manner.

38  
39 **25. IRC 1031 EXCHANGE:** Seller and/or Buyer may make this transaction part of an IRC 1031 exchange. The party  
40 electing to make this transaction part of an IRC 1031 exchange will pay all additional expenses associated therewith, at no cost  
41 to the other party. The other party agrees to execute any and all documents necessary to effectuate such an exchange.

42  
43 **26. OTHER ESSENTIAL TERMS:** Time is of the essence. No change, modification or amendment of this Agreement  
44 shall be valid or binding unless such change, modification or amendment shall be in writing and signed by each party. This  
45 Agreement will be binding upon the heirs, beneficiaries and devisees of the parties hereto. This Agreement is executed and  
46 intended to be performed in the State of Nevada, and the laws of that state shall govern its interpretation and effect. The parties  
47 agree that the county and state in which the Property is located is the appropriate forum for any action relating to this  
48 Agreement. Should any party hereto retain counsel for the purpose of initiating litigation to enforce or prevent the breach of  
49 any provision hereof, or for any other judicial remedy, then the prevailing party shall be entitled to be reimbursed by the losing  
50 party for all costs and expenses incurred thereby, including, but not limited to, reasonable attorney's fees and costs incurred by  
51 such prevailing party.

52  
53  
54 **THIS IS A LEGALLY BINDING CONTRACT.** All parties are advised to seek independent legal and tax advice to review  
55 the terms of this Agreement.

56  
57 Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is  
otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 Kilmanjaro #202, LV, NV

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X BUYER(S) INITIALS: DW

X SELLER(S) INITIALS: PK

Page 8 of 10

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heckerrealstate@hotmail.com

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27. ADDENDUM(S) ATTACHED: \_\_\_\_\_

28. ADDITIONAL TERMS:

Randy Lutzer and Hecker Real Estate  
and Development only represent the seller. The buyer  
has indicated no formal real estate representation and  
is not charged with any brokerage fees. The buyer is  
advised to seek legal counsel to review the contract or  
for any concerns. The buyer is a tenant entitled to the refund  
of \$850 Security Deposit and a refund for any prorated rent.

### Buyer's Acknowledgement of Offer

Confirmation of Representation: The Buyer is represented in this transaction by:

Buyer's Broker: None  
Company Name: \_\_\_\_\_  
Broker's License Number: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

Agent's Name: \_\_\_\_\_  
Agent's License Number: \_\_\_\_\_  
Office Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Email: \_\_\_\_\_

**BUYER LICENSEE DISCLOSURE OF INTEREST:** Pursuant to NRS 645.252(1)(c), a real estate licensee must disclose if he/she is a principal in a transaction or has an interest in a principal to the transaction. Licensee declares that he/she:

☒ DOES NOT have an interest in a principal to the transaction. -OR-

☐ DOES have the following interest, direct or indirect, in this transaction: ☐ Principal (Buyer) -OR- ☐ family or firm relationship with Buyer or ownership interest in Buyer (if Buyer is an entity): (specify relationship)

Seller must respond by: 6:00 ☐ AM ☒ PM on (month) May, (day) 21 (year) 2017. Unless this Agreement is accepted, rejected or countered below and delivered to the Buyer's Broker before the above date and time, this offer shall lapse and be of no further force and effect. Upon Acceptance, Buyer agrees to be bound by each provision of this Agreement, and all signed addenda, disclosures, and attachments.

Buyer's Signature

Buyer's Printed Name

Date

Time

Buyer's Signature

Buyer's Printed Name

Date

Time

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name:

Property Address:

BUYER(S) INITIALS:

SELLER(S) INITIALS:

Rev. 05/16

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## Seller's Response

Confirmation of Representation: The Seller is represented in this transaction by:

Seller's Broker: Vilton Hecker

Agent's Name: Barbara Lazer

Company Name: Hecker Real Estate & Development

Agent's License Number: 25722

Broker's License Number: \_\_\_\_\_

Office Address: 4555 S. Durango #155

Phone: 702-271-1295

City, State, Zip: Las Vegas, NV 89113

Fax: 702-966-3762

Email: bar314@aol.com

**SELLER LICENSEE DISCLOSURE OF INTEREST:** Pursuant to NRS 645.252(1)(c), a real estate licensee must disclose if he/she is a principal in a transaction or has an interest in a principal to the transaction. Licensee declares that he/she:

☒ **DOES NOT** have an interest in a principal to the transaction. -OR-

☐ **DOES** have the following interest, direct or indirect, in this transaction: ☐ Principal (Seller) -OR- ☐ family or firm relationship with Seller or ownership interest in Seller (if Seller is an entity): (specify relationship)

**FIRPTA:** If applicable (as designated in the Seller's Response herein), Seller agrees to complete, sign, and deliver to Buyer's FIRPTA Designee a certificate indicating whether Seller is a foreign person or a nonresident alien pursuant to the Foreign Investment in Real Property Tax Act (FIRPTA). A foreign person is a nonresident alien individual; a foreign corporation not treated as a domestic corporation; or a foreign partnership, trust or estate. A resident alien is not considered a foreign person under FIRPTA. Additional information for determining status may be found at [www.irs.gov](http://www.irs.gov). Buyer and Seller understand that if Seller is a foreign person then the Buyer must withhold a tax in an amount to be determined by Buyer's FIRPTA Designee in accordance with FIRPTA, unless an exemption applies. Seller agrees to sign and deliver to the Buyer's FIRPTA Designee the necessary documents, to be provided by the Buyer's FIRPTA Designee, to determine if withholding is required. (See 26 USC Section 1445).

☒ **SELLER DECLARES** that he/she ☒ is not -OR- ☐ is a foreign person therefore subjecting this transaction to FIRPTA withholding. **SELLER(S) INITIALS:** \_\_\_\_\_

☒ **ACCEPTANCE:** Seller(s) acknowledges that he/she accepts and agrees to be bound by each provision of this Agreement, and all signed addenda, disclosures, and attachments.

☐ **COUNTER OFFER:** Seller accepts the terms of this Agreement subject to the attached Counter Offer #1.

☐ **REJECTION:** In accordance with NAC 645.632, Seller hereby informs Buyer the offer presented herein is not accepted.

☒ Seller's Signature [Signature]

Seller's Printed Name Rosane Krupp

Date 05/18

Time 9:00

☒ AM ☐ PM

Seller's Signature \_\_\_\_\_

Seller's Printed Name \_\_\_\_\_

Date \_\_\_\_\_

Time \_\_\_\_\_

☐ AM ☐ PM

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 K. Luman juv #202 LV, NV

BUYER(S) INITIALS: [Signature]

SELLER(S) INITIALS: [Signature]

Rev. 05/16

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6/28/17 2:04 PM

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ADDENDUM NO. 1  
TO PURCHASE AGREEMENT



In reference to the Purchase Agreement executed by Daphne Williams  
as Buyer(s) and Rosane Krupp  
as Seller(s), dated 5/16/17  
covering the real property at 1404 K. San Antonio #202 Las Vegas  
the ☐ Buyer ☒ Seller hereby proposes that the Purchase Agreement be amended as follows:

- ① Close of escrow to be on or before 7/17/17
- ② Seller not to contribute any money for repairs
- ③ Should escrow not close on or before 7/17/17 then no part of the seller the seller will issue an instruction calling for the release of the buyers money to the seller in compliance with the terms the contract

☐ ADDITIONAL PAGE(S) ATTACHED. This Addendum is not complete without additional terms on the attached \_\_\_\_\_ page(s).

When executed by both parties, this Addendum is made an integral part of the aforementioned Purchase Agreement.

WHEN PROPERLY COMPLETED, THIS IS A BINDING CONTRACT. IF YOU DO NOT FULLY UNDERSTAND ITS CONTENTS, YOU SHOULD SEEK COMPETENT LEGAL COUNSEL BEFORE SIGNING.



☐ Bayer ☐ Seller

**Date**

☒ Buyer ☐ Seller

**WED**

☐ Buyer ☐ Seller

Date \_\_\_\_\_

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# ADDENDUM NO. 2 TO PURCHASE AGREEMENT



In reference to the Purchase Agreement executed by Daphne Williams  
as Buyer(s) and Bobbie Krupp  
as Seller(s) dated 5/16/17  
covering the real property at 1904 Klemm Ave #202 Las Vegas NV  
the ☒ Buyer ☒ Seller hereby proposes that the Purchase Agreement be amended as follows:

- 1) Close of escrow to be on or before 7/20/17
- 2) Rent to be provided at \$8.33 per day from 5/15 to the close of escrow and credit to the seller

☐ ADDITIONAL PAGE(S) ATTACHED. This Addendum is not complete without (1) additional terms on the attached \_\_\_\_\_ page(s).

When executed by both parties, this Addendum is made an integral part of the aforementioned Purchase Agreement.

WHEN PROPERLY COMPLETED, THIS IS A BINDING CONTRACT. IF YOU DO NOT FULLY UNDERSTAND ITS CONTENTS, YOU SHOULD SEEK COMPETENT LEGAL COUNSEL BEFORE SIGNING.

Bobbie Krupp  
☐ Buyer ☒ Seller

Date

☐ Buyer ☐ Seller

Time

Acceptance:  
D Williams  
☒ Buyer ☐ Seller

7/18/17  
Date

out blank

Page 1 of 1



ADDENDUM NO. 3  
TO PURCHASE AGREEMENT



In reference to the Purchase Agreement executed by Daphne Williams  
as Buyer(s) and Rosanne Krupp  
as Seller(s), dated 5/16/17  
covering the real property at 1404 Williams Ave #202 Las Vegas, NV  
, the ☒ Buyer ☒ Seller hereby proposes that the Purchase

Agreement be amended as follows:

- ① Close of escrow to be on or before 7/24/17
- ② Buyer to pay a \$250 late fee to the seller
- ③ Rent of \$28.33 to be prorated through close of escrow change to the buyer and credited to the seller

☒ ADDITIONAL PAGE(S) ATTACHED. This Addendum is not complete without the additional terms on the attached \_\_\_\_\_ page(s).

When executed by both parties, this Addendum is made an integral part of the aforementioned Purchase Agreement.

WHEN PROPERLY COMPLETED, THIS IS A BINDING CONTRACT. IF YOU DO NOT FULLY UNDERSTAND ITS CONTENTS, YOU SHOULD SEEK COMPETENT LEGAL COUNSEL BEFORE SIGNING.

X Rosanne Krupp 07/20/17  
☐ Buyer ☒ Seller Date

☐ Buyer ☐ Seller Time

Acceptance: D Williams 7/21/17  
☒ Buyer ☐ Seller Date

☐ Buyer ☐ Seller Time

Prepared by: Randy Lazer 702 271-1245  
Agent's Printed Name Phone

Addendum to Purchase Agreement 9/12

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# EXHIBIT 2

# EXHIBIT 2

## Adam Trippiedi

---

**Subject:** FW: email chain of immediately after the text message on 6/27 from the Defendant, and of the email earlier that day prior to the text message.

**Attachments:** image001.jpg

-----Original Message-----

From: ran314 <[ran314@aol.com](mailto:ran314@aol.com)>

To: bjolly <[bjolly@goalterra.com](mailto:bjolly@goalterra.com)>

Sent: Tue, Jun 27, 2017 3:11 pm

Subject: Re: Daphne Williams, 1404 Kilimanjaro..I am having to notify the real estate division regarding Ms. Williams

Bryan...I called, but wanted to let you know that I received some wrongful and upsetting texts from Ms. Williams. I had sent her the addendum that I sent you, that was authorized by my client.

Ms. Williams chose to text me the following..."Randy, if this racist sexiest (sic) and unprofessional behavior of yours continues and Rosane and I are unable to close this deal, you will leave me with no other 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".

Bryan...although you don't know me, I gave two years of my life heading a community service project to deliver food and clothing to low income black families outside of Detroit, along with speaking to raise funds so black kids could have educational opportunities. I also play and write jazz, which is truly at the very heart of black/African culture, and I have an incredible love and respect for that. Never in 26 years and over 1000 contracts have I ever been accused of being racist or sexist, and, I noted in my response to Ms. Williams that I despise prejudice as I had experienced that.

I notified Ms. Williams that she is free to file any complaints under penalty of perjury, and that for a wrongful complaint I would seek damages for liable and defamation, and advised her to seek legal counsel. I asked her specifically what I had written or said that was racist or sexist, and thus far have not heard from her of one specific text or email that would be racist or prejudiced.

So, I have contacted the Real Estate Division, and advised Ms. Williams that should I receive any other hateful messages I will file a complaint with the police, division, or other agencies for harassment. I also advised Ms. Williams to seek legal counsel.

In short, this is ridiculous and terrible to make a false accusation, particularly as I have a history of texts and emails, in which Ms. Williams has given a polite response, and in which I have been 100% professional.

Ms. Williams apparently is raising questions about reasonable access regarding the addendum. Well that is pretty commonly understood that Rosane can have somebody contact her to remove her possessions, and that Ms. Williams should allow for access in a reasonable time frame...which often is interpreted as 48 hours or 72 hours. In fact, I would advise Ms. Williams reference her lease regarding the clauses for access. Basically Rosane had an associate call Ms. Williams, who allowed that person entry, so I am not understanding the difficulty. Rosane is just trying to have her possessions removed, in compliance with the contract, and needs assurance of reasonable access, particularly given Ms. Williams behavior, which has included informing me (per my recollection) that nobody could view the property during the week days, thus restricting access for five days out of seven

In short Bryan, Ms. Williams is not able to close escrow on or before June 30, which given you received the contract on May 23, and per your words, this transaction should have been closed in three weeks...as per my opinion a good lender or very good lender would do so. Ms. Williams bears the responsibility for not closing this escrow within the time frame stipulated by the contract.

If Ms. Williams does not sign the addendum, Ms. Krupp has the right per my understanding (and I advise all parties to seek legal counsel) to cancel the transaction on 7/1, and demand the release of the earnest money of Ms. Williams. Ms. Krupp per my last conversation believes it is important to stipulate reasonable access for her to have any party that she designates remove her possessions prior to the close of escrow, without any terrible inconvenience that would prevent a party from entering the property to remove Ms. Krupp's possessions. Nothing unusual there. Nothing racist or sexist there either.



So, this was quite a bit, but I wanted to inform you of what transpired, and advise that if Ms. Williams does not sign the addendum, it will be up to Ms. Krupp if she desires to issue another addendum. If that addendum is not signed by the buyer, Ms. Krupp very well may cancel this escrow on 7/1.

Thank you,

Randy Lazer

I will not tolerate false and wrongful accusations, and will be acting in compliance with the counsel from the Nevada Real Estate Division regarding potential charges or complaints against Ms. Williams, as her words are in writing, and I will provide the Division with all texts and emails. So, unless there is an apology from her for her wrongful and candidly hateful texts, she may be subject to some investigation and potential penalties.

-----Original Message-----

From: Bryan A. Jolly <[bjolly@goalterra.com](mailto:bjolly@goalterra.com)>  
To: ran314 <[ran314@aol.com](mailto:ran314@aol.com)>  
Cc: dlwilliams123 <[dlwilliams123@gmail.com](mailto:dlwilliams123@gmail.com)>  
Sent: Mon, Jun 26, 2017 12:24 pm  
Subject: RE: Daphne Williams, 1404 Kilimanjaro

Good Afternoon Randy,

I appreciate our conversation today and just wanted to recap what we discussed so that we can stay on the same page going forward to ensure the closing of the file:

- If the buyer agrees, closing shall be on 7/17/17.
- The seller will have all items removed on or before the closing date as stated in the original contract
- Randy will draft the addendum to present to the buyer to extend escrow
- The file is currently in condo review and once we have approval we will move forward to final underwriting

Please advise if there are any items that I missed, or anything that needs to be added. Thank you for your time, have a great day!

Thanks,

Bryan Jolly  
Loan Officer  
NMLS #273205

**Alterra Home Loans**

3245 S. Rainbow Blvd., Suite 102

Las Vegas, NV 89146

Office: 702-405-7021

Fax: 702-968-8666

Cell: 702-462-4513

Email: [bjolly@goalterra.com](mailto:bjolly@goalterra.com)

Website: [Alterra Home Loans - Bryan Jolly](http://Alterra Home Loans - Bryan Jolly)



***"Building Wealth Through Homeownership"***

**From:** [ran314@aol.com](mailto:ran314@aol.com) [<mailto:ran314@aol.com>]

**Sent:** Monday, June 26, 2017 7:54 AM

**To:** Bryan A. Jolly <[bjolly@goalterra.com](mailto:bjolly@goalterra.com)>

**Subject:** Re: Daphne Williams, 1404 Kilamanjaro

Bryan....I called you and emailed you on Friday, but you have not communicated with me since, which given the information that I shared was truly not the best.

Bryan...here is the reality. You received a contract on May 23, and immediately should have requested the condo questionnaire, which per First Residential would be delivered within 10 business days. Without your company's review of that document, you don't know if you can loan funds or not. You sent me an email on May 30, indicating that you were working with obtaining the questionnaire, which in my estimation should have been arriving within a few days. The close of escrow noted on the contract is June 30. You informed me on June 24, that you finally received the questionnaire? If you had difficulties in obtaining it, you could have asked me, as it is pretty easy to set up a third party pay for the questionnaire. But, in 25 days, you didn't inform me that you had not obtained it or had difficulties. Not acceptable.

Then, I shared these facts with you on Friday, and its been three days without communication? Again, not acceptable. I want to know why you received that questionnaire about three weeks later than you should, which places this closing in significant jeopardy

I represent the seller and convey her best interests. Per my conversation and communications with her this weekend, I share what is likely to occur. First, if you don't communicate with me prior to mid afternoon, I will be speaking with your manager. I will be in a meeting from about 9:00 to 10:30, and won't be answering the phone.

Next, if there isn't effective communication, presuming that this transaction is not closing this week, on July 1, the seller will issue a cancellation instruction calling for the release of the buyer's earnest money to her. Keep in mind the buyer, by submitting the home inspection beyond the due diligence period per the contract waives the condition of the property as a right of not proceeding to close. Also keep in mind, the buyer never notified me in writing per the contract within a 30 day time frame that she did not desire to proceed, therefore she waives the loan contingency as a condition for not proceeding. I am not an attorney, advise all parties to seek legal counsel, and am sharing the clauses I cited in the previous email to you and Daphne on June, 23.

So....

1) If this escrow closes per the contract time frame, on or before June 30, the buyer will be credited for \$500 worth of repairs, or receive a credit of \$500 in compliance with your criteria. Whether it would be for loan costs or a reduction of sales price or whatever is appropriate for your company.

2) If the buyer desires an extension, I better know about it, as I have to draw up the addendum, and she will need to close on or before July 15, and there will be no credit of \$500.

3) If it does not appear that Ms. Williams can obtain funding on or before July 15, then the escrow will be cancelled on July 1, and per the terms of the contract the seller will call for the release of \$1000 of earnest money to her.

Bryan...I need to know where things are. I need to know an estimated time frame for the close of escrow presuming the association docs are acceptable for your company, or if there are issues with those documents.

Sincerely,

Randy Lazer

702-271-1295

-----Original Message-----

From: Bryan A. Jolly <[bjolly@goalterra.com](mailto:bjolly@goalterra.com)>

To: ran314 <[ran314@aol.com](mailto:ran314@aol.com)>

Cc: Daphne Williams <[dlwilliams123@gmail.com](mailto:dlwilliams123@gmail.com)>  
Sent: Fri, Jun 23, 2017 10:48 am  
Subject: Update

Good Morning Randy,

I hope this email finds you well! The condo questionnaire was just received from the HOA management company and I am forwarding it to our condo review department now. I will hopefully have an "ETA" from them today on when the review will be completed and approved. Once the review is approved we will be ready to move to final underwriting and close on the file. I will update you as soon as I have new information and keep you informed from now until closing. Please let me know if you have any questions. Have a great day!

Thanks,

Bryan Jolly  
Loan Officer  
NMLS #273205  
**Alterra Home Loans**  
3245 S. Rainbow Blvd., Suite 102  
Las Vegas, NV 89146  
Office: 702-405-7021  
Fax: 702-968-8666  
Cell: 702-462-4513  
Email: [bjolly@goalterra.com](mailto:bjolly@goalterra.com)  
Website: [Alterra Home Loans - Bryan Jolly](http://Alterra Home Loans - Bryan Jolly)



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# EXHIBIT 3

# EXHIBIT 3

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< +19097146155



12:35 PM, Jun 27

Randy, if this racist sexiest and unprofessional behavior of yours continues and Rosane and I are unable to close this deal, you will leave me with no other 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.



Copy text



Share

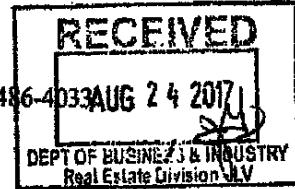


# EXHIBIT 4

# EXHIBIT 4

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
REAL ESTATE DIVISION

3300 W. Sahara Ave., Suite 350, Las Vegas, Nevada 89102 \* (702) 486-4033  
e-mail: [realest@red.nv.gov](mailto:realest@red.nv.gov) \* <http://red.nv.gov/>



STATEMENT OF FACT

(Please Print or Type)

Your Name Daphne L. Williams 909-714-6155  
(Home Phone) (Business Phone)  
Address 1404 KiliMajaro Lane, Unit 202 Las Vegas NV 89128  
(Street) (City) (State) (Zip)  
Email Address dwilliams123@gmail.com (Optional)

Please complete the following information concerning your complaint. Our ability to investigate the matter will depend largely upon your giving us a complete and detailed sworn statement. **ATTACH ALL PERTINENT PAPERS AND/OR DOCUMENTS TO COPIES OF THIS FORM.** Keep originals for your file. A copy of this statement may be offered to the party against whom you make this complaint.

Complaint against Charles Randy LAZAR  
Name of firm Hecker Real Estate + Development  
Address 4955 S. Durango, Ste 155 Las Vegas, Nevada, 89113  
Telephone No 702-271-1295 Date of transaction 5/23 - 7/24/17  
Where is the real property located? 1404 KiliMajaro Lane, Unit 202 Las Vegas NV 89128  
Did you seek legal counsel? Yes If "Yes," state name and address Arny Canage 702-386-1775 Village Center Circle, Suite 190, Las Vegas, NV 89134 9529  
Is any legal action pending? Yes

Arny email aganage@ganageflaw.com

CONSIDER THE FOLLOWING CAREFULLY

- ❖ This Division is not empowered to compel anyone to accede to demands of any kind, i.e., we cannot compel cancellation of listing agreements, purchase contracts, etc., or refunds of any kind. In this regard, we suggest that you seek private counsel to protect your interests, as we are not authorized to give legal advice.
- ❖ We will investigate the matter to determine whether the available evidence warrants administrative action against a licensee or subdivider. You will be advised of our conclusions when drawn. If it is determined that administrative action is warranted it may be necessary for you to appear and testify.
- ❖ Do not delay any civil action you might be considering in the matter, as considerable time will be required to complete our investigation and any subsequent action due to workload and time required to develop supporting evidence.
- ❖ If a court judgment has been obtained against a licensee for fraud, misrepresentation or deceit, a Real Estate Education, Research and Recovery Fund is available for petition if the judgment has not been satisfied.

I declare under penalty of perjury under law of the State of Nevada that the foregoing attached statement consisting of 53 pages is true and correct.

Executed on 8/29/17  
(Date)

D. Williams  
(Signature)

August 23, 2017

To: Nevada Real Estate Division

Re: Complaint against Randy Lazer aka Charles Lazer of Hecker Real Estate

Property address 1404 Kilimanjaro Lane, Unit 202 Las Vegas, Nevada 89128

This complaint is being written against Randy Lazer, in regards to his lack of professionalism he demonstrated during this process. In my opinion, he has displayed unethical, unprofessional, racist and sexist behavior during the transaction where he represented Rosane Krupp owner of the property at 1404 Kilimanjaro Lane, Unit 202. Las Vegas, Nevada 89128.

I am the buyer and I didn't have a realtor represent me as the seller and I had a good relationship at the time. I was trying to help her get as much money as possible out of this deal. She was my landlord from Jan. 15, 2017 – July 15, 2017.

When the seller decided to sell the property, she called me to see if I wanted to buy the property. Originally, I said, "no." I called her a few days later and said, "yes." Based on Mr. Lazer's guesstimate of the property value of 85,000.00 I made an original offer of 85,000.00. It was later changed to 86,000.00 as the seller was reluctant to accept the 85K. She wanted 90-94K.

On May 13, 2017 or there about, Mr. Lazer came to the property which I have been renting from the seller since Jan. 15, 2017 to take pictures of the property. During that meeting, he made an unprofessional, racist and sexist comment. He said, "Daphne, I think you are going to be successful. When you become successful and you want to buy a bigger home and if your brother is retired by then, I'd be glad to be your realtor. Since he doesn't know me, I am not sure what all his assumptions were based on.

During that visit, he also shared confidential information with me regarding the seller, which I understand realtors aren't supposed to do. He told me that he and Rosane had met on an online dating site. I was not aware of this information. I thought he was the realtor that originally sold her this property as his name was on the Old Republic home warranty that had been effective since Jan. 2017. He told me that when the seller rented me the place back in Jan, 2017, she contacted him to help her move. He also told me that when the seller broke up with her last boyfriend, she contacted him (Mr. Lazer) to help her move her things back from Tonopah to Las Vegas. He talked about how he had to get up on a ladder to get her storage bins down.

He said, "To help Rosana out because she has been through so much this year, I talked my broker into only charging her 1000.00 in commission to do this deal."

Throughout this entire process, he has been very unprofessional and condescending. Please see the numerous emails from Mr. Lazar to both my lender and me. You will note the unprofessional tone and choice of words he used, such as: "If Daphne doesn't like it...", "That ain't going to happen, let me tell what is going to happen."

pg. 1



Re: Complaint against Randy Lazer aka Charles Lazer of Hecker Real Estate

Property address 1404 Kilimanjaro Lane, Unit 202 Las Vegas, Nevada 89128

I question his ethics as he made several attempts to try to communicate with the appraiser. In fact, he demanded the contact information of the appraiser, even though I was going to give the appraiser access to the property and not him. He stated, that on many occasions he has requested and been given access to appraisers so he could give them information that would help them appraise the property. Mr. Lazer sent an email to the lender on June 9, stating that he had been able to send the appraiser an email with comps and additional information on similar properties. He said, "I don't know if I hadn't sent that information to the appraiser I don't know it may or may not have come in at 86K. He also sent emails on June 6-9 noting his practice of speaking with appraisers and sending them documents/comps in advance of the appraisals being conducted. Per my conversation with the Real Estate Division, this is not supposed to happen.

He has lied on several occasions. He stated that I didn't let the seller's "movers" get into the house to access her property. On three separate occasions, at the seller's request, Catarina, Catarina's husband and Isaac were allowed to come to the property and remove the furniture they were given permission to remove. Additionally, as requested by the buyer, her neighbor Chris was allowed and assisted with removing a chase from the property.

He never gave me a receipt for my earnest money or a signed copy of the contract, yet, he has falsely accused me of being negligent in meeting due diligence timeframes noted in said contract. I did not get copies of the contract or the receipt until days after the close of escrow and that was only after I requested them from Stacey Griffith at Titor Title.

On June 27, 2017 at 3:00 PM, Mr. Lazer had the seller call me to demand an apology for sending him a text that said, "Randy if this racist, sexist, and unprofessional behavior of yours continues and Rosane and I are unable to close this deal, you will leave me with no other 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. I will use the emails and text you have sent to file a truthful complaint."

During that 30-minute conversation with the seller, in addition to asking me to apologize to Mr. Lazer, per his request, she said, "Randy keeps telling me if the property doesn't sell and things don't work out for me in Maryland, I can always come back and live with him until I get on my feet." She then said, "He always like me like that, but I don't like him like that. There is always an ulterior motive. I don't know why he is trying to sabotage this deal." If we don't close, you and Randy will be fine, but I will be the one who will not."

Re: Complaint against Randy Lazer aka Charles Lazer of Hecker Real Estate

Property address 1404 Kilimanjaro Lane, Unit 202 Las Vegas, Nevada 89128

Based on statements Mr. Lazer has made during this transaction, via text, email and in person to me, my lender, and the seller, I am questioning his ethics and professionalism as a realtor. I wonder if his behavior, words and assumptions would have been different if:

1. I had a realtor representing me
2. I was a white male and not a black female
3. My lender was not black
4. He and the seller were not friends – Relationship status is noted in emails dated 5/23/2017 from Mr. Lazer to Jodie Harvey at Ticor Title and email from Mr. Lazer to Rosane on 5/30/2017.
5. He didn't have a desire to have the seller move in with him – Per conversation with seller on 6/27/2017 at 3:00 pm
6. His conversation with the appraiser resulted in the property being appraised for more than \$66,000.00 – see emails to Bryan Jolly dated June 9, June 7, and May 30, 2017

The second part of this complaint pertains to the fact that less than 24-hours after the close of escrow on July 24, 2017, I received a demand letter from Mr. Lazer requesting I pay him money and give him a written apology or else he will file a lawsuit and advise my employer of the situation. After getting that letter, I hired an attorney to address his demands.

As late as today, 30-days post the close, Mr. Lazer continues to make his demands via pages and pages of emails to my attorney; albeit the terms are adjusted with different dates and conditions. His email always includes threats to take me to court and contact my employer to apprise them of the text I sent him advising him of the need to change his behavior.

Attached are some of the emails and text messages written by Mr. Lazer and the seller that substantiates my complaint. Additionally, I have several text messages I received from the seller regarding her furniture and the arrangements she asked me to make on her behalf in regards to removing her property out of the house.

He has mistakenly taken my consistent politeness to mean I didn't and don't have an issue with his conduct. That couldn't be farther from the truth. I attempted to file this complaint on 6/26/2017, but I received an email from Carla Slater letting me know my email did not contain any information.

Re: Complaint against Randy Lazer aka Charles Lazer of Hecker Real Estate

Property address 1404 Kilimanjaro Lane, Unit 202 Las Vegas, Nevada 89128

Additional documentation regarding this transaction is available if needed. On August, 31, 2017, I expect to get a response from Alterra regarding the complaint I filed with CFPB for the delay in closing my loan in a reasonable amount of time vs over 8 weeks.

It is my hope that Mr. Lazer discontinues his threats and is dealt with by the Nevada Real Estate Division in a manner that causes him to treat everyone professionally. If you have any questions, please don't hesitate to give me a call at 909-714-6155.

Sincerely,

  
Daphne Williams

CC: Gamage & Gamage, Esq.

# EXHIBIT 5

# EXHIBIT 5

## Adam Trippiedi

---

**Subject:** FW: The contract with the seller's signature sent to the Defendant on May 18, 2017, with information of the contract, and instructions of where to initial, and an explanation of fees

**Attachments:** Scan.jpeg 10.jpeg; Scan.jpeg 9.jpeg; Scan.jpeg 8.jpeg; Scan.jpeg 7.jpeg; Scan.jpeg 6.jpeg; Scan.jpeg 5.jpeg; Scan.jpeg 4.jpeg; Scan copy 2.jpeg 3.jpeg; Scan copy.jpeg 2.jpeg; Scan.jpeg 1.jpeg

-----Original Message-----

From: ran314 <[ran314@aol.com](mailto:ran314@aol.com)>

To: dlwilliams123 <[dlwilliams123@gmail.com](mailto:dlwilliams123@gmail.com)>

Sent: Thu, May 18, 2017 5:45 pm

Subject: Fwd: Contract for purchase 1404 Kilamanjaro unit 202

Hi Daphne....Rosane this in 10 different scans, 1 per page, so the first step is printing everything out.

The contract is as we discussed. The price is \$86,000, with 20% downpayment, and you are borrowing 80%. The first thing you will notice that wasn't discussed is earnest money, which is given to open escrow. This money is credited towards your downpayment (so you would bring in \$1000 less to close), and refundable if you do not qualify for financing, or provide notice within 25 days of acceptance, or if you do not approve of the association documents within 5 days of receipt, or if you do not approve of the home inspection (typically disapproval has to be of a reasonable basis). So, if the contract is acceptable, you can make a check out to Ticor Title for \$1000, and note the address of the property and that this is earnest money on your check.

Next....on page 2 is the appraisal contingency. If the house appraises at or above the contract price, then everything should be good. If it appraises less, you are under no obligation to proceed. Rosane of course can lower the price to the appraised value, and if you desire, you can proceed.

Rosane will pay for the appraisal which likely will be \$400 or \$450, and per this contract as your lender requires a review, the \$350 would be paid by you, as noted on page 4 of the contract, which I will discuss a couple of paragraphs down.

Also, if you could do me a favor. On page 2, line 47, in the blank, write in refrigerator, washer, dryer, and initial. Obviously all appliances remain with the property.

On page 3, clause 7 provides you with 10 days of a due diligence period for home inspections or any inspections that you would desire. You can bring anybody by to take a look at things. Rosane will extend the home warranty to be for 1 year from the close of escrow, as noted in 8e on page 5, and you will pay for the home inspection. If the seller were to pay, that could be a potential conflict of interest. Mike Zachman at Zachman Quality Home Inspections is whom I have worked with for many, many years, but you can check with your brother or check online, and feel free to use whomever you would desire. Zachman found mold in one house under the kitchen sink that I never would have seen, as he actually pulled up the vinyl that had been placed on top of the wood at the bottom. Recently he found mold coming from an air conditioning unit in a condo, so he has a great recommendation from me. Again, feel free to check things out with other companies, and if you would like, Mike's number is 702-914-5812, and just mention that I referred you, as he tends to have the lowest rates from what I have experienced.

Page 4 has some closing costs broken down. for which escrow fees are split 50-50, Rosane pays the State of Nevada Transfer tax....around \$440, and Rosane pays for the more expensive policy of title insurance, while you pay for the buyer's title insurance. Rosane pays for the appraisal, and you pay for the appraisal review, as previously noted.

Page 5 has Rosane paying to extend the home warranty such that it is in place for 1 year from the close of escrow. I think she already paid \$425, so likely she will pay a bit more than half of that amount so you can have a 1 year warranty. I spoke with her on that yesterday.

Also on page 5, Rosane will pay for the HOA Demand which goes to escrow (that likely is somewhere between \$80 and \$150), and she will also pay for the Buyer's package, which might be around \$200. You will have five days to approve

from the receipt of that package as noted in clause 10. So if anything isn't right, just let me know via text or email prior to five days expiring from the delivery of the buyer's package to you (which typically is by email).

The rest is boiler plate with Nevada and Federal Law, Escrow procedures and definitions. You will note that on page 9, line 28, I gave a disclosure that I only represent Rosane, and that you do not have to pay any fees for broker commission or documentation.

So, if you have any questions, always feel free to call or text. Of course, you can have your brother and whomever else that you would desire to review the contract. If everything is good....then...

**FOR SIGNING AND INITIALING THE CONTRACT:**

For page 1, initial at the bottom by buyer. page 2, initial at bottom by buyer. Page 3...initial on line 57, which is near the bottom, and at bottom by buyer. Pages 4,5, initial at bottom by buyer. Page 6, Initial on line 45 by buyer, and initial at bottom. Pages 7 and 8, initial at the bottom. Page 9 sign on line 42, date and time, and..initial at bottom. page 10, initial at bottom.

Then just scan it and send it back to me. If you can't scan it, my fax is 702-966-3762. If everything is good, when I receive it back from you, I will give you a call and have escrow opened.

Thanks so much.

Randy

-----Original Message-----

From: Rosane Krupp <[rosanekrupp@yahoo.com](mailto:rosanekrupp@yahoo.com)>

To: ran314 <[ran314@aol.com](mailto:ran314@aol.com)>

Sent: Thu, May 18, 2017 6:45 am

Subject: Daphne contract

# EXHIBIT 6

# EXHIBIT 6



## RESIDENTIAL PURCHASE AGREEMENT

(Joint Escrow Instructions)

Date: 5/16/17

Daphne Williams ("Buyer"), hereby offers to purchase  
1404 Kilamary #202 ("Property"), within the  
city or unincorporated area of Las Vegas, County of Clark, State of Nevada,  
Zip 89128, A.P.N. # 138-28-513-274 for the purchase price of \$ 86,000  
(Eighty Six Thousand dollars) ("Purchase Price") on the terms and conditions  
contained herein. BUYER ☐ does -OR- ☐ does not intend to occupy the Property as a residence.

### Buyer's Offer

#### 1. FINANCIAL TERMS & CONDITIONS:

\$ 1,000 A. EARNEST MONEY DEPOSIT ("EMD") is ☒ presented with this offer -OR- ☐ . Upon Acceptance, Earnest Money to be deposited within one (1) business day from acceptance of offer (as defined in Section 23 herein) or business days if wired to: ☐ Escrow Holder, ☐ Buyer's Broker's Trust Account, -OR- ☐ Seller's Broker's Trust Account. (NOTE: It is a felony in the State of Nevada—punishable by up to four years in prison and a \$5,000 fine—to write a check for which there are insufficient funds. NRS 193.130(2)(d).)

\$ \_\_\_\_\_ B. ADDITIONAL DEPOSIT to be placed in escrow on or before (date) \_\_\_\_\_. The additional deposit ☐ will -OR- ☐ will not be considered part of the EMD. (Any conditions on the additional deposit should be set forth in Section 28 herein.)

\$ 69,800 C. THIS AGREEMENT IS CONTINGENT UPON BUYER QUALIFYING FOR A NEW LOAN:

☒ Conventional, ☐ FHA, ☐ VA, ☐ Other (specify) \_\_\_\_\_.

\$ \_\_\_\_\_ D. THIS AGREEMENT IS CONTINGENT UPON BUYER QUALIFYING TO ASSUME THE FOLLOWING EXISTING LOAN(S):

☐ Conventional, ☐ FHA, ☐ VA, ☐ Other (specify) \_\_\_\_\_.  
Interest: ☐ Fixed rate, \_\_\_\_\_ years -OR- ☐ Adjustable Rate, \_\_\_\_\_ years. Seller further agrees to provide the Promissory Note and the most recent monthly statement of all loans to be assumed by Buyer within FIVE (5) calendar days of acceptance of offer.

\$ \_\_\_\_\_ E. BUYER TO EXECUTE A PROMISSORY NOTE SECURED BY DEED OF TRUST PER TERMS IN "FINANCING ADDENDUM" which is attached hereto.

\$ 16,200 F. BALANCE OF PURCHASE PRICE (Balance of Down Payment) in Good Funds to be paid prior to Close of Escrow ("COE").

\$ 86,000 G. TOTAL PURCHASE PRICE. (This price DOES NOT include closing costs, prorations, or other fees and costs associated with the purchase of the Property as defined herein.)

#### 2. ADDITIONAL FINANCIAL TERMS & CONTINGENCIES:

A. NEW LOAN APPLICATION: Within Done business days of Acceptance, Buyer agrees to (1) submit a completed loan application to a lender of Buyer's choice and (2) furnish a preapproval letter to Seller based upon a standard factual credit report and review of debt to income ratios. If Buyer fails to complete any of these conditions within the

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 Kilamary #202 Las Vegas

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X BUYER(S) INITIALS: \_\_\_\_\_

X SELLER(S) INITIALS: PK

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applicable time frame, Seller reserves the right to terminate this Agreement. In such event, both parties agree to cancel the escrow and return EMD to Buyer. Buyer shall use Buyer's best efforts to obtain financing under the terms and conditions outlined in this Agreement.

**B. APPRAISAL CONTINGENCY:** Buyer's obligation to purchase the property is contingent upon the property appraising for not less than the Purchase Price. If after the completion of an appraisal by a licensed appraiser, Buyer receives written notice from the lender or the appraiser that the Property has appraised for less than the purchase price (a "Notice of Appraised Value") Buyer may attempt to renegotiate or cancel the RPA by providing written notice to the Seller (with a copy of the Appraisal) no later than 25 calendar days after Acceptance of the RPA; whereupon the EMD shall be released to the Buyer without the requirement of written authorization from Seller. **IF this Residential Purchase Agreement is not cancelled, in writing on or before the Appraisal Deadline, Buyer shall be deemed to have waived the appraisal contingency.**

**C. LOAN CONTINGENCY:** Buyer's obligation to purchase the property is contingent upon Buyer obtaining the loan referenced in Section 1(C) or 1(D) of the RPA unless otherwise agreed in writing. Buyer shall remove the loan contingency in writing, attempt to renegotiate, or cancel the RPA by providing written notice to the Seller no later than 30 calendar days after Acceptance of the RPA; whereupon the EMD shall be released to the Buyer without the requirement of written authorization from Seller. **IF this Residential Purchase Agreement is not cancelled, in writing on or before the Loan Contingency Deadline, Buyer shall be deemed to have waived the loan contingency.**

**D. CASH PURCHASE:** Within \_\_\_\_\_ business days of Acceptance, Buyer agrees to provide written evidence from a bona fide financial institution of sufficient cash available to complete this purchase. If Buyer does not submit the written evidence within the above period, Seller reserves the right to terminate this Agreement.

**3. SALE OF OTHER PROPERTY:** This Agreement ☒ is not -OR- ☐ is contingent upon the sale (and closing) of another property which address is \_\_\_\_\_.

Said Property ☐ is ☐ is not currently listed -OR- ☐ is presently in escrow with \_\_\_\_\_.  
Escrow Number: \_\_\_\_\_ Proposed Closing Date: \_\_\_\_\_.

When Buyer has accepted an offer on the sale of this other property, Buyer will promptly deliver a written notice of the sale to Seller. If Buyer's escrow on this other property is terminated, abandoned, or does not close on time, this Agreement will terminate without further notice unless the parties agree otherwise in writing. If Seller accepts a bona fide written offer from a third party prior to Buyer's delivery of notice of acceptance of an offer on the sale of Buyer's property, Seller shall give Buyer written notice of that fact. Within three (3) calendar days of receipt of the notice, Buyer will waive the contingency of the sale and closing of Buyer's other property, or this Agreement will terminate without further notice. In order to be effective, the waiver of contingency must be accompanied by reasonable evidence that funds needed to close escrow will be available and Buyer's ability to obtain financing is not contingent upon the sale and/or close of any other property.

**4. FIXTURES AND PERSONAL PROPERTY:** The following items will be transferred, free of liens, with the sale of the Property with no real value unless stated otherwise herein. Unless an item is covered under Section 7(F) of this Agreement, all items are transferred in an "AS IS" condition. All EXISTING fixtures and fittings including, but not limited to: electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fan(s), fireplace insert(s), gas logs and grates, solar power system(s), built-in appliance(s) including ranges/ovens, window and door screens, awnings, shutters, window coverings, attached floor covering(s), television antenna(s), satellite dish(es), private integrated telephone systems, air coolers/conditioner(s), pool/spa equipment, garage door opener(s)/remote control(s), mailbox, in-ground landscaping, trees/shrub(s), water softener(s), water purifiers, security systems/alarm(s);

The following additional items of personal property: \_\_\_\_\_

## 5. ESCROW:

**A. OPENING OF ESCROW:** The purchase of the Property shall be consummated through Escrow ("Escrow"). Opening of Escrow shall take place by the end of one (1) business day after Acceptance of this Agreement ("Opening of Escrow"), at Tilco or other title or escrow company ("Escrow Company" or "ESCROW HOLDER") with Jodie Harvey or other ("Escrow Officer") (or such other escrow officer as Escrow Company may assign). Opening of Escrow shall occur upon Escrow Company's receipt of this fully accepted Agreement. ESCROW HOLDER is instructed to notify the Parties (through their respective Agents) of the opening date and

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 Kalamazoo #202 LV, NV

BUYER(S) INITIALS: PK

SELLER(S) INITIALS: PK

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the Escrow Number.

**B. EARNEST MONEY:** Upon Acceptance, Buyer's EMD as shown in Section 1(A), and 1(B) if applicable, of this Agreement, shall be deposited pursuant to the language in Section 1(A) and 1(B) if applicable.

**C. CLOSE OF ESCROW:** Close of Escrow ("COE") shall be on or before: 6/30/17 (date). If the designated date falls on a weekend or holiday, COE shall be the next business day.

**D. IRS DISCLOSURE:** Seller is hereby made aware that there is a regulation that requires all ESCROW HOLDERS to complete a modified 1099 form, based upon specific information known only between parties in this transaction and the ESCROW HOLDER. Seller is also made aware that ESCROW HOLDER is required by federal law to provide this information to the Internal Revenue Service after COE in the manner prescribed by federal law.

**6. TITLE INSURANCE:** This Purchase Agreement is contingent upon the Seller's ability to deliver, good and marketable title as evidenced by a policy of title insurance, naming Buyer as the insured in an amount equal to the purchase price, furnished by the title company identified in Section 5(A). Said policy shall be in the form necessary to effectuate marketable title or its equivalent and shall be paid for as set forth in Section 8(A).

**7. BUYER'S DUE DILIGENCE:** Buyer's obligation is X is not     conditioned on the Buyer's Due Diligence as defined in this section 7(A) below. This condition is referred to as the "Due Diligence Condition" if checked in the affirmative, Sections 7 (A) through (C) shall apply; otherwise they do not. Buyer shall have 10 calendar days from Acceptance (as defined in Section 23 herein) to complete Buyer's Due Diligence. Seller agrees to cooperate with Buyer's Due Diligence. Seller shall ensure that all necessary utilities (gas, power and water) and all operable pilot lights are on for Buyer's investigations and through the close of escrow.

**A. PROPERTY INSPECTION/CONDITION:** During the Due Diligence Period, Buyer shall take such action as Buyer deems necessary to determine whether the Property is satisfactory to Buyer including, but not limited to, whether the Property is insurable to Buyer's satisfaction, whether there are unsatisfactory conditions surrounding or otherwise affecting the Property (such as location of flood zones, airport noise, noxious fumes or odors, environmental substances or hazards, whether the Property is properly zoned, locality to freeways, railroads, places of worship, schools, etc.) or any other concerns Buyer may have related to the Property. During such Period, Buyer shall have the right to conduct, non-invasive/non-destructive inspections of all structural, roofing, mechanical, electrical, plumbing, heating/air conditioning, water/well/septic, pool/spa, survey, square footage, and any other property or systems, through licensed and bonded contractors or other qualified professionals. Seller agrees to provide reasonable access to the Property to Buyer and Buyer's inspectors. Buyer agrees to indemnify and hold Seller harmless with respect to any injuries suffered by Buyer or third parties present at Buyer's request while on Seller's Property conducting such inspections, tests or walk-throughs. Buyer's indemnity shall not apply to any injuries suffered by Buyer or third parties present at Buyer's request that are the result of an intentional tort, gross negligence or any misconduct or omission by Seller, Seller's Agent or other third parties on the Property. Buyer is advised to consult with appropriate professionals regarding neighborhood or Property conditions, including but not limited to: schools; proximity and adequacy of law enforcement; proximity to commercial, industrial, or agricultural activities; crime statistics; fire protection; other governmental services; existing and proposed transportation; construction and development; noise or odor from any source; and other nuisances, hazards or circumstances. If Buyer cancels this Agreement due to a specific inspection report, Buyer shall provide Seller at the time of cancellation with a copy of the report containing the name, address, and telephone number of the inspector.

**B. BUYER'S RIGHT TO CANCEL OR RESOLVE OBJECTIONS:** If Buyer determines, in Buyer's sole discretion, that the results of the Due Diligence are unacceptable, Buyer may either: (i) no later than the Due Diligence Deadline referenced in Section 7, cancel the Residential Purchase Agreement by providing written notice to the Seller, whereupon the Earnest Money Deposit referenced in Section 1(A) shall be released to the Buyer without the requirement of further written authorization from Seller; or (ii) no later than the Due Diligence Deadline referenced in Section 7, resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence.

**C. FAILURE TO CANCEL OR RESOLVE OBJECTIONS:** If Buyer fails to cancel the Residential Purchase Agreement or fails to resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence, as provided in Section 7, Buyer shall be deemed to have waived the Due Diligence Condition.

X Buyer's Initials                      Buyer's Initials

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 Kilamajaro

X BUYER(S) INITIALS:                     

X SELLER(S) INITIALS: PK

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**D. INSPECTIONS:** Acceptance of this offer is subject to the following reserved right. Buyer may have the Property inspected and select the licensed contractors, certified building inspectors and/or other qualified professionals who will inspect the Property. Seller will ensure that necessary utilities (gas, power and water and all operable pilot lights) are turned on and supplied to the Property within two (2) business days after Acceptance of this Agreement, to remain on until COE. *It is strongly recommended that Buyer retain licensed Nevada professionals to conduct inspections.* If any inspection is not completed and requested repairs are not delivered to Seller within the Due Diligence Period, Buyer is deemed to have waived the right to that inspection and Seller's liability for the cost of all repairs that inspection would have reasonably identified had it been conducted, except as otherwise provided by law. The foregoing expenses for inspections will be paid outside of Escrow unless the Parties present instructions to the contrary prior to COE, along with the applicable invoice.

(Identify which party shall pay for the inspection noted below either: SELLER, BUYER, 50/50, WAIVED or N/A.)

Type	Paid By	Type	Paid By	Type	Paid By
Energy Audit		Fungal Contaminant Inspection		Well Inspection (Quantity)	
Home Inspection	Buyer	Mechanical Inspection		Well Inspection (Quality)	
Termite/Pest Inspection		Pool/Spa Inspection		Wood-Burning Device/Chimney Inspection	
Roof Inspection		Soils Inspection		Septic Inspection	
Septic Lid Removal		Septic Pumping		Structural Inspection	
Survey (type):		Other:		Other:	

**E. CERTIFICATIONS:** In the event an inspection reveals areas of concern with the roof, septic system, well, wood burning device/chimney or the possible presence of a fungal contaminant, Buyer reserves the right to require a certification. The expenses for certifications will be paid outside of Escrow unless the Parties present instructions to the contrary prior to COE (along with the applicable invoice). A certification is not a warranty.

**F. BUYER'S REQUEST FOR REPAIRS:** It is Buyer's responsibility to inspect the Property sufficiently as to satisfy Buyer's use. Buyer reserves the right to request repairs, based upon the Seller's Real Property Disclosure or items which materially affect value or use of the Property revealed by an inspection, certification or appraisal. Items of a general maintenance or cosmetic nature which do not materially affect value or use of the Property, which existed at the time of Acceptance and which are not expressly addressed in this Agreement are deemed accepted by the Buyer, except as otherwise provided in this Agreement. The Brokers herein have no responsibility to assist in the payment of any repair, correction or deferred maintenance on the Property which may have been revealed by the above inspections, agreed upon by the Buyer and Seller or requested by one party.

**8. FEES, AND PRORATIONS** (Identify which party shall pay the costs noted below either: SELLER, BUYER, 50/50, WAIVED or N/A.)

**A. TITLE, ESCROW & APPRAISAL FEES:**

Type	Paid By	Type	Paid By	Type	Paid By
Escrow Fees	50/50	Lender's Title Policy	Buyer	Owner's Title Policy	Seller
Real Property Transfer Tax	Seller	Appraisal	Buyer pays for appraisal	Other:	

*Seller Pays for Appraisal*

**B. PRORATIONS:** Any and all rents, taxes, interest, homeowner association fees, trash service fees, payments on bonds, SIDs, LIDs, and assessments assumed by the Buyer, and other expenses of the property shall be prorated as of the date of the recordation of the deed. Security deposits, advance rentals or considerations involving future lease credits shall be credited to the Buyer. All prorations will be based on a 30-day month and will be calculated as of COE. Prorations will be based upon figures available at closing. Any supplementals or adjustments that occur after COB will be handled by the parties outside of Escrow.

**C. PRELIMINARY TITLE REPORT:** Within ten (10) business days of Opening of Escrow, Title Company shall provide Buyer with a Preliminary Title Report ("PTR") to review, which must be approved or rejected within five (5) business days of receipt thereof. If Buyer does not object to the PTR within the period specified above, the PTR shall be deemed accepted. If Buyer makes an objection to any item(s) contained within the PTR, Seller shall have five (5) business days after receipt of objections to correct or address the objections. If, within the time specified, Seller fails to have each such

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 Kilanany Dr #202 W, NE

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X BUYER(S) INITIALS: RK  
X SELLER(S) INITIALS: RK

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exception removed or to correct each such objection, Buyer shall have the option to: (a) terminate this Agreement by providing notice to Seller and Escrow Officer, entitling Buyer to a refund of the EMD or (b) elect to accept title to the Property as is. All title exceptions approved or deemed accepted are hereafter collectively referred to as the "Permitted Exceptions."

**D. LENDER AND CLOSING FEES:** In addition to Seller's expenses identified herein, Seller will contribute \$ 0 to Buyer's Lender's Fees and/or Buyer's Title and Escrow Fees ☐ including -OR- ☐ excluding costs which Seller must pay pursuant to loan program requirements. Different loan types (e.g., FHA, VA, conventional) have different appraisal and financing requirements, which will affect the parties' rights and costs under this Agreement.

**E. HOME PROTECTION PLAN:** Buyer and Seller acknowledge that they have been made aware of Home Protection Plans that provide coverage to Buyer after COE. Buyer ☐ waives -OR- ☒ requires a Home Protection Plan with ad Repable or over. ☐ Seller -OR- ☐ Buyer will pay for the Home Protection Plan at a price not to exceed \$ 350. Buyer will order the Home Protection Plan. Neither Seller nor Brokers make any representation as to the extent of coverage or deductibles of such plans. Buyer must Home Protection Plan to be extended to 1 year from the close of escrow.

**9. TRANSFER OF TITLE:** Upon COE, Buyer shall tender to Seller the agreed upon Purchase Price, and Seller shall tender to Buyer marketable title to the Property free of all encumbrances other than (1) current real property taxes, (2) covenants, conditions and restrictions (CC&R's) and related restrictions, (3) zoning or master plan restrictions and public utility easements; and (4) obligations assumed and encumbrances accepted by Buyer prior to COE. Buyer is advised the Property may be reassessed after COE which may result in a real property tax increase or decrease.

**10. COMMON-INTEREST COMMUNITIES:** If the Property is subject to a Common Interest Community ("CIC"), Seller shall provide AT SELLER'S EXPENSE the CIC documents as required by NRS 116.4109 (collectively, the "resale package"). Seller shall request the resale package within two (2) business days of Acceptance and provide the same to Buyer within one (1) business day of Seller's receipt thereof.

- Pursuant to NRS 116.4109, Buyer may cancel this Agreement without penalty until midnight of the fifth (5th) calendar day following the date of receipt of the resale package. If Buyer elects to cancel this Agreement pursuant to this statute, he/she must deliver, via hand delivery or prepaid U.S. mail, a written notice of cancellation to Seller or his authorized agent.
- If Buyer does not receive the resale package within fifteen (15) calendar days of Acceptance, this Agreement may be cancelled in full by Buyer without penalty. Notice of cancellation shall be delivered pursuant to Section 24 of the RPA.
- Upon such written cancellation, Buyer shall promptly receive a refund of the EMD. The parties agree to execute any documents requested by ESCROW HOLDER to facilitate the refund. If written cancellation is not received within the specified time period, the resale package will be deemed approved. Seller shall pay all outstanding CIC fines or penalties at COE.

**A. CIC RELATED EXPENSES:** (Identify which party shall pay the costs noted below either: SELLER, BUYER, 50/50, WAIVED or N/A.)

Type	Paid By	Type	Paid By	Type	Paid By
CIC Demand	Seller	CIC Capital Contribution	Buyer	CIC Transfer Fees	Buyer
Other:					

**11. DISCLOSURES:** Within five (5) calendar days of Acceptance of this Agreement, Seller will provide the following Disclosures and/or documents. Check applicable boxes.

- ☒ Seller Real Property Disclosure Form: (NRS 113.130) ☐ Open Range Disclosure: (NRS 113.065)
- ☐ Construction Defect Claims Disclosure: If Seller has marked "Yes" to Paragraph 1(d) of the Sellers Real Property Disclosure Form (NRS 40.688)
- ☐ Lead-Based Paint Disclosure and Acknowledgment: required if constructed before 1978 (24 CFR 745.113)
- ☐ Other: (list) \_\_\_\_\_

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 Kilmanjaro #202 LV, NV

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X SELLER(S) INITIALS: RL

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12. **FEDERAL FAIR HOUSING COMPLIANCE AND DISCLOSURES:** All properties are offered without regard to race, color, religion, sex, national origin, age, gender identity or expression, familial status, sexual orientation, ancestry, or handicap and any other current requirements of federal or state fair housing laws.

13. **WALK-THROUGH INSPECTION OF PROPERTY:** Buyer is entitled under this Agreement to a walk-through of the Property within 5 calendar days prior to COE to ensure the Property and all major systems, appliances, heating/cooling, plumbing and electrical systems and mechanical fixtures are as stated in Seller's Real Property Disclosure Statement, and that the Property and improvements are in the same general condition as when this Agreement was Accepted by Seller and Buyer. To facilitate Buyer's walk-through, Seller is responsible for keeping all necessary utilities on, including all operable pilot lights. If any systems cannot be checked by Buyer on walk-through due to non-access or no power/gas/water, then Buyer reserves the right to hold Seller responsible for defects which could not be detected on walk-through because of lack of such access or power/gas/water. The purpose of the walk-through is to confirm (a) the Property is being maintained (b) repairs, if any, have been completed as agreed, and (c) Seller has complied with Seller's other obligations. If Buyer elects not to conduct a walk-through inspection prior to COE, then all systems, items and aspects of the Property are deemed satisfactory, and Buyer releases Seller's liability for costs of any repair that would have reasonably been identified by a walk-through inspection, except as otherwise provided by law.

14. **DELIVERY OF POSSESSION:** Seller shall deliver the Property along with any keys, alarm codes, garage door opener/controls and, if freely transferable, parking permits and gate transponders outside of Escrow, upon COE. Seller agrees to vacate the Property and leave the Property in a neat and orderly, broom-clean condition and tender possession no later than COE - OR - 2 weeks before. In the event Seller does not vacate the Property by this time, Seller shall be considered a trespasser in addition to Buyer's other legal and equitable remedies. Any personal property left on the Property after the date indicated in this section shall be considered abandoned by Seller. *Buyer currently occupies the property as a tenant*

15. **RISK OF LOSS:** Risk of loss shall be governed by NRS 113.040. This law provides generally that if all or any material part of the Property is destroyed before transfer of legal title or possession, Seller cannot enforce the Agreement and Buyer is entitled to recover any portion of the sale price paid. If legal title or possession has transferred, risk of loss shall shift to Buyer.

16. **ASSIGNMENT OF THIS AGREEMENT:** Unless otherwise stated herein, this Agreement is non-assignable unless agreed upon in writing by all parties.

17. **CANCELLATION OF AGREEMENT:** In the event this Agreement is properly cancelled in accordance with the terms contained herein, then Buyer will be entitled to a refund of the EMD. Neither Buyer nor Seller will be reimbursed for any expenses incurred in conjunction with due diligence, inspections, appraisals or any other matters pertaining to this transaction (unless otherwise provided herein or except as otherwise provided by law).

18. **DEFAULT:**

A. **MEDIATION:** Before any legal action is taken to enforce any term or condition under this Agreement, the parties agree to engage in mediation, a dispute resolution process, through GLVAR. Notwithstanding the foregoing, in the event the Buyer finds it necessary to file a claim for specific performance, this section shall not apply. Each party is encouraged to have an independent lawyer of their choice review this mediation provision before agreeing thereto. By initialing below, the parties confirm that they have read and understand this section and voluntarily agree to the provisions thereof.

X BUYER(S) INITIALS:                      X SELLER(S) INITIALS: RW

B. **IF SELLER DEFAULTS:** If Seller defaults in performance under this Agreement, Buyer reserves all legal and/or equitable rights (such as specific performance) against Seller, and Buyer may seek to recover Buyer's actual damages incurred by Buyer due to Seller's default.

C. **IF BUYER DEFAULTS:** If Buyer defaults in performance under this Agreement, as Seller's sole legal recourse, Seller may retain, as liquidated damages, the EMD. In this respect, the Parties agree that Seller's actual damages would be difficult to measure and that the EMD is in fact a reasonable estimate of the damages that Seller would suffer as a result of Buyer's default. Seller understands that any additional deposit not considered part of the EMD in Section 1(B) herein will be immediately released by ESCROW HOLDER to Buyer.

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1704 Kilamajano #202, W. NV

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## Instructions to Escrow

19. **ESCROW:** If this Agreement or any matter relating hereto shall become the subject of any litigation or controversy, Buyer and Seller agree, jointly and severally, to hold ESCROW HOLDER free and harmless from any loss or expense, except losses or expenses as may arise from ESCROW HOLDER'S negligence or willful misconduct. If conflicting demands are made or notices served upon ESCROW HOLDER with respect to this Agreement, the parties expressly agree that Escrow is entitled to file a suit in interpleader and obtain an order from the Court authorizing ESCROW HOLDER to deposit all such documents and monies with the Court, and obtain an order from the Court requiring the parties to interplead and litigate their several claims and rights among themselves. Upon the entry of an order authorizing such Interpleader, ESCROW HOLDER shall not be fully released and discharged from any obligations imposed upon it by this Agreement; and ESCROW HOLDER shall not be liable for the sufficiency or correctness as to form, manner, execution or validity of any instrument deposited with it, nor as to the identity, authority or rights of any person executing such instrument, nor for failure of Buyer or Seller to comply with any of the provisions of any agreement, contract or other instrument filed with ESCROW HOLDER or referred to herein. ESCROW HOLDER'S duties hereunder shall be limited to the safekeeping of all monies, instruments or other documents received by it as ESCROW HOLDER, and for their disposition in accordance with the terms of this Agreement. In the event an action is instituted in connection with this escrow, in which ESCROW HOLDER is named as a party or is otherwise compelled to make an appearance, all costs, expenses, attorney fees, and judgments ESCROW HOLDER may expend or incur in said action, shall be the responsibility of the parties hereto.

20. **UNCLAIMED FUNDS:** In the event that funds from this transaction remain in an account, held by ESCROW HOLDER, for such a period of time that they are deemed "abandoned" under the provisions of Chapter 120A of the Nevada Revised Statutes, ESCROW HOLDER is hereby authorized to impose a charge upon the dormant escrow account. Said charge shall be no less than \$5.00 per month and may not exceed the highest rate of charge permitted by statute or regulation. ESCROW HOLDER is further authorized and directed to deduct the charge from the dormant escrow account for as long as the funds are held by ESCROW HOLDER.

## Brokers

21. **BROKER'S COMPENSATION/FEES:** Buyer herein requires, and Seller agrees, as a condition of this Agreement, that Seller will pay Listing Broker and Buyer's Broker, who becomes by this clause a third party beneficiary to this Agreement, that certain sum and/or percentage of the Purchase Price (commission), that Seller, or Seller's Broker, offered for the procurement of ready, willing and able Buyer via the Multiple Listing Service, any other advertisement or written offer. Seller understands and agrees that if Seller defaults hereunder, Buyer's Broker, as a third-party beneficiary of this Agreement, has the right to pursue all legal recourse against Seller for any commission due. In addition to any amount due to Buyer's Broker from Seller or Seller's Broker, Buyer ☐ will ~~OR~~ ☐ will not pay Buyer's Broker additional compensation in an amount determined between the Buyer and Buyer's Broker.

22. **WAIVER OF CLAIMS:** Buyer and Seller agree that they are not relying upon any representations made by Brokers or Broker's agent. Buyer acknowledges that at COE, the Property will be sold AS-IS, WHERE-IS without any representations or warranties, unless expressly stated herein. Buyer agrees to satisfy himself/herself, as to the condition of the Property, prior to COE. Buyer acknowledges that any statements of acreage or square footage by Brokers are simply estimates, and Buyer agrees to make such measurements, as Buyer deems necessary, to ascertain actual acreage or square footage. Buyer waives all claims against Brokers or their agents for (a) defects in the Property; (b) inaccurate estimates of acreage or square footage; (c) environmental waste or hazards on the Property; (d) the fact that the Property may be in a flood zone; (e) the Property's proximity to freeways, airports or other nuisances; (f) the zoning of the Property; (g) tax consequences; or (h) factors related to Buyer's failure to conduct walk-throughs or inspections. Buyer assumes full responsibility for the foregoing and agrees to conduct such tests, walk-throughs, inspections and research, as Buyer deems necessary. In any event, Broker's liability is limited, under any and all circumstances, to the amount of that Broker's commission/fee received in this transaction.

## Other Matters

23. **DEFINITIONS:** "Acceptance" means the date that both parties have consented to a final, binding contract by affixing their signatures to this Agreement and all counteroffers and said Agreement and all counteroffers have been delivered to both parties pursuant to Section 24 herein. "Agent" means a licensee working under a Broker or licensees working under a

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 Balabanja St #202 NW

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X BUYER(S) INITIALS:  
SELLER(S) INITIALS: PK

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1 developer. "Agreement" includes this document as well as all accepted counteroffers and addenda. "Appraisal" means a  
2 written appraisal or Notice of Value as required by any lending institution prepared by a licensed or certified professional.  
3 "Bona Fide" means genuine. "Buyer" means one or more individuals or the entity that intends to purchase the Property.  
4 "Broker" means the Nevada licensed real estate broker listed herein representing Seller and/or Buyer (and all real estate agents  
5 associated therewith). "Business Day" excludes Saturdays, Sundays, and legal holidays. "Calendar Day" means a calendar  
6 day from/to midnight unless otherwise specified. "CFR" means the Code of Federal Regulations. "CIC" means Common  
7 Interest Community (formerly known as "HOA" or homeowners associations). "CIC Capital Contribution" means a one-  
8 time non-administrative fee, cost or assessment charged by the CIC upon change of ownership. "CIC Transfer Fees" means  
9 the administrative service fee charged by a CIC to transfer ownership records. "Close of Escrow (COE)" means the time of  
10 recordation of the deed in Buyer's name. "Default" means the failure of a Party to observe or perform any of its material  
11 obligations under this Agreement. "Delivered" means personally delivered to Parties or respective Agents, transmitted by  
12 facsimile machine, electronic means, overnight delivery, or mailed by regular mail. "Down Payment" is the Purchase Price  
13 less loan amount(s). "EMD" means Buyer's earnest money deposit. "Escrow Holder" means the neutral party that will  
14 handle the closing. "FHA" is the U.S. Federal Housing Administration. "GLVAR" means the Greater Las Vegas Association  
15 of REALTORS®. "Good Funds" means an acceptable form of payment determined by ESCROW HOLDER in accordance  
16 with NRS 645A.171. "IRC" means the Internal Revenue Code (tax code). "LID" means Limited Improvement District.  
17 "N/A" means not applicable. "NAC" means Nevada Administrative Code. "NRS" means Nevada Revised Statutes as  
18 Amended. "Party" or "Parties" means Buyer and Seller. "PITI" means principal, interest, taxes, and hazard insurance.  
19 "PMI" means private mortgage insurance. "PST" means Pacific Standard Time, and includes daylight savings time if in  
20 effect on the date specified. "PTR" means Preliminary Title Report. "Property" means the real property and any personal  
21 property included in the sale as provided herein. "Receipt" means delivery to the party or the party's agent. "RPA" means  
22 Residential Purchase Agreement. "Seller" means one or more individuals or the entity that is the owner of the Property.  
23 "SID" means Special Improvement District. "Title Company" means the company that will provide title insurance. "USC" is  
24 the United States Code. "VA" is the Veterans Administration.

25  
26 **24. SIGNATURES, DELIVERY, AND NOTICES:**

27  
28 **A.** This Agreement may be signed by the parties on more than one copy, which, when taken together, each  
29 signed copy shall be read as one complete form. This Agreement (and documents related to any resulting transaction) may be  
30 signed by the parties manually or digitally. Facsimile signatures may be accepted as original.

31  
32 **B.** Except as otherwise provided in Section 10, when a Party wishes to provide notice as required in this  
33 Agreement, such notice shall be sent regular mail, personal delivery, by facsimile, overnight delivery and/or by email to the  
34 Agent for that Party. The notification shall be effective when postmarked, received, faxed, delivery confirmed, and/or read  
35 receipt confirmed in the case of email. Delivery of all instruments or documents associated with this Agreement shall be  
36 delivered to the Agent for Seller or Buyer if represented. Any cancellation notice shall be contemporaneously delivered to  
37 Escrow in the same manner.

38  
39 **25. IRC 1031 EXCHANGE:** Seller and/or Buyer may make this transaction part of an IRC 1031 exchange. The party  
40 electing to make this transaction part of an IRC 1031 exchange will pay all additional expenses associated therewith, at no cost  
41 to the other party. The other party agrees to execute any and all documents necessary to effectuate such an exchange.

42  
43 **26. OTHER ESSENTIAL TERMS:** Time is of the essence. No change, modification or amendment of this Agreement  
44 shall be valid or binding unless such change, modification or amendment shall be in writing and signed by each party. This  
45 Agreement will be binding upon the heirs, beneficiaries and devisees of the parties hereto. This Agreement is executed and  
46 intended to be performed in the State of Nevada, and the laws of that state shall govern its interpretation and effect. The parties  
47 agree that the county and state in which the Property is located is the appropriate forum for any action relating to this  
48 Agreement. Should any party hereto retain counsel for the purpose of initiating litigation to enforce or prevent the breach of  
49 any provision hereof, or for any other judicial remedy, then the prevailing party shall be entitled to be reimbursed by the losing  
50 party for all costs and expenses incurred thereby, including, but not limited to, reasonable attorney's fees and costs incurred by  
51 such prevailing party.

52  
53  
54 **THIS IS A LEGALLY BINDING CONTRACT.** All parties are advised to seek independent legal and tax advice to review  
55 the terms of this Agreement.

56  
57 Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is  
otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams

Property Address: 1404 Kilanay #206, NV

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X SELLER(S) INITIALS:                     

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27. ADDENDUM(S) ATTACHED: \_\_\_\_\_

28. ADDITIONAL TERMS: Randy Luzzar and Hecker Real Estate and Development only represent the seller. The buyer has indicated no formal real estate representation, and is not charged with any brokerage fees. The buyer is advised to seek legal counsel to review the contract or for any concerns. The buyer is a tenant entitled to the refund of \$250 Security Deposit and a refund for any prorated rent.

### Buyer's Acknowledgement of Offer

Confirmation of Representation: The Buyer is represented in this transaction by:

Buyer's Broker: <u>None</u>	Agent's Name: _____
Company Name: _____	Agent's License Number: _____
Broker's License Number: _____	Office Address: _____
Phone: _____	City, State, Zip: _____
Fax: _____	Email: _____

**BUYER LICENSEE DISCLOSURE OF INTEREST:** Pursuant to NRS 645.252(1)(c), a real estate licensee must disclose if he/she is a principal in a transaction or has an interest in a principal to the transaction. Licensee declares that he/she:

☒ DOES NOT have an interest in a principal to the transaction. -OR-

☐ DOES have the following interest, direct or indirect, in this transaction: ☐ Principal (Buyer) -OR- ☐ family or firm relationship with Buyer or ownership interest in Buyer (if Buyer is an entity): (specify relationship) \_\_\_\_\_

Buyer must respond by: 6:00 ☐ AM ☒ PM on (month) May, (day) 19 (year) 2017. Unless this Agreement is accepted, rejected or countered below and delivered to the Buyer's Broker before the above date and time, this offer shall lapse and be of no further force and effect. Upon Acceptance, Buyer agrees to be bound by each provision of this Agreement, and all signed addenda, disclosures, and attachments.

X Buyer's Signature Daphne Williams Buyer's Printed Name \_\_\_\_\_ Date \_\_\_\_\_ Time ☐ AM ☒ PM

\_\_\_\_\_  
Buyer's Signature \_\_\_\_\_ Buyer's Printed Name \_\_\_\_\_ Date \_\_\_\_\_ Time ☐ AM ☐ PM

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name: Daphne Williams  
Property Address: 1404 Kalamangaro

X BUYER(S) INITIALS: \_\_\_\_\_  
X SELLER(S) INITIALS: PK

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**Seller's Response**

**Confirmation of Representation:** The Seller is represented in this transaction by:

Seller's Broker: Victor Hecker Agent's Name: Randy Lazer  
Company Name: Hecker Real Estate & Development Agent's License Number: 27722  
Broker's License Number: \_\_\_\_\_ Office Address: 4555 S. Durango #155  
Phone: 702-271-1255 City, State, Zip: Las Vegas, NV 89113  
Fax: 702-966-3762 Email: ran314@aol.com

**SELLER LICENSEE DISCLOSURE OF INTEREST:** Pursuant to NRS 645.252(1)(c), a real estate licensee must disclose if he/she is a principal in a transaction or has an interest in a principal to the transaction. Licensee declares that he/she:

☒ **DOES NOT** have an interest in a principal to the transaction. -OR-

☐ **DOES** have the following interest, direct or indirect, in this transaction: ☐ Principal (Seller) -OR- ☐ family or firm relationship with Seller or ownership interest in Seller (if Seller is an entity): (specify relationship) \_\_\_\_\_

**FIRPTA:** If applicable (as designated in the Seller's Response herein), Seller agrees to complete, sign, and deliver to Buyer's FIRPTA Designee a certificate indicating whether Seller is a foreign person or a nonresident alien pursuant to the Foreign Investment in Real Property Tax Act (FIRPTA). A foreign person is a nonresident alien individual; a foreign corporation not treated as a domestic corporation; or a foreign partnership, trust or estate. A resident alien is not considered a foreign person under FIRPTA. Additional information for determining status may be found at www.irs.gov. Buyer and Seller understand that if Seller is a foreign person then the Buyer must withhold a tax in an amount to be determined by Buyer's FIRPTA Designee in accordance with FIRPTA, unless an exemption applies. Seller agrees to sign and deliver to the Buyer's FIRPTA Designee the necessary documents, to be provided by the Buyer's FIRPTA Designee, to determine if withholding is required. (See 26 USC Section 1445).

☒ **SELLER DECLARES** that he/she ☒ is not -OR- ☐ is a foreign person therefore subjecting this transaction to FIRPTA withholding. **SELLER(S) INITIALS:** \_\_\_\_\_

☒ **ACCEPTANCE:** Seller(s) acknowledges that he/she accepts and agrees to be bound by each provision of this Agreement, and all signed addenda, disclosures, and attachments.

☐ **COUNTER OFFER:** Seller accepts the terms of this Agreement subject to the attached Counter Offer #1.

☐ **REJECTION:** In accordance with NAC 645.632, Seller hereby informs Buyer the offer presented herein is not accepted.

Seller's Signature

Seller's Printed Name

Date

Time

☒ AM ☐ PM

Seller's Signature

Seller's Printed Name

Date

Time

☐ AM ☐ PM

Each party acknowledges that he/she has read, understood, and agrees to each and every provision of this page unless a particular paragraph is otherwise modified by addendum or counteroffer.

Buyer's Name:

Property Address:

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BUYER(S) INITIALS:

SELLER(S) INITIALS:

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# EXHIBIT 7

# EXHIBIT 7

To: Ms. Daphne Williams  
1404 Kilimanjaro #202  
Las Vegas, Nevada 89128

From: Charles "Randy" Lazer  
Hecker Real Estate and Development  
4955 S. Durango, Ste. 155  
Las Vegas, Nevada 89113

Date: July 25, 2017

Subject: Demand letter as requisite for filing litigation with the Las Vegas Justice Court for the knowing commission of fraud, and to obtain compensatory and punitive damages for those acts, for which this will be sent by certified mail, and included with the filing. Ms. Williams has a record of all texts and emails, and those will be submitted with the certified letter and the complaint.

First, Ms. Williams is advised to seek legal counsel in compliance with my code of ethics, and to share, I am not an attorney.

This constitutes a demand letter for payment from Daphne Williams to Charles "Randy" Lazer of the amount of \$1,351.67, due on or before August 15, 2017, and will be submitted to the court as part of the filing on August 15, 2017 should payment not be received, or the matter is not resolved to the satisfaction of Charles "Randy" Lazer. This amount is to compensate Mr. Lazer for 6 hours and 3 minutes of time he spent defending his 26 year real estate career and the operations of the real estate brokerage that he worked with from knowingly false and terrible accusations of racism, sexism, unethical and unprofessional behavior, threatened by the defendant to be filed with the Nevada Real Estate Division, HUD, and the Greater Las Vegas Association of Realtors. As everything is writing, the facts below are not of dispute.

The written words of Ms. Williams, stating that Mr. Lazer acted in a racist, sexist, unethical and unprofessional manner with respect to emails and texts, were knowingly fraudulent and malicious. Knowingly fraudulent, as everything is in writing, and it is quite clear that there are no racist, sexist, unethical or unprofessional statements made by Mr. Lazer, as all emails and texts are attached. In fact, Ms. Williams sent 16 text messages to Mr. Lazer thanking him for his replies. Thus, with Ms. Williams referencing filing terrible complaints of racism, sexism, and ethical violations, when she knew no such behavior occurred, constitutes the knowing commission of fraud.

Moreover, Ms. Williams was threatening to destroy Mr. Lazer's 26 year career, future earnings, longstanding exceptional reputation, and the operations of Hecker Real Estate and Development by referencing filing knowingly wrongful complaints with the Nevada Real Estate Division, HUD, and the Greater Las Vegas Association of Realtors. Again with everything verifiable in writing, that Ms. Williams had 100 percent knowledge that no such racism, sexism, unethical, or unprofessional behavior occurred, these certainly are circumstances that would meet the standards for punitive damages of being malicious. Thus, a request for punitive damages is hereby submitted to the court, for which often a court may find punitive damages to be triple or more of the original damages sought, or in this case, potentially damages totaling \$5,406.68, or more, along with court costs and attorney's fees if allowable.

No facts are in dispute, as everything is in writing. Nor should there be any dispute of the damages suffered by Charles "Randy" Lazer; of the loss of an estimated 6 hours and 3 minutes of time in preparation for the defense of his 26 year real estate career and future income earnings, along with his efforts to also defend the company he works with from a potential suspension of operations, should these knowingly fraudulent claims of racist and sexist behavior, along with knowingly fraudulent claims of violations of his code of ethics be upheld.

Such claims if upheld by the Real Estate Division would likely cause the loss of Mr. Lazer's real estate license and career, his future earnings, and could also result in having the licensing of Hecker Real Estate and Development suspended, causing huge losses of income from property management accounts and real estate commissions, along with fines and expenses of a commission hearing likely totaling \$50,000 or more. So, one can clearly understand the importance of Mr. Lazer taking action to defend against wrongful accusations and threats that could potentially end his long career in real estate, while putting to a stop the operations of the company that he works with, which has been in business for over 40 years.

There is no dispute that Ms. Daphne Williams sent a text to Mr. Lazer from her cell phone number (909) 714-6155, on Tuesday, June 27, at approximately 12:35 pm, PST. The message was exactly as follows, and is noted in the supporting documents, shared from the text to email: "Randy, if this racist sexist (sic) and unprofessional behavior of yours continues and Rosane and I are unable to close this deal, you will leave me with no other 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."

Again, without dispute of what was sent, as all texts and emails are written, a message from Ms. Williams stated racist, sexist, unethical and unprofessional behavior had occurred, and that this was referenced from all texts and emails. It is clear from reviewing the attached, which constitutes all text and email communications involving Ms. Williams and Mr. Lazer through June 27, 2017, that there is no racist, sexist, or unprofessional behavior from Mr. Lazer. Again, in 16 text messages, Ms. Williams thanked Mr. Lazer in response to the texts he had sent, so there is a huge question of what racist, sexist, unethical and unprofessional behavior Ms. Williams would be thanking Mr. Lazer for?

Ms. Williams had been asked to reference any wrongful behavior on the part of Mr. Lazer in a text sent by Mr. Lazer at 12:49 pm on June 27, 2017. Nearly one month has elapsed, and Ms. Williams still has not indicated one example of what was racist or sexist, unethical or unprofessional regarding the written words or behavior of Mr. Lazer, although her text indicates only the written word.

Ms. Williams sent another threatening text message approximately 13 minutes later, stating "And I will not have a problem following an attorneys advise (sic) to see (sic) remedy to the full extent of the law", even though she had knowledge that no racist, sexist, unethical or unprofessional behavior had occurred. This further reinforced the necessity of Mr. Lazer to immediately prepare a defense for his career and that of the company he works with, Hecker Real Estate and Development, as Ms. Williams was unquestionably and wrongfully threatening Mr. Lazer's career and the operations of the brokerage that he works with.

To demonstrate to the court that the typical 5 elements of a claim of fraud via misrepresentation are present in this case for prevailing in the State of Nevada, please consider the following;

- 1) The defendant made a false representation....again, no texts or emails that were racist, sexist, unethical or unprofessional from Randy Lazer, as noted in the attached.
- 2) The defendant had knowledge and belief that the representation is false, as the defendant had all records of texts and emails in her possession, and again, had thanked Mr. Lazer in 16 different text messages.
- 3) With the intent to induce the plaintiff to act or refrain from acting on the representation.

Here is the first point of substantiation, in that when a real estate agent is confronted with knowingly false charges of racism, sexism, and violations of professional standards and codes of ethics, the charges are so serious that they do require a defense of one's career and a defense of the brokerage they are working with, which caused the action of Mr. Lazer to spend 6 hours and 3 minutes of his time for, with contacts to the real estate division, the client he represented, an attorney, the mortgage lender, and the buyer. Given Ms. Williams career in personnel and human resources, she is well aware of the serious nature of charges of racism, sexism, unethical and unprofessional behavior, and referenced the Regulatory

agencies she threatened to file knowingly wrongful complaints, which could if upheld cause the loss of Mr. Lazer's real estate career, and potentially suspend the operations of the company that he works with. Thus Ms. Williams demonstrated intent to induce the plaintiff, Mr. Lazer to take action, as such damaging charges, no matter that they are false, with the stakes so high merit hours of work to defend.

As a second point, in Ms. Williams' text she referenced behavior on the part of Mr. Lazer that would prevent the transaction from closing...this despite Ms. Williams breach of contract as noted in the two paragraphs below. As one reviews these facts it becomes clear that Ms. Williams was with great evidence trying to have Mr. Lazer not act as the seller's agent and breach his responsibilities by not representing the seller's best interests, but rather to stay out of the way with reference to the consummation of this transaction. That Ms. Williams was likely inferring in this text that Mr. Lazer should back off from behavior that previously occurred, indicating that Ms. Williams was breaching the contract by failing to close on schedule, and that the seller was not guaranteeing that she would extend the escrow.

That Mr. Lazer from the threats Ms. Williams made of making terrible and false reports to the Nevada Real Estate Division, the Greater Las Vegas Association of Realtors, and HUD, of racism, sexism, and unethical behavior, to avoid this should stay out of the way. That is the second part of substantiation of this point of refraining from acting on the representation made by the defendant. The following two paragraphs detail and support this.

What did occur with reference to point 3 of the elements of fraud, is that Ms. Williams entered into a real estate contract to purchase the condo she was occupying, and Charles "Randy" Lazer represented the seller, and not Ms. Williams, which was noted on the real estate purchase agreement, and the "Duties Owed form", both of which are attached.

On June 23, 2017, Mr. Lazer learned from Ms. Williams' lender that the contract was not going to close per the scheduled date of June 30, 2017. Mr. Lazer, per his code of ethics of informing a party to the transaction of material facts, along with the authorization of the seller, informed Ms. Williams that the seller could cancel the transaction, and that there was no guarantee she would sign an addendum extending the escrow, as more than five weeks would have passed from the mortgage company's receipt of the purchase contract, which was more than sufficient time to close this escrow, according to the manager of Alterra Loans, the mortgage company Ms. Williams was working with.

Apparently the reason for the delay (to the best of Mr. Lazer's understanding) was due to Ms. Williams negligence in paying for the condo questionnaire from the association for her lender to review, which was required for her to pay per the contract she signed. Ms. Williams did become agitated in a phone conversation with Mr. Lazer on or around June 23, 2017, in which he calmly informed Ms. Williams of the contract date for closing, and of the circumstances relayed by the lender that this contract date was not going to be met. Mr. Lazer then shared that the seller authorized him to relay the information that there was no guarantee she would extend the escrow. This phone call proceeded the knowingly fraudulent text from Ms. Williams, with terrible and wrongful accusations that threatened Mr. Lazer's career and the operations of Hecker Real Estate and Development.

So, these are the details involved with Ms. Williams' written remarks referencing what might transpire...that knowingly wrongful and terrible complaints of Mr. Lazer would be submitted to regulatory agencies if Ms. Williams and the seller "are unable to close this deal". This is with reference to inducing the plaintiff to refrain from actions involving adhering to his fiduciary responsibilities of representing the seller's best interests, as noted in the above paragraph. Again, this stems from the written and indisputable words of Ms. Williams', per her texts of June 27, 2017, which also included threats of knowingly and wrongfully threatening complaints that could jeopardize the career of Mr. Lazer, and the operations of the business of the brokerage he worked with.

4) Also involved with fraud is representation that the plaintiff justifiably relies upon.

With Ms. Williams text on June 27, 2017, threatening the filing of charges of racism, sexism and unprofessional and unethical conduct (for which none had occurred, and that to Ms. Williams knowledge, thus, fraud) with the Nevada Real Estate Division, Greater Las Vegas Association of Realtors, and another text threatening legal action "to the full extent of the law" from Ms. Williams, again without any basis, well, Mr. Lazer was reliant on these statements to immediately give time to prepare a defense for his career, future earnings, and the operation of the brokerage he worked with, and he would have been negligent not to.

5) Reliance of Representations damages the plaintiff.

These knowingly fraudulent and written statements of Ms. Williams damaged Mr. Lazer both with allocating 6 hours and 3 minutes of his time to defend, and terrible duress over the period of nearly one month.

Mr. Lazer had to stop his work involving other clients and the marketing of his business, and take immediate actions to protect his license and the operations of Hecker Real Estate and Development. There should be no dispute of the 6 hours and 3 minutes of Mr. Lazer's time involved, for which he was damaged by the loss of that time from Ms. Williams knowingly fraudulent claims, and her threats.

Mr. Lazer responded to Ms. Williams text, with three messages on June 27, at 1:42 pm, 1:47pm, and 1:50pm, in which he had to carefully frame a response, as not submitting a response could indicate passive acceptance of the wrongful allegations of Ms. Williams.

Mr. Lazer also called the real estate division three times that afternoon, to apprise them of what had transpired, and how best to proceed. Mr. Lazer also had to email every text, print that out, and print out all emails from Ms. Williams for the appropriate documentation to defend. Mr. Lazer also had to write a very detailed email to the lender, as Mr. Lazer by his code of ethics has a duty to inform of material facts, and the lender had been acting as a representative of Ms. Williams, who was not represented by a real estate agent.

But that wasn't all, as Mr. Lazer by his code of ethics had to inform and discuss these circumstances with his client, the seller, Rosane Krupp, for which Ms. Williams' actions were the focal point of multiple conversations. Mr. Lazer also discussed this matter with attorney Steven Stone, and the administrator of Hecker Real Estate and Development. The following is a break down of Mr. Lazer's time that was lost due to the knowingly wrongful and fraudulent allegations of Ms. Williams, as Mr. Lazer had no option but to prepare a defense for his 26 year career and future earnings, along with the operations of the company he was licensed with.

Formulating a response, reviewing all communications, and responding to Ms. Williams' texts of June 27, 2017: 1 hour 26 minutes.

Writing an email to Ms. Williams Lender, calling him, calling the real estate division twice. 1 hour 21 minutes

Speaking with the seller and real estate division 29 minutes

Identifying texts, sharing them by email, and printing out all texts and emails, approximately 42 minutes

Speaking with the seller on June 28, June 29, July 1, and in person on July 5 and July 6, approximately 50 minutes

Meeting with attorney Steven Stone, approximately 1 hour for driving time and free consultation 60 minutes

Speaking with office administrator of Hecker Real Estate and Development, with travel time 55 minutes

Total estimated time expended to defend against knowingly fraudulent statements from Daphne Williams, 6 hours and 3 minutes.

Estimated hourly earnings for the months of May, June, and 24 days of July, of which the transaction comprised....please note this only includes commissions received from closed escrows, \$29,491.

Of significance, I am not requesting estimated hourly earnings from real estate that I worked with during the period of Ms. Williams' transaction, which includes three listed properties for which projected commissions would be approximately \$25,050, an additional property likely to be listed with a projected commission of \$5225, along with commissions from buyers that would be projected at approximately \$40,120, and \$8400 of commissions for working with a property management referral. This also does not include projected revenues from on my upcoming book entitled "Running Beyond Death, Reversing Heart Disease", that is likely to be endorsed by Duke University's Medical School, and on my soon to be released jazz/60's/70's violin cd entitled "Amazing Days".

The closed escrows for which I received payment in the period noted, would result in earnings of approximately \$223.42 per hour, as approximately 132 hours of work occurred to earn the \$29,491 of commissions noted in the closings below, and the check stubs from Hecker Real Estate and Development are attached. Again, this does not include time allocated within the same period of Ms. Williams' transaction of the development of additional business with projected commissions potentially in the vicinity of \$79,000, or any revenues from my upcoming book and cd. During that time frame I also took trips to Florida, Michigan, and Baltimore, and also allocated about 10 hours per week for my book and cd.

Mr. Lazer in many years was in the top 1% of his profession, and likely is with respect to career closing volume, estimated to be in excess of \$110 million. Mr. Lazer's earnings in the time frame with respect to Ms. Williams transaction are as follows with respect to closings of the properties below;

5817 Sunset Downs, North Las Vegas	\$6748.50
4345 Bacara Ridge, North Las Vegas	\$5280
9905 Saint Seasons, Las Vegas	\$5875
619 I Street, Petaluma, California (referral)	\$5312.50
8805 Spinning Wheel, Las Vegas,	\$4950
1404 Kilamanjaro #202, Las Vegas	\$1325
Total	\$29,491
Total hours worked in the time frame for these escrows	132
Earnings per hour	\$223.42
Time lost to defend as damages from Ms. Williams fraudulent statement	6.05 hours
Monetary damages from Ms. Williams fraudulent statement	\$1351.67

This litigation is being filed as a copy of this demand letter was sent to Ms. Williams by certified mail (for which the receipt was also submitted), and no satisfactory resolution has occurred.

The plaintiff requests the court consider punitive damages, as this clearly meets the standards for such, with Ms. Williams acting in a malicious manner that is beyond dispute, as her words were in writing, and she referenced only written communications. The malicious nature is evident by knowingly and wrongfully accusing Mr. Lazer of racist, sexist, unethical and unprofessional behavior that was in his writing, when no such writing exists. It isn't just that such wrongful allegations were made maliciously, but that Ms. Williams threatened Mr. Lazer's real estate career and future earnings and the operations of his brokerage, by alleging knowingly wrongful complaints could be filed with the Nevada Real Estate Division, the local Association of Realtors, and HUD. If making knowingly horrible and false statements about racism and sexism, and the violation of ethical and professional standards, while threatening one's career, their long standing reputation in the community, and the operation of a real estate brokerage doesn't constitute "malicious", then I don't know what does.

The court is hereby requested to award punitive damages in an amount the court determines is appropriate, as the standards of the defendant acting maliciously have clearly been met. The amount may or may not be what occurs in many cases of triple of the actual damages, or punitive damages in the amount of \$4055.01 in addition to the damages of \$1351.67 previously noted. If the court rules in favor of the plaintiff, it would be requested the defendant pay the plaintiff's court costs, which consist of a filing fee and potentially attorneys fees, if allowable

Lastly, I would like to share of the significant level of emotional duress I suffered due to Ms. Williams knowingly wrongful, hurtful, and fraudulent written remarks. Having one's behavior being referenced as racist, is terrible and upsetting for many, including myself. As a teacher at a private school, I gave two years of my life to take the students typically from very wealthy families, to low income neighborhoods in the Detroit area, where we provided food, clothing, and other assistance for many black families. I spoke and wrote to raise consciousness of the importance of providing educational funding for minorities and the economically disenfranchised. I am soon to be releasing a jazz violin cd, as having performed jazz for over 30 years, this music represents to many the very heart and soul of African-American culture in our country, and I am grateful to have performed with so many wonderful people who happened to be black, and to have so many wonderful people in my life, including friends from over 40 years, and valued clients and colleagues who happen to be black. I have such gratitude for truly caring and outstanding people who have helped myself and my family, who took care of my dying mother, who happen to be black. Clearly the court can see how I was so appalled and upset by Ms. Williams words, as would so many be for such a knowingly wrongful accusation of racism.

But, that wasn't all, as Ms. Williams' wrongfully alleged I was writing in a sexist manner. She never responded as to what specifically I wrote that was sexist, but did threaten my career to file a wrongful complaint of such with the Real Estate Division and other agencies. This despite I have a lifelong history of standing up for women's rights, which began when my father actually had Gloria Steinem guest lecture for his class, and from my mother sharing the importance of equal rights for women, and that there shouldn't be limits based upon gender. I have given of my time to paint and fix up homes that were shelters for women who suffered domestic violence, and for women who were in tragic condition from addiction, and to help women who were in crises from abuse. It doesn't make a me a saint, but when I think of Ms. Williams' knowingly terrible and wrongful words, yes, I was upset.

Lastly, as terrible and horrific as racism and sexism can be, it may be even worse to knowingly and wrongfully accuse a person of such. I recognize the court will rule on the legal issues, for which it is clear the five points for prevailing on a claim of misrepresentation in Nevada are met, and that the criteria of having punitive damages awarded for malicious behavior that is in writing and beyond dispute are met.

Additionally, not only did I suffer a loss of time of 6 hours and 3 minutes to defend from Ms. Williams' terrible and knowingly wrongful statements and threats, but, I also had difficulty going to sleep for approximately a week, and I would wake up typically between 3 and 4 am, unable to go back to sleep, upset with the career threatening and wrongful allegations of Ms. Williams, despite acting in good faith, and having an impeccable record with the Nevada Real Estate Division and the Greater Las Vegas Association of Realtors after 26 years of service. Whenever I receive an email or text or phone call pertaining to this transaction, upsetting thoughts do come into my mind, and I have suffered this for approximately one month.

I surely hope the court recognizes how terrible it is for somebody to wrongfully threaten one's career and the operations of the business that they work with, by knowingly making wrongful allegations of racist, sexist, and unethical behavior, particularly when that individual has acted in good faith, and in a highly professional manner. To knowingly and wrongfully accuse another of racism and sexism is for many, including myself, a terrible, terrible act, and something that Ms. Williams should be highly cognizant of, particularly given her years of experience in human resources and personnel and her current position in that field (all of this to the best of my knowledge, as relayed by Ms. Williams and the seller).



Yes, whenever racism or prejudice rears its ugly head we should be diligent and should not fail to object, as passive behavior can lead to acceptance. However, it truly is damning upon a person to wrongfully accuse another of hateful and terrible actions that never occurred, and I surely hope Ms. Williams will never do such again.

Sincerely,

Charles "Randy" Lazer

Ms. Williams....there are two options that are satisfactory to me not to file litigation against you, seeking not only damages of \$1,351.67, but also punitive damages of \$4,055.01, and court costs and attorneys fees if applicable.

1) As you knowingly and wrongfully placed in writing that I had committed racist, sexist, unethical and unprofessional acts, you will submit a letter of apology or email with the specific wording that you had knowledge that I never behaved in a racist, sexist, unethical or unprofessional manner, and then apologize for your wrongful conduct. That letter will be signed, or if an email, have your full name at the bottom.

2) With a letter of apology, I will work with some forgiveness, but consider this my first, last, and best offer, to only accept \$1000 with a letter of apology. The reality is I lost 6 hours and 3 minutes of my time and went through a lot of stress, when you made fraudulent claims in writing about some of the worst conduct any real estate agent could have, and threatened my career and the operation of my brokerage. If this complaint is filed in court, for which it is ready for e-filing as you can clearly see, I will request \$1351.67, in addition to punitive damages that could be beyond \$4055, and attorney fees and court costs if applicable, thus seeking possibly in excess of \$6000 of damages from you.

So....a letter of apology with the above wording and signed by yourself, and \$1000 paid to Charles R. Lazer on or before August 15, 2017, and I will consider things resolved, will forfeit any rights to proceed in any way regarding this matter, and will not inform any other parties beyond whom I have already informed. In short, your confidentiality will be upheld by myself from the date of receipt of the letter of apology that is satisfactory, and a payment of \$1000. If you don't desire to apologize, that is up to you, then a payment of the loss of 6 hours and 3 minutes of my time, of \$1351.67, would be due on or before August 15, 2017. If you desire I do not proceed with litigation, you or your legal representative should contact me.

Otherwise on August 15, 2017, if there is no acceptable resolution to myself (and the above are the only resolutions that I deem acceptable to prevent the filing of litigation against yourself as of this time) I will file the above complaint in court, the matter will be of a public record, and I will consult with an attorney regarding sharing this information with your employer, out of concern for protecting others from wrongful and terrible allegations similar to what has occurred with respect to your texts to myself.

Whether you choose to contact me is up to you. You have my email address, and if I don't hear from you, the above referenced complaint, seeking compensatory and punitive damages, and court costs and attorney's fees will be filed on August 15, 2017.

You may desire to consider that everything is in writing, for which the written words are not of dispute. You may also consider of what exactly you would share with a judge that I wrote that was racist, sexist, and unethical, and for which you were threatening my real estate career and the operations of the company that I work with. Again...what exactly were those written statements? If you want to go through this in court and potentially have your employer notified of what you put into writing, well, you don't have to do anything. This complaint is complete and is ready to be e-filed in the Justice Court on August 15th, a court date will be set, and you can obtain legal representation, which likely could cost more than the terms that you are now offered.

Again, there is no further negotiation at this juncture. You can write a letter of apology and pay me \$1000, or not write the letter and pay me \$1351.67 on or before August 15, 2017. Or, I will file suit, likely seeking approximately \$6000 of damages, for which everything is in writing, and for which I have demonstrated in this demand letter all conditions have been met for successfully proving the occurrence of fraud in the State of Nevada, and that the criteria for punitive damages have been met. Your choice. I am good either way.

If you obtain legal representation, your attorney has my permission to contact me directly, by email or phone (702) 271-1295, and your attorney can do so with the knowledge that I currently am not represented by an attorney, which would be a requirement for contact from your attorney. However, having taught law at college, including the entire Uniform Commercial Code, tax law, real estate law, torts, and contracts, and having served as an expert witness, and providing testimony to the FTC and the Nevada Secretary of State Securities Division that resulted in the convictions of fraud in multiple cases, likely I should have a reasonable level of competency to represent myself in Justice Court, again for which indisputably fraud was committed, is in writing, and the conditions for punitive damages, and of malicious conduct had been met.

# EXHIBIT 8

# EXHIBIT 8

# GAMAGE & GAMAGE

Amy M. Gamage, Esq.  
William H. Gamage, Esq.

11460 Parkersburg Avenue  
Las Vegas, Nevada 891348  
Tel: (702) 386-9529  
Fax: (702) 382-9529

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August 1, 2017

**Via First Class Mail & Electronic Mail (ran314@aol.com)**

Hecker Real Estate & Development  
Attn: Mr. Charles Randy Lazer  
4955 S. Durango Drive, #155  
Las Vegas, NV 89113

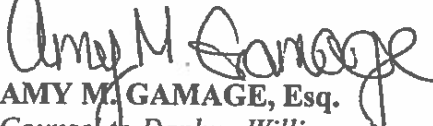
Re: Purchase of Property – 1404 Kilimanjaro Lane, Las Vegas, NV 89128

Dear Mr. Lazer:

Please be advised that this firm has been retained to represent Ms. Daphne Williams regarding the purchase of the above listed property and subsequent contractual elements regarding the closing of this property. Therefore, please forward any future correspondence and communication to attention of this office. In this regard, you should not contact Ms. Daphne Williams directly via telephone, text message, electronic mail, etc from this point forward. Should you continue to contact, harass and/or threaten my client, my client shall take all necessary legal measures to ensure the same will not continue.

With respect to the baseless allegations and threats of litigation outlined in your July 25, 2017 letter to Ms. Daphne Williams, I will address the same under separate correspondence in the next few days. Should you have any questions regarding the above, please feel free to contact me.

Sincerely,  
GAMAGE & GAMAGE

  
AMY M. GAMAGE, Esq.  
Counsel to Daphne Williams

AMG/pl

CC: Client

agamage@gamagelaw.com

AA 530

# EXHIBIT 9

# EXHIBIT 9

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**ADDENDUM NO. 1**  
**TO PURCHASE AGREEMENT**



In reference to the Purchase Agreement executed by Daphne Williams  
as Buyer(s) and Rosane Krupp  
as Seller(s), dated 5/16/17  
covering the real property at 1404 Kilmanjaro #202 Las Vegas, NV  
, the ☐ Buyer ☒ Seller hereby proposes that the Purchase Agreement be amended as follows:

- ① Close of escrow to be on or before 7/17/17
- ② Seller not to contribute any money for repairs.
- ③ Buyer/Tenant will provide reasonable access to all parties designated by the seller for removal of furniture, decor, or any other items ~~owned~~ owned by the seller
- ④ Should escrow not close on or before 7/17/17 these will likely issue cancellation instructions calling for the return of the buyer's earnest money to the seller

☐ ADDITIONAL PAGE(S) ATTACHED. This Addendum is not complete without the additional terms on the attached \_\_\_\_\_ page(s).

When executed by both parties, this Addendum is made an integral part of the aforementioned Purchase Agreement.

**WHEN PROPERLY COMPLETED, THIS IS A BINDING CONTRACT. IF YOU DO NOT FULLY UNDERSTAND ITS CONTENTS, YOU SHOULD SEEK COMPETENT LEGAL COUNSEL BEFORE SIGNING.**

X Rosane Krupp 06/27/17  
☐ Buyer ☒ Seller Date

☐ Buyer ☐ Seller Time

Acceptance:

☐ Buyer ☐ Seller Date

# EXHIBIT 10

# EXHIBIT 10

## Adam Trippiedi

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**From:** ran314@aol.com  
**Sent:** Wednesday, November 13, 2019 1:38 PM  
**To:** Adam Trippiedi  
**Subject:** Fwd: The email of the contract to the Defendant's lender on May 23, 2017  
**Attachments:** 20170522133812217.pdf

-----Original Message-----

From: ran314 <[ran314@aol.com](mailto:ran314@aol.com)>  
To: bjolly <[bjolly@goalterra.com](mailto:bjolly@goalterra.com)>  
Sent: Tue, May 23, 2017 8:47 am  
Subject: Fwd: Contract for 1404 Kilamanjaro #202, Daphne Williams

Hi Bryan....here is the contract, and the contact information for escrow is in the email below this.  
For the appraisal, please have the appraiser contact me beforehand, and if there is a form you need signed by the seller, who will be paying for the appraisal, just email that to me.

Thanks so much,

Randy Lazer

-----Original Message-----

From: Griffith, Stacey <[stacey.griffith@ticortitle.com](mailto:stacey.griffith@ticortitle.com)>  
To: Ran314 <[Ran314@aol.com](mailto:Ran314@aol.com)>  
Sent: Mon, May 22, 2017 1:56 pm  
Subject: Contract

Here is the contract, thank you!

Stacey Griffith  
Escrow Assistant to Jodie Harvey  
Ticor Title of Nevada, Inc  
8290 W. Sahara Avenue Suite 275  
Las Vegas, NV 89117  
702-932-0231  
702-952-0456 (fax)  
[Stacey.Griffith@TicorTitle.com](mailto:Stacey.Griffith@TicorTitle.com)

-----Original Message-----

From: [itsupport@ticortitle.com](mailto:itsupport@ticortitle.com) [<mailto:itsupport@ticortitle.com>]  
Sent: Monday, May 22, 2017 1:38 PM  
To: Griffith, Stacey <[stacey.griffith@ticortitle.com](mailto:stacey.griffith@ticortitle.com)>  
Subject: Message from "RNP002673B19528"

This E-mail was sent from "RNP002673B19528" (MP 4054).

Scan Date: 05.22.2017 13:38:11 (-0700)  
Queries to: [itsupport@ticortitle.com](mailto:itsupport@ticortitle.com)



NOTICE: The information contained in this message is proprietary and/or confidential and may be privileged. If you are not the intended recipient of this communication, you are hereby notified to: (i) delete the message and all copies; (ii) do not disclose, distribute or use the message in any manner; and (iii) notify the sender immediately.



**RPLY**

Marc J. Randazza (NV Bar No. 12265)  
Alex J. Shepard (NV Bar No. 13582)  
RANDAZZA LEGAL GROUP, PLLC  
2764 Lake Sahara Drive, Suite 109  
Las Vegas, NV 89117  
Telephone: 702-420-2001  
ecf@randazza.com

Attorneys for Defendant  
*Daphne Williams*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

**CHARLES "RANDY" LAZER,**

Plaintiff,

vs.

**DAPHNE WILLIAMS,**

Defendants.

Case No. A-19-797156-C

Dept. XV

HEARING REQUESTED

**REPLY IN SUPPORT OF DEFENDANT  
DAPHNE WILLIAMS'S ANTI-SLAPP  
SPECIAL MOTION TO DISMISS FIRST  
AMENDED COMPLAINT UNDER NRS  
41.660**

Defendant Daphne Williams hereby files her Reply in support of Anti-SLAPP  
Special Motion to Dismiss the First Amended Complaint of Plaintiff Charles  
"Randy" Lazer Under NRS 41.660.

## 1.0 INTRODUCTION

Ms. Williams filed a complaint with the Nevada Real Estate Division ("NRED") recounting instances of Plaintiff's behavior during the course of the sale of real estate that she subjectively considered to be racist, sexist, unprofessional, and unethical. She believed every statement in the complaint to be true when she filed it, and even reviewing Plaintiff's document dump and ranting to the contrary, she still believes every statement to be true.

Plaintiff sued her based on her statements in the complaint. The complaint is protected under multiple subsections of Nevada's Anti-SLAPP statute, Ms. Williams made her statements in good faith, and all of Plaintiff's claims are barred by Nevada's litigation privilege. The case is not more complicated than that. However, Plaintiff wants to make it more complicated than that. The court should not be misled by these attempts.

In his Opposition, Plaintiff invents additional implausible facts in an attempt to manufacture a dispute of material facts, **but still fails to provide any evidence that Ms. Williams made any statement with knowledge of its falsity.** He also fails to provide any evidence of damages, dooming each of his claims for relief. In the process of liberally copying and pasting his opposition to Ms. Williams's prior Anti-SLAPP Motion, Plaintiff continues to make legal arguments that he knows are baseless, which this Court should sanction. The Court should grant Ms. Williams's Anti-SLAPP Motion, award Ms. Williams her reasonable attorneys' fees, and award damages of \$10,000 under NRS 41.670(1)(b).

## 2.0 FACTUAL BACKGROUND

The factual background of this case is laid out in Ms. Williams's Statement of Facts filed with her Anti-SLAPP Motion, which is incorporated herein by reference. In addition to attaching previously-filed declarations and evidence,

Plaintiff makes several new and false representations in his supplemental declaration that must be addressed.

## 2.1 Delivery of the Executed RPA

Plaintiff admits that he met with Ms. Williams at a Whole Foods store on May 21, 2017, and Ms. Williams made revisions to the Residential Purchase Agreement ("RPA") for the condo unit she was purchasing at this time. (Supplemental Declaration of Charles Lazer ["Supp. Lazer Decl."] at ¶3(c).)<sup>1</sup> He claims that he had authorization from the seller of the condo unit, Rosane Cardoso Ferreira (f/k/a Rosane Krupp) (the "Seller"), to accept changes that Ms. Williams made "and use her already-existing signature as the binding signature." (*Id.* at ¶ 3(d).) Plaintiff does not claim he told Ms. Williams of this alleged authorization, however, and she was not aware of it. (Supplemental Declaration of Daphne Williams ["Supp. Williams Decl."], attached as **Exhibit 1**, at ¶ 5.) Plaintiff claims Ms. Williams called him on May 22, 2017 and instructed him to send the fully-executed RPA to her lender, but this conversation never happened and Ms. Williams never gave this instruction. (*Id.* at ¶ 6.) Ms. Williams told Plaintiff to send *her*, not her lender, the fully executed RPA, and Plaintiff never did so. (Declaration of Daphne Williams ["Williams Decl."], Anti-SLAPP Motion **Exhibit 1**, at ¶¶ 20-21.)

## 2.2 Delays in Closing Escrow

Plaintiff, for the first time, claims that the delays in closing escrow were caused by Ms. Williams making a 5% down payment on the condo instead of a 20% down payment. (Supp. Lazer Decl. at ¶¶ 4-7.) This statement is inadmissible, as Plaintiff provides no basis for his personal knowledge of it and no documents

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<sup>1</sup> This admission is significant because Plaintiff's basis for claiming Ms. Williams lied in her NRED Complaint about not receiving a signed version of the RPA is that he emailed her a copy with the Seller's signature on May 18, 2017. He now admits that this was not the final version.

showing there was ever this understanding. He also provides no explanation of how this could have or in fact did cause any delays.

Ms. Williams was never obligated to make a 20% down payment. The RPA is silent as to the down payment amount, and this amount was not decided until after June 9, 2017, when Ms. Williams asked Mr. Jolly how much she needed for a down payment. (Supp. Williams Decl. at ¶ 8; June 9, 2017 email from Ms. Williams to Mr. Jolly, attached as **Exhibit 2**.) Mr. Jolly, the single best person to testify as to what caused delays in the close of escrow, testified that these delays were the result of manpower shortfalls at Alterra due to holidays and vacations, and not because of Ms. Williams's conduct. (Declaration of Bryan Jolly ["Jolly Decl."], Anti-SLAPP Motion **Exhibit 8**, at ¶ 14; Williams Decl. at ¶¶ 27-28.) The Court should disregard Plaintiff's claim that escrow was delayed due to a change in the down payment amount.

### **3.0 ARGUMENT**

#### **3.1 Ms. Williams Satisfies the First Prong of the Anti-SLAPP Analysis**

The Anti-SLAPP statute protects

1. Communication[s] that [are] aimed at procuring any governmental or electoral action, result or outcome;
2. Communication[s] of information or a complaint to a Legislator, officer or employee of the Federal Government, this state or a political subdivision of this state, regarding a matter reasonably of concern to the respective governmental entity;
3. Written or oral statement[s] made in direct connection with an issue under consideration by a legislative, executive or judicial body, or any other official proceeding authorized by law; or
4. Communication[s] made in direct connection with an issue of public interest in a place open to the public or in a public forum,

Which [are] truthful or [are] made without knowledge of [their] falsehood.

NRS 41.637. The merits of a plaintiff's claims, and the legality of the defendant's actions, are not the focus of the first prong analysis and, if relevant, should only be considered during the second prong analysis. See *Coretronic v. Cozen O'Connor*, 192 Cal. App. 4th 1381, 1388 (2d Dist. 2011); see also *Taus v. Loftus*, 40 Cal. 4th 683, 706-07, 713, 727-299 (2007). **The moving party must make only a threshold showing as to the first prong of the analysis, while questions going to the merits of the plaintiff's claims are reserved for the second prong.** See *John v. Douglas County Sch. Dist.*, 125 Nev. 746, 750 (2009); see also *City of Costa Mesa v. D'Alessio Investments, LLC*, 214 Cal. App. 4th 358, 371 (4th Dist. 2013) (stating that "[t]he merits of [the plaintiff's] claims should play no part in the first step of the anti-SLAPP analysis").

### **3.1.1 Plaintiff's Claims are Based Upon Protected Conduct**

Plaintiff's claims are based upon Ms. Williams's NRED Complaint. There is no question that the statements in her complaint fall under NRS 41.637. First, the Complaint was aimed at procuring governmental action, namely the NRED taking action against Plaintiff for conduct which Ms. Williams subjectively believed was racist, sexist, unprofessional, and unethical. This government action took the form of imposing discipline and/or fines. NRS 41.637(1) is thus satisfied.<sup>3</sup> Plaintiff does not contest that the complaint is protected under NRS 41.637(2), and it is protected under that subsection as well.

The complaint was obviously a statement made in direct connection with an issue under consideration by an executive body, or any other official proceeding. The Division is an executive body, and the Real Estate Commission

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<sup>3</sup> Plaintiff falsely claims in his Opposition that Ms. Williams does not argue the NRED Complaint is protected under NRS 41.637(1). (Opposition at 9.) The Anti-SLAPP Motion argues that it is protected under this subsection. (Anti-SLAPP Motion at 5.) With no countervailing argument on this point, Plaintiff should be held to concede that the complaint is protected under this subsection.

of the Division, the body responsible for conducting disciplinary hearings, is appointed by the Nevada Governor, which is the chief executive of the state. (Anti-SLAPP Motion Exhibit 15.) “The Nevada State Legislature . . . created the Department of Business and Industry . . . as a State Department included under the State Executive Branch.” *White v. Conlon*, 2006 U.S. Dist. LEXIS 43182, \*9 (D. Nev. June 6, 2006). The complaint initiated the Division’s investigation of Plaintiff, an official proceeding of an executive body, thus satisfying NRS 41.637(3).

Plaintiff contends NRS 41.637(3) does not apply because this subsection applies only to official proceedings that are already underway, and not to actions that initiate such proceedings. This is simply wrong. See, e.g., *Carver v. Bonds*, 135 Cal. App. 4th 328, 350 (2005) (noting that “[c]omplaints to regulatory agencies such as the [Board of Podiatric Medicine] are likewise considered to be part of an ‘official proceeding’ under the anti-SLAPP statute”).<sup>4</sup> Even a parent’s letter to a school urging that it fire a baseball coach has been found to be part of an “official proceeding” and thus protected. See *Lee v. Fick*, 135 Cal. App. 4th 89, 96 (2005). If a letter asking a school to fire a coach, when there was no pre-existing proceeding prior to sending the letter, is part of an “official proceeding,” then surely a formal complaint to the NRED is as well. The U.S. District Court for the District of Nevada has agreed that Nevada’s Anti-SLAPP statute “has no temporal

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<sup>4</sup> Nevada courts look to case law applying California’s Anti-SLAPP statute, Cal. Code Civ. Proc. § 425.16, which shares many similarities with Nevada’s law. See *John*, 125 Nev. at 756 (stating that “we consider California case law because California’s anti-SLAPP statute is similar in purpose and language to Nevada’s anti-SLAPP statute”); see also *Shapiro v. Welt*, 389 P.3d 262, 268 (Nev. 2017) (same); *Sassone*, 432 P.3d at 749 n.3 (finding that “California’s and Nevada’s statutes share a near-identical structure for anti-SLAPP review ... Given the similarity in structure, language, and the legislative mandate to adopt California’s standard for the requisite burden of proof, reliance on California case law is warranted”); and see NRS 41.665(2) (defining the plaintiff’s *prima facie* evidentiary burden in terms of California law).

requirement that only communications that come after the filing of a complaint are protected, and demand letters, settlement negotiations, and declarations are clearly 'made in direct connection' with a complaint, which is 'under consideration by a . . . judicial body.'" *LHF Prods., Inc. v. Kabala*, 2018 U.S. Dist. LEXIS 148256, \*8 (D. Nev. Aug. 24, 2018). Under Plaintiff's reading of the statute, his own complaint that initiated this action would not be protected under the Anti-SLAPP statute, which is plainly incorrect.

Plaintiff additionally argues that there is no evidence Ms. Williams's complaint to the Division was part of an official proceeding under the statute. This makes no sense. The Division is responsible for disciplining real estate agents like Plaintiff; Plaintiff admits this. (See Lazer Decl. at ¶ 51.) Plaintiff alleges in his FAC that the NRED initiated an investigation by the Division because of the NRED Complaint, to which Plaintiff spent dozens of hours responding. The NRED in fact initially found that Plaintiff was in violation of Nevada statutes and ethical standards and imposed a monetary fine on Plaintiff, which he appealed. (See Anti-SLAPP Motion Exhibits 13-14.) Plaintiff cannot now claim the Division did not conduct such an investigation in response to Ms. Williams's complaint.<sup>5</sup> Plaintiff's claim that these protections are only afforded to complaints to a government agency that result in a formal hearing or adjudication finds no support in the statute or case law. It is incorrect as a matter of logic, as well, as it would make the statute's protections contingent on future events. For example, a complaint filed with a government agency would be unprotected upon filing it, allowing a

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<sup>5</sup> Plaintiff's argument that the scope of NRS 41.637(3) is coterminous with Nevada's "fair report" privilege is equally misguided. Plaintiff provides no authority supporting this argument, and it is obvious that the policy reasons for the Anti-SLAPP statute's protections and this privilege are distinct. NRS 41.637(3) is much more similar in purpose and language to Nevada's litigation privilege, which does apply here, as explained in Section 3.2.1, *infra*.



plaintiff to bring suit on it, only for the government agency to later issue a formal adjudication after discovery in the lawsuit had proceeded and the time to file an Anti-SLAPP motion had elapsed. There is no authority that suggests this is how the statute operates. The NRED Complaint is protected under NRS 41.637(3) as well.

### 3.1.2 Ms. Williams Made Her Statements in Good Faith

Plaintiff tries to argue that "Good Faith" means something it does not. Good faith is defined, in this context, by the statute. Good Faith means "truthful or ... made without knowledge of [their] falsehood." NRS 41.637. Therefore, when we are looking at the first prong, falsity is statutorily irrelevant. It is properly described as a standard even higher than that of the Actual Malice standard under *New York Times v. Sullivan*. That standard requires knowing falsity or reckless disregard for the truth. Under the first prong of the Anti-SLAPP law, even a recklessly false statement is insufficient to defeat a prong one showing. the plaintiff must prove **knowing** falsity to rebut a defendant's initial showing of good faith.<sup>6</sup> Even if a statement is false, the defendant must have made it with *actual knowledge* that it was false; neither negligence nor even reckless or wanton disregard for the truth can defeat a defendant's showing under prong one. The fundamental inquiry is whether the defendant knowingly lied; "[t]he test is subjective, with the focus on what the defendant *believed* and *intended* to convey, not what a reasonable person would have understood the message to be." *Nevada Indep. Broad. Corp. v. Allen*, 99 Nev. 404, 415 (1983) (emphasis in original). The term "good faith" in the Anti-SLAPP statute does not have any independent significance from its definition in the statute. The Nevada Supreme Court in *Welt* clarified that this simply means "[t]he declarant must be unaware that the communication is false at the time it was made." 389 P.3d at 267.

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<sup>6</sup> Certainly, once past prong one – "recklessness" can come into play in the Prong Two analysis – if falsity matters at that point.

Despite Ms. Williams instructing Plaintiff as to this standard three separate times in writing (the initial Anti-SLAPP Motion and Reply, and the instant Motion), and instructing him on the standard at the hearing on the initial Motion, Plaintiff once again falsely claims that Ms. Williams's motives are relevant to the "good faith" analysis. (Opposition at 11-12.) Ms. Williams explicitly warned Plaintiff in the instant Motion that she would request sanctions against Plaintiff if he reiterated this objectively baseless argument in his Opposition. (Anti-SLAPP Motion at 6.) Ms. Williams now formally requests that the Court impose sanctions on Plaintiff for repeating an argument he knows has no legal basis.

The only question as to "good faith" under the Anti-SLAPP statute is whether the moving party's statements were true or made without knowledge of falsity. That is it. There are no other questions. There is no inquiry into motives. There is no inquiry into whether the moving party should have known otherwise or had subjective doubts, or should have investigated the truth of their statements. Plaintiff can only defeat Ms. Williams's showing of good faith on the first prong if he can show that Ms. Williams actually, with 100% certainty, *knew* that her statements were false. There is no record evidence showing this.

Plaintiff tries to rebut Ms. Williams's showing of good faith by attempting to fabricate disputes of fact as to a few of the statements contained in the NRED Complaint. But the first prong is not meant to require a granular analysis of each facet of each individual statement, and is not meant to allow a plaintiff to defeat an Anti-SLAPP motion simply by claiming that a statement is false. It is merely a *threshold* requirement where the Court is not supposed to inquire as to the merits of a plaintiff's claims.<sup>7</sup> See *John*, 125 Nev. at 750 (2009); see also *D'Alessio*, 214

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<sup>7</sup> Plaintiff's claims are all speech-related torts which require him to show falsity and at least negligence. Plaintiff's arguments regarding "good faith" under prong one are not restricted to knowing falsity, but rather include assertions that

Cal. App. 4th at 371; *Coretronic*, 192 Cal. App. 4th at 1388; *Loftus*, 40 Cal. 4th at 706-07, 713, 727-299. The U.S. District Court for the District of Nevada has a recent, illustrative case where the Court did the prong one analysis properly, and it found that declarations are sufficient to satisfy a defendant's burden on the first prong. *Kabala*, 2018 U.S. Dist. LEXIS 148256 at \*8 (stating that "because LHF offers two signed declarations – one from its counsel and another from a witness – that declare that the communications were truthful or made without knowledge of their falsehood, I find that LHF has made the requisite showing that its communications are protected").

A statement must include a false assertion of fact to be defamatory. Even if there is doubt as to whether some of the statements in the NRED Complaint are completely, 100% true, this level of veracity is not required. The doctrine of substantial truth bars a court from imposing defamation liability<sup>8</sup> based on a statement's immaterial inaccuracies, so long as the gist of the statement is truthful or made without knowledge of falsity. See *PETA v. Bobby Berosini, Ltd.*, 11 Nev. 615, 627-28 (1995) (finding allegation that trainer beat orangutans with steel rods was not defamatory where trainer actually beat them with wooden rods) (overruled on unrelated grounds in *City of Las Vegas Downtown Redevelopment Agency v. Hecht*, 113 Nev. 644 (1997)). "[M]inor inaccuracies do not amount to falsity unless the inaccuracies 'would have a different effect on the mind of the reader from that which the pleaded truth would have produced.'" *Pegasus*, 118 Nev. at 715 n.17. If the "gist" or "sting" of a story is true, it is not defamatory even

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Ms. Williams should have known her statements were false or should have conducted a more thorough investigation. The Court should not entertain this impermissible attempt to shift the burden on Ms. Williams to show that her statements were not defamatory.

<sup>8</sup> There is no authority to suggest a court should distinguish between what is considered true under the First Amendment and what is considered true under the Anti-SLAPP statute.

1 if some details are incorrect. *Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496,  
2 517 (1991). None of the nits in the FAC rise to a level of actionability.

3 Furthermore, a statement of opinion cannot be false or defamatory, as the  
4 First Amendment recognizes that there is no such thing as a "false" idea. See  
5 *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 714 (Nev. 2002); see also *Gertz*  
6 *v. Robert Welch, Inc.*, 418 U.S. 323, 339 (1974). An "evaluative opinion" cannot be  
7 false or defamatory, either. See *Bobby Berosini*, 11 Nev. at 624-25 (finding that  
8 claiming depictions of violence towards animals shown in video amounted to  
9 "abuse" was protected as opinion). Such an opinion is one that "convey[s] the  
10 publisher's judgment as to the quality of another's behavior, and as such, it is not  
11 a statement of fact." *Id.* at 624. To determine whether a statement is one of  
12 protected opinion or an actionable factual assertion, the court must ask "whether  
13 a reasonable person would be likely to understand the remark as an expression  
14 of the source's opinion or as a statement of existing fact." *Pegasus v. Reno*  
15 *Newspapers, Inc.*, 118 Nev. 706, 715 (Nev. 2002).

### 16 3.1.2.1 Statements of Opinion

17 While the FAC tries to hide the fact that Plaintiff's claims are premised  
18 primarily on Ms. Williams's statements of opinion, Plaintiff's Opposition effectively  
19 concedes this point. The Opposition makes it clear Plaintiff is primarily concerned  
20 with the statements in the NRED Complaint that he was racist, sexist,  
21 unprofessional, and unethical. These are statements of opinion which cannot  
22 support a defamation claim. Plaintiff does not challenge that these are  
23 statements of opinion incapable of being false, but instead merely claims that Ms.  
24 Williams's opinion is unreasonable. He thus concedes that these are statements  
25 of opinion, and were thus made in good faith.

26 Even without this concession, it hardly requires explaining that "racist,"  
27 "sexist," and "unprofessional" are extremely vague terms that lack a precise

meaning, and which any number of readers could interpret in any different number of ways. Merely accusing someone of being racist or discriminatory “is no more than meaningless name calling” and is not defamatory. See *Overhill Farms, Inc. v. Lopez*, 190 Cal. App. 4th 1248, 1262 (2010) (citing *Stevens v. Tillman*, 855 F.2d 394, 402 (7th Cir. 1988)). Calling someone “sexist” is likewise purely a statement of opinion. See *Hanson v. County of Kitsap*, 2014 U.S. Dist. LEXIS 89036, \*15-16 (W.D. Wash. June 30, 2014) (finding statement that plaintiff made a “sexist response” was expression of non-actionable opinion). So too is the term “unprofessional.” See *Moldea v. New York Times Co.*, 22 F.3d 310 (D.C. Cir. 1994) (finding that criticisms of a journalist’s “sloppy journalism” and unprofessional techniques were not defamatory).

“Unethical” is arguably susceptible to a defamatory meaning if it implies false, undisclosed facts. But that is not what happened here. The NRED Complaint lays out precisely what conduct Ms. Williams alleged was unethical, and Plaintiff does not dispute he engaged in any such conduct. Plaintiff disagrees that his conduct was unethical, but Ms. Williams’s evaluative opinion of it is non-actionable because she disclosed the facts on which she based her opinion. See *Bobby Berosini*, 11 Nev. at 624-25. Even the NRED initially agreed with her. The facts here are similar to those in *IQTAXX, LLC v. Boling*, 44 Med.L.Rptr. 1561 (Nev. Dist. Ct. 2016), where an individual published a review of a tax preparation company containing undisputed facts and then concluding that the company’s conduct constituted “MALPRACTICE!” The court found that this constituted an opinion based on disclosed facts and was thus not defamatory. See *id.* at 1565. To the extent “racist,” “sexist,” or “unprofessional” are not statements of pure opinion, they are also expressions of evaluative opinion based on disclosed facts.

This leaves a number of factual statements in the NRED Complaint. Plaintiff, however, either concedes that most of these are true or provides no evidence that Ms. Williams made the statements with knowledge of their falsity.

### 3.1.2.2 Plaintiff's May 13, 2017 Statements

Plaintiff does not contest that he said to Ms. Williams on May 13, 2017 "Daphne, I think you are going to be successful. When you become successful and you want to buy a bigger house and if your brother is retired by then, I'd be glad to be your realtor." (Williams Decl. at ¶ 5; FAC at ¶ 24.)<sup>9</sup> Ms. Williams subjectively felt that this statement was sexist because Plaintiff did not know Ms. Williams or her brother, and yet he apparently assumed that she was not successful and needed to rely on her brother. (See Williams Decl. at ¶ 6; Supp. Williams Decl. at ¶ 4.) Plaintiff does not allege any part of this statement is false, but rather that "[n]o reasonable person could believe, in good faith, that" the above statement "could possibly be [sic] sexist, unprofessional, or unethical." (FAC at ¶ 24; Opposition at 12-13.) The implication that Ms. Williams was not already "successful" is certainly insulting, as is the implication that she mooches off her brother. It is not beyond the pale to believe that Ms. Williams could at least subjectively extrapolate that it was a bias-driven statement.

Ms. Williams's conclusion regarding the nature of Plaintiff's statement is an opinion. She disclosed the facts on which she based her opinion to the NRED. The statement is thus incapable of being a statement of fact, and Ms. Williams could not have made it with knowledge of falsity. Even if this were a statement that

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<sup>9</sup> Plaintiff claims he did not use these exact words, but does not claim that Ms. Williams's recollection is materially inaccurate, does not offer another recollection of this conversation, and does not claim Ms. Williams knew this recollection was inaccurate when she relayed it to the NRED.

could potentially have been made in bad faith, Plaintiff does not allege this. Ms. Williams made this statement in good faith, as the law defines that term.

In his Opposition, Plaintiff provides no further argument here than what it is in the FAC, thus effectively conceding this statement was made in good faith.

### 3.1.2.3 Plaintiff Shared Information Ms. Williams Thought Was Confidential

Plaintiff denies only that he told Ms. Williams that he and the Seller met on an online dating web site. He admits that he told Ms. Williams the commission he was set to earn on the sale of the condo, and does not deny that he told her further information on how he and the Seller met. As explained in Section 2.0 of the Anti-SLAPP Motion's Statement of Facts, Plaintiff admitted to the NRED in 2017 that he told Ms. Williams personal information about the Seller and the nature of their alleged "friendship," but claimed he was authorized to do so. Ms. Williams was not aware of any authorization either to tell her about the Seller's personal life or Plaintiff's commission, and Plaintiff does not allege Ms. Williams was aware of such authorization.<sup>10</sup> (See Williams Decl. at ¶ 9.)

Ms. Williams was thus, in August 2017, in a position where she believed Plaintiff told her information about the Seller's personal life and his commission without authorization from the Seller. (See *id.*) Ms. Williams believed that sharing this information without authorization from the Seller was unethical. (See *id.*) It does not matter whether someone else allegedly already told Ms. Williams this information; Ms. Williams did not tell Plaintiff she was already aware of it, and she

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<sup>10</sup> Plaintiff claims that Ms. Williams would have known about this alleged authorization if she asked the Seller about it. (See FAC at ¶ 25; Opposition at 13.) But that is not an allegation of knowing falsity, and Ms. Williams was not required to perform a reasonable investigation to have made her statements in good faith.



had no reason to believe Plaintiff was aware she already knew it. (See *id.*)<sup>11</sup> Whether Plaintiff actually did commit a legally recognizable ethical violation is irrelevant. The only thing that matters is whether Ms. Williams subjectively believed he was acting unethically, from her layperson's perspective, based on this information, which she affirmatively did. (See *id.*) She made these statements in good faith as the statute defines that term.

In his Opposition, Plaintiff provides no further argument here than what it is in the FAC, thus effectively conceding this statement was made in good faith.

#### 3.1.2.4 Plaintiff's Contact with the Appraiser

Plaintiff admits that he has a practice of communicating with appraisers prior to their appraisal of real estate where he is acting as a realtor. (See FAC at ¶ 26; Opposition at 13.) He claims there is nothing unethical about this practice, but he does not allege that Ms. Williams knew this practice was permissible. He also provides no evidence supporting his assertion that this practice is ethical or that Ms. Williams's statement is false. On the contrary, Ms. Williams spoke with an NRED employee prior to filing the NRED Complaint, and the employee told her realtors are not supposed to do this. (See Williams Decl. at ¶ 12.)<sup>12</sup> Ms. Williams thus subjectively believed that Plaintiff's practice was unethical – bolstered by an

<sup>11</sup> Plaintiff does not argue that, if Ms. Williams had removed any mention of meeting on an online dating web site, the "gist" or "sting" of the NRED Complaint would be different. This is thus at best an immaterial dispute.

<sup>12</sup> Plaintiff claims that he finds it unlikely an NRED employee told Ms. Williams his practice was unethical. (Opposition at 6.) There is no evidence supporting this opinion, as it is not contained in any declaration or document. Even if Plaintiff did claim this in a declaration, he is not an expert and has no personal knowledge of what the employee told Ms. Williams, making the statement inadmissible. There is no evidence to suggest Ms. Williams did not have this conversation, and so Plaintiff only disputes the reasonableness of Ms. Williams's opinion. This is not an allegation of knowing falsity.



NRED employee's opinion. (See *id.*) She made this statement in good faith as defined by the statute.

### 3.1.2.5 Ms. Williams Allowed Removal of Property at the Condo

Ms. Williams stated in the NRED Complaint that Plaintiff falsely claimed she "didn't let the seller's 'movers' get into the house to access her [the Seller's] property." As explained in Section 4.0 of the Anti-SLAPP Motion's Statement of Facts, Plaintiff's claim to this extent is a false statement of fact. Ms. Williams allowed people with the Seller's authorization into the condo to remove the Seller's property. Plaintiff admitted this in his response to the NRED and his Initial Complaint. (See Anti-SLAPP Motion Exhibit 5 at 11, 17, 22-23.)

Ms. Williams did not agree to the Seller's proposed contractual addendum on this issue, which would have required her to give strangers ill-defined "reasonable access" to her residence; this was not acceptable to her. (See Williams Decl. at ¶¶ 14-15.) The only remaining items in the condo are a wall-mounted shelf and a television bracket, which Ms. Williams believes are fixtures that, per the terms of the RPA, were sold along with the condo. (See Williams Decl. at ¶ 16; Anti-SLAPP Motion Exhibit 2 at p. 2 of 10, ¶ 4; Anti-SLAPP Motion Exhibit 5 at 11, 17, 22-23.)

Plaintiff's assertion that Ms. Williams did not allow the Seller's "movers," into the condo to remove the Seller's property was thus factually false, meaning Ms. Williams's statement in the NRED Complaint is true. Even if there is some possible ambiguity in the meaning of the words in the NRED Complaint, she made this statement without knowing it to be false. At most, there is a legal disagreement over whether the property in question can properly be categorized as "fixtures," but

there is no dispute that Ms. Williams actually believes that they are fixtures. She thus made this statement in good faith as defined by the statute.

In his Opposition, Plaintiff provides no further argument as to this statement than what it is in the FAC, and provides no evidence rebutting Ms. Williams's assertion that she believed the items in question were fixtures, thus effectively conceding this statement was made in good faith.

### 3.1.2.6 Plaintiff Did Not Send Ms. Williams a Fully Executed Copy of the RPA<sup>13</sup>

Plaintiff claims Ms. Williams lied when she told the NRED that he did not provide her a signed copy of the RPA because he sent her a version with the Seller's signature on May 18, 2017. (See FAC at ¶ 28.)<sup>14</sup> However, Ms. Williams's statement is provably true. The version he sent was not the final version, as Ms. Williams made revisions to the terms of the RPA during a May 21, 2017 meeting at a Whole Foods. (See Anti-SLAPP Motion Statement of Facts at § 5.0.) Plaintiff now admits that the May 18, 2017 version he sent was not the final version. (Supp. Lazer Decl. at ¶ 3(c).) As the Seller needed to approve these additional terms, Ms. Williams asked Plaintiff to send her a fully executed copy once the Seller signed it. (Williams Decl. at ¶¶ 17-20.) He did not, and Ms. Williams did not receive a copy until after the close of escrow. (*Id.* at ¶¶ 20-21.)

<sup>13</sup> Relatedly, Plaintiff admits he did not provide a receipt for earnest money paid pursuant to the RPA, thus showing that Ms. Williams's statement that he did not provide a receipt is true. (Lazer Decl. at ¶¶ 43-46.) Whether the statement is "misleading" is irrelevant, but regardless Plaintiff does not claim Ms. Williams knew this was misleading and he provides no evidence showing that it is misleading.

<sup>14</sup> Elsewhere, Plaintiff mentions that he sent Mr. Jolly a fully executed copy of the RPA. (See FAC at ¶ 12.) This is irrelevant because Ms. Williams's claim to the NRED is that Plaintiff did not send *her* a fully executed copy. Furthermore, Plaintiff did not tell Mr. Jolly to forward this copy to Ms. Williams, or tell Ms. Williams to receive it from Mr. Jolly. (See Williams Decl. at ¶ 20; Jolly Decl. at ¶ 17.)

Ms. Williams's statement is thus literally true. Even if there is some possible ambiguity in the meaning of the words in the NRED Complaint, she made this statement without knowing it to be false. She thus made this statement in good faith as defined by the statute.

In his Opposition, Plaintiff for the first time refers to an alleged May 22, 2017 phone call in which Ms. Williams told Plaintiff to send the RPA to Mr. Jolly. This conversation never happened, as explained in Section 2.1, *supra*. This last-minute allegation is not credible, as Plaintiff has never at any point previously claimed this happened, whether in his response to the NRED, his demand letters to Ms. Williams, his initial or amended complaints, or in his opposition to Ms. Williams's first Anti-SLAPP Motion. Even the email transmitting the RPA to Ms. Williams's lending agent, Bryan Jolly, makes no mention of Ms. Williams's alleged request, and Mr. Jolly has no recollection of Plaintiff telling him to forward it to Ms. Williams or Ms. Williams asking for a copy. (Opposition at Exhibit 10; Jolly Decl. at ¶ 17.) To believe Plaintiff's statement, the Court would have to believe that Ms. Williams told Plaintiff to send Mr. Jolly the fully-executed RPA, then Plaintiff made no mention of this request when he sent it, then Ms. Williams never asked Mr. Jolly for the RPA despite knowing Plaintiff would have sent it to him instead of her. The claim is nonsensical and not even remotely plausible. Plaintiff's claim is a self-serving, false statement introduced at the 11<sup>th</sup> hour in a desperate attempt to create a factual dispute. The Court should disregard it.

### 3.1.2.7 Plaintiff Falsely Claimed Ms. Williams was Responsible for Delays in Closing Escrow

Plaintiff claimed during the sale of the condo that the delays in closing escrow were due to Ms. Williams's negligence and failure to meet due diligence deadlines. (See, generally, Jolly Decl. at *Exhibit A*.) Plaintiff's claims were false at the time he made them.

The appraisal of the condo was delayed due to scheduling issues not Ms. Williams's fault (Williams Decl. at ¶¶ 25, 27-28; Jolly Decl. at ¶¶ 10, 12, 14 and *Exhibit A* at 7, 12, 18; Anti-SLAPP Motion Exhibit 9); Ms. Williams did not order the condo questionnaire until after the appraisal report came in because she did not want to pay a non-refundable fee if the condo was not sufficiently valuated (Williams Decl. at ¶ 21; Jolly Decl. at ¶¶ 4-7, 11; Anti-SLAPP Motion Exhibit 2 at p. 1 of 10, ¶ 1(G), and p. 2 of 10, ¶ 2(B)); she made the normal decision of making a standard delivery order for the condo questionnaire, which she was told would take 7 days; (See Williams Decl. at ¶ 26; Jolly Decl. at ¶¶ 5-6); she ordered the questionnaire on June 10, 2017 (Williams Decl. at ¶ 25); the RPA did not set a timeline regarding the condo questionnaire (see Anti-SLAPP Motion Exhibit 2.); delays in closing escrow were due to Alterra being short-staffed (see Williams Decl. at ¶ 27; Jolly Decl. at ¶ 14); and Ms. Williams was always timely in providing documents and information to Alterra (see Williams Decl. at ¶ 28; Jolly Decl. at ¶ 17). Plaintiff does not dispute any of these facts in his Opposition.

Plaintiff's claims that Ms. Williams was responsible for delays in closing escrow were thus false at the time he made them. Plaintiff at best claims that Ms. Williams was responsible for the first delay in closing escrow because she made the reasonable choice of not paying a non-refundable fee before knowing whether the sale could proceed on acceptable terms, and because she did not pay for a more expensive rush delivery of the questionnaire. But even this is wrong because the delay in conducting the appraisal and the condo questionnaire arriving later than usual were not Ms. Williams's fault. And there is no question that the delays in July 2017 were due to Alterra being short-staffed, and not because of Ms. Williams. (See Williams Decl. at ¶ 27; Jolly Decl. at ¶ 14.)

Regardless of whether Plaintiff believed these delays were due to Ms. Williams's actions, he falsely claimed she was responsible for delays in closing

escrow. Ms. Williams's statement is thus true or made without knowledge of its falsity. She thus made it in good faith as defined by the statute.

In his Opposition, Plaintiff claims that Ms. Williams is not entitled to an analysis by the Court "as to each and every point of contention." (Opposition at 14.) Ms. Williams agrees on this point, to the extent Plaintiff means that disputes as to minor factual issues do not bear on the question of good faith. The contention is plainly false otherwise. Plaintiff claimed throughout the sale of the condo that all delays in closing escrow were Ms. Williams's fault. (See, generally, Jolly Decl. at *Exhibit A*.) Ms. Williams has provided declarations and documentary evidence showing that all delays beyond the initial delay were due to staffing issues at Alterra. She has provided evidence that the initial delay was caused by delays in conducting the appraisal and receiving the condo questionnaire<sup>15</sup> that were not her fault. Plaintiff, during the sale, did not qualify his statements by saying that Ms. Williams was one of multiple reasons for these delays, but rather said she alone was the cause for the delays. This is unquestionably false, and Plaintiff provides no evidence rebutting Ms. Williams's evidence that these delays were caused by individuals and factors other than Ms. Williams's conduct.<sup>16</sup> Ms. Williams made this statement in good faith.

### 3.1.2.8 The June 2017 Call with the Seller

Ms. Williams had a phone call with the Seller on June 27, 2017 during which the Seller said, *inter alia*, that Plaintiff instructed her to tell Ms. Williams to apologize

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<sup>15</sup> Plaintiff claims that Ms. Williams would have received the condo questionnaire within 10 days of ordering it, but his only evidence of this is a passing reference in an email from him to Mr. Jolly. (Opposition at 3 and Exhibit 2 at p. 3.) He provides no basis for personal knowledge of the turnaround time for the HOA or how long the process actually took, and so this statement is inadmissible.

<sup>16</sup> Plaintiff, in his Supplemental Declaration, also claims these delays were caused by Ms. Williams making a 5% down payment instead of a 20% down

to Plaintiff, that Plaintiff was trying to sabotage the sale of the condo, and that Plaintiff had ulterior motives. (See Williams Decl. at ¶¶ 29-30.) Ms. Williams contemporaneously told her mother about this conversation. (See Declaration of Kathryn Harris ["Harris Decl."], Anti-SLAPP Motion Exhibit 4, at ¶ 7.) The declaration of the Seller, in opposing Ms. Williams's prior Anti-SLAPP motion, did not deny that this conversation took place or that Plaintiff instructed her to tell Ms. Williams to apologize. (See Seller Declaration at ¶¶ 12-13.)<sup>17</sup>

While Plaintiff disputes the contents of this conversation, he makes no allegation and provides no evidence that Ms. Williams made her statements regarding this conversation with knowledge they were false. This is particularly unlikely given that she contemporaneously relayed these statements to her mother. She has met her burden of showing she made this statement in good faith as defined by the statute.

### 3.1.3 The Entire NRED Complaint is Protected if at Least One Statement is Protected

Even if Plaintiff could rebut Ms. Williams's showing of good faith as to some of her statements at issue, he has not done so as to all of them. In particular, Plaintiff's claims rest primarily on expressions of Ms. Williams's opinion, which cannot be false for Anti-SLAPP purposes. This makes Plaintiff's claims "mixed" causes of action. These "mixed cause[s] of action [are] subject to the Anti-SLAPP

\_\_\_\_\_ payment. (Supp. Lazer Decl. at ¶¶ 5-7.) The Opposition's substantive argument makes no reference to this allegation, however, and so he does not claim it is relevant to the first prong analysis. To the extent this claim needs rebuttal, it is addressed in Section 2.2, *supra*.

<sup>17</sup> Plaintiff also claims he rebuts Ms. Williams's account of this conversation in his own declaration (Opposition at 7), but neither of his declarations claim he has personal knowledge of what either Ms. Williams or the Seller said during the call, and he provides no foundation for such knowledge, making this statement inadmissible.

statute if **at least one of the underlying acts is protected conduct**, unless the allegations of protected conduct are merely incidental to the unprotected activity." *Lauter v. Anoufrieve*, 642 F. Supp. 2d 1060, 1109 (C.D. Cal. 2008) (emphasis added); see *Salma v. Capon*, 161 Cal. App. 4th 1275, 1287 (2008) (finding cause of action based on both protected and unprotected activity under California's Anti-SLAPP statute is subject to an Anti-SLAPP motion); *Peregrine Funding, Inc. v. Sheppard Mullin*, 133 Cal. App. 4th 658, 675 (2005) (finding that because plaintiffs' claims "are based in significant part on [defendant's] protected petitioning activity," the first anti-SLAPP prong was satisfied").

Ms. Williams's statements of opinion to the Division are unquestionably protected under the Anti-SLAPP statute, and all factual statements in her complaint are inextricably intertwined with these protected statements. The majority of the factual statements in the NRED Complaint are also either admittedly true or there is no evidence whatsoever to suggest knowing falsity.<sup>18</sup> At best, Plaintiff has *possibly* raised some question as to whether Ms. Williams received a signed copy of the RPA prior to July 2017 and what the Seller told her in the June 27, 2017 phone conversation. These statements are inextricably intertwined with the indisputably protected statements in the NRED Complaint. Accordingly, all of Plaintiff's statements in the NRED Complaint are protected.

### **3.1.4 NRS 41.650 Does Not Impose Additional Requirements**

Plaintiff makes the puzzling argument that NRS 41.650 imposes an additional burden on a defendant to satisfy the five-element analysis laid out in *Shapiro*. Ms. Williams already explained in her prior Reply that this is wrong and based on a

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<sup>18</sup> It is important to note that the NRED Complaint contains several statements other than those at issue in the FAC, meaning Plaintiff does not claim that these other statements are false. The statements at issue are thus a small subset of the protected NRED Complaint.



1 flagrant misreading of *Shapiro*. (See initial Anti-SLAPP Reply at 12-13.) Despite this  
 2 instruction, Plaintiff repeats this baseless argument in his Opposition without any  
 3 change. (Compare initial Opposition at 13-14 and Opposition at 16.) This is  
 4 another example of sanctionable conduct.

5 NRS 41.650 merely states that “[a] person who engages in a good faith  
 6 communication in furtherance of the right to petition or the right to free speech  
 7 in direct connection with an issue of public concern is immune from any civil  
 8 action for claims based upon the communication.” It explicitly creates a  
 9 substantive immunity to particular kinds of claims, thus allowing the protections of  
 10 the statute to apply in federal court. It does not impose any additional burdens  
 11 on the moving party, and no court has interpreted it as doing such. There is no  
 12 ambiguity in its language, either, as the term “good faith communication in  
 13 furtherance of the right to petition or the right to free speech in direct connection  
 14 with an issue of public concern” is defined in NRS 41.637.

15 The citation to *Shapiro* is simply out of left field. That case discussed what  
 16 an “issue of public interest” is under NRS 41.637(4). See *Shapiro*, 389 P.3d at 268.  
 17 It does not even cite NRS 41.650. Ms. Williams does not rely on NRS 41.637(4) as  
 18 the basis for the instant Motion, instead relying on subsections (1), (2), and (3),  
 19 which are focused on petitioning activity. California case law, from which the  
 20 test in *Shapiro* is derived, makes it clear that *all* petitioning activity (like Ms.  
 21 Williams’s) is protected under the Anti-SLAPP statute, whether or not it involves a  
 22 public issue. See *Briggs v. Eden Council for Hope & Opportunity*, 19 Cal. 4th 1106,  
 23  
 24  
 25  
 26  
 27



1116 (1999). The analysis in *Shapiro* thus has no relevance here except to bolster Ms. Williams's claim that this conduct fits Prong One.

Ms. Williams has satisfied her burden under the first prong of the Anti-SLAPP analysis. The burden now shifts to Plaintiff to show a probability of prevailing on his claims. He has failed to make this showing.

### 3.2 Plaintiff Cannot Show a Probability of Prevailing on His Claims

NRS 41.660 defines a plaintiff's burden of proof as "the same burden of proof that a plaintiff has been required to meet pursuant to California's anti-Strategic Lawsuit Against Public Participation law as of the effective date of this act." NRS 41.665(2). Plaintiff cannot simply make vague accusations or provide a mere scintilla of evidence to defeat Ms. Williams's Motion. Rather, to satisfy his evidentiary burden under the second prong of the Anti-SLAPP statute, Plaintiff must present "substantial evidence that would support a judgment of relief made in the plaintiff's favor." *S. Sutter, LLC v. LJ Sutter Partners, L.P.*, 193 Cal. App. 4th 634, 670 (2011); see also *Mendoza v. Wichmann*, 194 Cal. App. 4th 1430, 1449 (2011) (holding that "substantial evidence" of lack of probable cause was required to withstand Anti-SLAPP motion on malicious prosecution claim). Plaintiff cannot make this showing as to any of his claims.<sup>19</sup>

#### 3.2.1 Ms. Williams's Statements are Absolutely Privileged

Ms. Williams's statements to the NRED are absolutely protected under the litigation privilege. Statements made in quasi-judicial proceedings, such as those before administrative bodies, are absolutely privileged. See *Sahara Gaming*

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<sup>19</sup> Plaintiff tries to redefine this standard with a citation to Black's Law Dictionary. This is unavailing, as the statute defines this standard with reference to California law, which is controlling. This is yet another instance of sanctionable conduct, as he made the argument in his earlier Opposition and Ms. Williams already explained that this is the wrong standard. (See initial Opposition at 14-15; initial Anti-SLAPP Reply at 14 n.11; Opposition at 17.)

1 *Corp. v. Culinary Workers Union Local 226*, 115 Nev. 212, 217 (1999); see also *Lewis*  
2 *v. Benson*, 101 Nev. 300, 301 (1985) (applying absolute privilege to citizen  
3 complaint to internal affairs bureau against police officer). This privilege  
4 completely bars any liability for statements made in the course of these  
5 proceedings, **even if they are made maliciously and with knowledge of their**  
6 **falsity**. See *Sahara Gaming*, 115 Nev. at 219. It is not “limited to the courtroom,  
7 but encompasses actions by administrative bodies and quasi-judicial  
8 proceedings. The privilege extends beyond statements made in the  
9 proceedings, and includes statements **made to initiate official action.**” *Wise v.*  
10 *Thrifty Payless, Inc.*, 83 Cal. App. 4th 1296, 1303 (2000) (emphasis added) (holding  
11 absolute privilege applied to husband’s report to the Department of Motor  
12 Vehicles regarding wife’s drug use and its possible impact on her ability to drive);  
13 see also *Fink v. Oshins*, 118 Nev. 428, 433-34 (2002) (holding that “the privilege  
14 applies not only to communications made during actual judicial proceedings, but  
15 also to ‘**communications preliminary to a proposed judicial proceeding**’”)  
16 (emphasis added).

17 “[The] absolute privilege exists to protect citizens from the threat of litigation  
18 for communications to government agencies whose function it is to investigate  
19 and remedy wrongdoing.” *Wise*, 83 Cal. App. 4th at 1303. “[C]ourts should apply  
20 the absolute privilege liberally, resolving any doubt ‘in favor of its relevancy or  
21 pertinency,’” and district courts should “resolve[] any doubt in favor of a broad  
22 application of the absolute privilege.” *Oshins*, 118 Nev. at 434. Finally, the  
23 privilege applies to all claims based on the same set of facts: “[i]f a statement is  
24 protected, either because it is true or because it is privileged, that ‘protection  
25 does not depend on the label given the cause of action.’” *Francis v. Dun &*  
26 *Bradstreet, Inc.*, 3 Cal. App. 4th 535, 540 (1992) (quoting *Reader’s Digest Assn. v.*  
27 *Superior Court*, 37 Cal. 3d 244, 265 (1984)). “Though the privilege originally formed

as a defense to defamation, it has been expanded to cover a variety of torts.”  
*Allstate Ins. Co. v. Belsky*, 2018 U.S. Dist. LEXIS 162318, \*8 (D. Nev. Sept. 21, 2018);  
*Lebbos v. State Bar*, 165 Cal. App. 3d 656, 667 (1985) (noting that litigation  
privilege applies to claims including, *inter alia*, intentional infliction of emotional  
distress and negligence).

Though the Nevada Supreme Court apparently has not yet dealt with a  
case applying the absolute privilege to claims against a realtor, California has  
recognized that its similar absolute privilege applies to such circumstances. See  
*King v. Borges*, 28 Cal. App. 3d 27, 34 (1972) (extending absolute privilege to  
complaint against realtor filed with state division of real estate); see also *Vultaggio*  
*v. Yasko*, 215 Wis. 2d 326, 334 (Wis. 1998) (noting Wisconsin extending absolute  
privilege to “statements made to a real estate broker’s board”). Ms. Williams’s  
complaint to the NRED is comparable to a complaint filed with a state bar against  
an attorney, which is considered an official proceeding under California’s similar  
absolute privilege. See *Lebbos*, 165 Cal. App. 3d at 667 (finding that “[i]nformal  
complaints to the State Bar are part of ‘official proceedings’ protected by”  
California’s privilege); see also *Katz v. Rosen*, 48 Cal. App. 3d 1032, 1036-37 (1975)  
(stating that “[i]nformal complaints received by a bar association which is  
empowered by law to initiate disciplinary procedures are as privileged as  
statements made during the course of formal disciplinary proceedings”).

Nevada has found that establishing this absolute privilege requires two  
elements to be satisfied: “(1) a judicial [or quasi-judicial] proceeding must be  
contemplated in good faith and under serious consideration, and (2) the  
communication must be related to the litigation.” *Jacobs v. Adelson*, 325 P.3d  
1282, 1285 (Nev. 2014).<sup>20</sup> “Good faith” here is a low bar because the privilege

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<sup>20</sup> This privilege applies equally to lawyers and non-lawyers alike. See *Clark*  
*Cty. Sch. Dist. V. Virtual Educ. Software, Inc.*, 125 Nev. 374, 383 (2009) (“VESI”).

1 applies "even when the motives behind [the statements] are malicious and they  
2 are made with knowledge of the communications' falsity." *Id.* Plaintiff only  
3 contests the first element of this privilege, and this element is satisfied if the speaker  
4 makes a statement while seriously considering litigation or a quasi-judicial  
5 proceeding, regardless of their motives.<sup>21</sup>

6 The FAC show this to be the case. Ms. Williams told Plaintiff in June 2017 she  
7 planned to file a complaint against him, then did so two months later.<sup>22</sup> To bolster  
8 the strength of her complaint, at least initially, **the NRED found cause to discipline**  
9 **Plaintiff** – albeit they later reversed course after Plaintiff **appealed** its decision.  
10 (See Anti-SLAPP Motion Exhibits 13-14.) The NRED had the ability to initiate an  
11 investigation, which it did, and impose discipline, which it also initially did.<sup>23</sup> The  
12 NRED investigation, including the NRED Complaint which initiated it, is thus an  
13 "official proceeding" for purposes of the litigation privilege. The privilege thus  
14 applies even if every statement in the NRED Complaint was false and Ms. Williams  
15 knew every statement to be false. See *Fitzgerald v. Mobile Billboards, Ltd. Liab.*  
16 *Co.*, 416 P.3d 209, 211 (Nev. 2018) (noting that "the common law absolute  
17 privilege bars any civil litigation for defamatory statements even when the  
18 defamatory statements were published with malicious intent").

19  
20  
21 <sup>21</sup> This requirement of the privilege is meant to prevent parties from abusing  
22 the privilege by, for example, making defamatory statements in a demand letter  
23 with no intention of initiating litigation, then distributing these statements to media  
outlets and claiming an absolute privilege. The facts here are the exact opposite  
of this scenario.

24 <sup>22</sup> Plaintiff's self-contradictory claim of "anticipatory retaliation" has the  
25 facts backwards. Ms. Williams first told Plaintiff she would file a complaint if he  
didn't stop his unprofessional and unethical behavior. *Then*, in retaliation, Plaintiff  
began threatening to sue Ms. Williams.

26 <sup>23</sup> Plaintiff agrees that the NRED has these duties and powers. (Lazer Decl.  
27 at ¶ 51.)

The NRED Complaint is unquestionably absolutely privileged, even if Ms. Williams knew that every statement in it was false.<sup>25</sup> All of Plaintiff's claims must fail and he cannot show a probability of prevailing on them. But even if the absolute privilege did not apply, Plaintiff's claims fail on the merits.

Plaintiff provides no contrary authority, instead trying only to distinguish a few of the cases showing that an absolute privilege applies here.<sup>26</sup> These arguments are identical to the ones made in his initial Opposition and fail for the same reasons. He has no response to the majority of cases showing that the privilege is intended to apply broadly and courts should resolve any ambiguities in favor of its application. *Oshins*, 118 Nev. at 434. He also again falsely claims that the privilege does not apply to statements made to initiate a judicial or quasi-judicial proceeding, completely ignoring Ms. Williams's authority to the contrary and providing no authority in support of this position. See *Wise*, 83 Cal. App. 4th at 1303; see also *Oshins*, 118 Nev. at 433-34. And Plaintiff continues to insist that the privilege does not apply because Ms. Williams allegedly had impure motives, again ignoring case after case cited in the instant Motion that *this does not matter* and providing no supporting authority. This dogged persistence in repeating groundless legal arguments despite being informed repeatedly that they are groundless is yet another basis for imposing sanctions.

Plaintiff also repeats the argument that there are questions as to whether the NRED seriously considered taking action in response to Ms. Williams's complaint. First, that is not the standard; the inquiry is focused on whether Ms.

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<sup>25</sup> This, of course, is not the case, as Ms. Williams believed every statement in the complaint to be true. (See Williams Decl. at ¶ 36.)

<sup>26</sup> Plaintiff attempts to distinguish *Sahara Gaming Corp.* and *Benson* by claiming that they dealt with motions for summary judgment instead of motions to dismiss, seemingly oblivious to the fact that Anti-SLAPP motions are treated as motions for summary judgment.

Williams, not the NRED, seriously considered initiating a quasi-judicial proceeding. Second, this argument is contradicted by the FAC and Plaintiff's declarations, which discuss the months-long NRED investigation initiated by Ms. Williams's complaint that allegedly required so much time and effort to respond to. Ms. Williams also provided evidence showing that the NRED seriously considered her complaint and initially imposed discipline on Plaintiff. (Anti-SLAPP Motion Exhibits 13-14.) Ms. Williams's statements are thus absolutely privileged.

### 3.2.2 Plaintiff's Defamation Claims Fail on the Merits

None of Plaintiff's individual claims for relief need to be addressed because they are all barred by the absolute litigation privilege. Even without it, however, they each fail.<sup>27</sup>

The defamation claims fail because, as explained in Section 3.1.2, *supra*, each of the statements at issue are either statements of opinion, are true, or were made without any degree of fault. Furthermore, Plaintiff provides absolutely no evidence that he has suffered any damages whatsoever. He simply claims he has spent time responding to the NRED, which is not reputational harm recoverable in a defamation claim.<sup>28</sup> He provides no authority establishing this constitutes reputational harm recoverable in a defamation action (it is not) and

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<sup>27</sup> Plaintiff insists his allegations in the FAC are sufficient to satisfy his burden on prong two. He even claims that "[t]his court must take plaintiff's allegations as true in a motion to dismiss." (Opposition at 21.) This is a sanctionable misrepresentation to the Court, as Ms. Williams has repeatedly explained that an Anti-SLAPP motion is treated as a motion for summary judgment, and the plaintiff must provide admissible evidence to satisfy his burden. He fails to do so for any of his claims.

<sup>28</sup> Plaintiff also makes a passing reference to "damage to my professional reputation" in his declaration ("Lazer Decl. at ¶ 51), but provides no evidence that the NRED Complaint damages his reputation. Such harm should be impossible, as the NRED ultimately decided not to enforce its initial disciplinary decision and Ms. Williams did not publish her statements to anyone other than the NRED.

provides no documentation or other evidence showing he has suffered actual damages. There is thus no probability of prevailing on his defamation claims.

The Anti-SLAPP Motion explains that Plaintiff's business disparagement claim fails because it cannot co-exist alongside the defamation claims. Plaintiff does not address this issue, thus conceding it. Furthermore, Plaintiff provides no evidence, and does not even claim in his declarations, that he suffered any loss of business or similar damages as a result of the NRED Complaint. There is thus no evidence of damages, and the claim fails.

The intentional infliction of emotional distress claim similarly fails for lack of evidence of damages. There are no documents and no declarations even claiming, much less specifying or quantifying, any kind of emotional distress caused by the NRED Complaint. There is likewise no evidence that Ms. Williams intended to inflict any kind of emotional distress when she filed the NRED Complaint. This claim thus fails.

The negligence claim, as with all other claims, likewise fails due to lack of evidence of damages. Plaintiff has not demonstrated a probability of prevailing on any of his claims, and the Court should grant Ms. Williams's Anti-SLAPP Motion.<sup>29</sup>

#### **4.0 CONCLUSION**

For the foregoing reasons, the Court should dismiss all of Plaintiff's claims with prejudice and award both Ms. Williams's costs and reasonable attorneys' fees, as well as award her \$10,000, to be sought by separate motion.

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<sup>29</sup> As a miscellaneous matter, Plaintiff argues the Court should strike the Anti-SLAPP Motion because it allegedly exceeds the page limit for a motion. However, Plaintiff apparently included the case caption pages, attorney signature blocks, and certificates of service in its calculation. These are non-substantive pages that are typically excluded from the page limit. In any event, Plaintiff provides no authority for the proposition that striking the entirety of a dispositive motion is an appropriate remedy for exceeding the page limit.

DATED November 26, 2019.

Respectfully submitted,

/s/ Marc J. Randazza

Marc J. Randazza (NV Bar No. 12265)

Alex J. Shepard (NV Bar No. 13582)

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2764 Lake Sahara Drive, Suite 109

Las Vegas, NV 89117

Attorneys for Defendant

*Daphne Williams*



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 26th day of November 2019, I served a true and correct copy of the foregoing document via the Eighth Judicial District Court's Odyssey electronic filing system and via U.S. Mail and email upon Plaintiff at:

Adam R. Trippiedi, Esq.  
LAW OFFICES OF MICHAEL F. BOHN, ESQ., LTD.  
2260 Corporate Cir, Suite 480  
Henderson, Nevada 89074

/s/ Crystal Sabala  
Employee,  
Randazza Legal Group

# **EXHIBIT 1**

Supplemental Declaration of Daphne Williams

**EIGHTH JUDICIAL DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

**CHARLES “RANDY” LAZER,**

Plaintiff,

vs.

**DAPHNE WILLIAMS,**

Defendants.

Case No. A-19-797156-C

Dept. XV

HEARING REQUESTED

**SUPPLEMENTAL DECLARATION OF**  
**DAPHNE WILLIAMS IN SUPPORT OF**  
**ANTI-SLAPP SPECIAL MOTION TO**  
**DISMISS FIRST AMENDED**  
**COMPLAINT UNDER NRS 41.660**

I, Daphne Williams, declare:

1. I am over 18 years of age and have never been convicted of a crime involving fraud or dishonesty. I have first-hand knowledge of the facts set forth herein, and if called as a witness, could and would testify competently thereto.

2. I am the defendant in this matter. I provide this declaration in support of the Reply in support of my Anti-SLAPP Special Motion to Dismiss Plaintiff Charles “Randy” Lazer’s First Amended Complaint Under NRS 41.660 (the “Anti-SLAPP Motion”).

1           3.       On May 21, 2017, I met Plaintiff in person at a Whole Foods store. During this  
2 meeting, I made revisions to the Real Estate Purchase Agreement (“RPA”) for the sale of a condo  
3 unit.

4           4.       To my knowledge, Plaintiff had never met my brother prior to May 2017, and did  
5 not know him personally.

6           5.       The version of the RPA I signed while at the Whole Foods on May 21, 2017 did  
7 not have the signature of the Seller affixed to it. I understood that, since it contained additional  
8 terms that were not found in the version Plaintiff sent me on May 18, 2017, the Seller needed to  
9 review this version of the RPA and sign it. Plaintiff did not inform me at any point during, prior  
10 to, or after this meeting that he had authorization from the Seller to accept the changes I made to  
11 the RPA. I had no reason to believe he had been given such authority, as I did not observe any  
12 communications he had with the Seller regarding this issue.

13          6.       I never called Plaintiff, either on May 22, 2017 or at any other time, to request that  
14 he send a fully-executed version of the RPA to Bryan Jolly. I never told Plaintiff to send the RPA  
15 to Mr. Jolly; rather, I told Plaintiff on May 21, 2017 to send the fully-executed RPA to me directly.  
16 He agreed to do so after discussing the changes I made to the RPA with the Seller.

17          7.       To my knowledge, Plaintiff has never at any point prior to filing his Opposition to  
18 my Anti-SLAPP Motion, claimed that I called him on May 22 and instructed him to send the RPA  
19 to Mr. Jolly.

20          8.       Contrary to Plaintiff’s assertion, I was never required to make a 20% down payment  
21 on the condo I was purchasing from the Seller. The RPA is silent as to the down payment amount,  
22 and I am not aware of any way in which making a 5% down payment instead of a 20% down  
23 payment could have delayed the close of escrow. The down payment amount was not decided  
24 until after June 9, 2017, when I asked Mr. Jolly what the amount of the down payment should be.

1 Under the laws of the State of Nevada, I declare under penalty of perjury that the foregoing  
2 is true and correct to the best of my knowledge.

3  
4 Executed on 11/25/2019.

DocuSigned by:  
*Daphne Williams*  
IDFFFA09508E43A...  
Daphne Williams

# **EXHIBIT 2**

June 9, 2017 email from Ms. Williams to Mr. Jolly



Alex Shepard &lt;ajs@randazza.com&gt;

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**Fwd: Down payment**

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**Daphne W** <dlwilliams123@gmail.com>

Sun, Nov 17, 2019 at 8:54 PM

To: Alex Shepard &lt;ajs@randazza.com&gt;, Marc Randazza &lt;mjr@randazza.com&gt;, Ron Green &lt;rdg@randazza.com&gt;

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

----- Forwarded message -----

From: **Daphne Williams** <dlwilliams123@gmail.com>

Date: Fri, Jun 9, 2017 at 7:51 AM

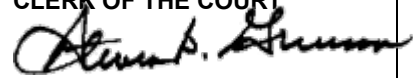
Subject: Down payment

To: Bryan A. Jolly &lt;bjolly@goalterra.com&gt;

Hi Bryan,  
I hope you are well.  
Roughly, how much do I need for my down payment?

When do you think I'll need to pay it?

Sent from my iPhone



TRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

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CHARLES LAZER,

Plaintiff,

vs.

DAPHNE WILLIAMS,

Defendant.

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CASE NO. A-19-797156

DEPT. NO. XV

**Transcript of Proceedings**

BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

**ALL PENDING MOTIONS**

MONDAY, DECEMBER 9, 2019

APPEARANCES:

For the Plaintiff: ADAM R. TRIPPIEDI, ESQ.

For the Defendant: MARC J. RANDAZZA, ESQ.  
ALEX J. SHEPARD, ESQ.

RECORDED BY: MATTHEW YARBROUGH, DISTRICT COURT  
TRANSCRIBED BY: KRISTEN LUNKWITZ

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MONDAY, DECEMBER 9, 2019 AT 9:48 A.M.

THE CLERK: 797156, *Charles Lazer versus Daphne Williams*.

MR. TRIPPIEDI: Good morning, Your Honor. Adam Trippiedi for Mr. Lazer, who is present today.

THE COURT: Good morning.

MR. LAZER: Good morning.

MR. RANDAZZA: Good morning, Your Honor. Mark Randazza, Alex Shepard for Ms. Williams.

THE COURT: Who is also present. Right?

MR. RANDAZZA: Yes, Your Honor.

THE COURT: Okay. Good morning.

MS. WILLIAMS: Good morning.

THE COURT: So, I've reviewed the anti-SLAPP Motion, and the Opposition, the Reply. Yeah. And I was going to say I thought there was another -- and the Opposition to the Countermotion, as well as read through -- re-read through portions of NRS Chapter 41 and the 2017 cases *Delucchi versus Songer* and *Shapiro versus Welt*. And I welcome arguments beginning with Mr. Randazza. And my first question would be is how is anything different than when you were in front of me before?

MR. RANDAZZA: Well, Your Honor, I would say that at least at this point we have provided, I think, enough

1 evidence to overwhelm any notion that this is not protected  
2 under prong 1 of the anti-SLAPP statute. So, really, what  
3 we have here is a complaint, we have a defamation  
4 complaint, about -- a Real Estate Division complaint about  
5 a realtor. NRS 41.6371 provides that any communication  
6 aimed at procuring governmental action, result, or outcome  
7 is protected. I can't see how we define this in any other  
8 way and there is no opposition to that in the Opposition to  
9 the Motion, although we raise that clearly in our Motion.  
10 41.6372, they actually concede in their Opposition and,  
11 41.673, if we really -- 637 subparagraph 3, if we really  
12 need to get there. But I don't think we need to.

13           And I don't want to waste your time if you're  
14 satisfied that we've already hit the tripwire at paragraph  
15 1. If Your Honor has any questions about why it wouldn't  
16 hit paragraph 1, I'm --

17           THE COURT: So, paragraph 1 of 637?

18           MR. RANDAZZA: 41.6371.

19           THE COURT: Bear with me a second. Sure. Now, I  
20 don't have any questions on that particular part of your  
21 briefs.

22           MR. RANDAZZA: So, then, we get to the question of  
23 -- I guess you had some questions about good faith, Your  
24 Honor.

25           THE COURT: Yes. So, before us there is a -- you

1 know, couldn't find at the time that there weren't any  
2 genuine issues of material fact regarding, you know, good  
3 faith. And, whether now, same type of issue, whether it  
4 truthful or made without knowledge of its falsehood. And,  
5 then, also, you know, the *Delucchi* -- well, the *Shapiro*  
6 case really takes it through, I guess, the steps of, you  
7 know, what is a public interest versus a private one, as  
8 added in. And, then, *Delucchi* addresses, really, the  
9 truthfulness or the knowledge, I suppose. So, yeah,  
10 however you want to argue these.

11 MR. RANDAZZA: Well, Your Honor, in the *Shapiro*  
12 case, I think you were looking in the wrong direction.  
13 *Shapiro versus Welt* is a subparagraph 4 case. And that's  
14 where things can be a little more complicated. It's when  
15 it's a public statement. So, if you issue an editorial  
16 that may have some private or public action, we don't get  
17 to that.

18 THE COURT: So, you're -- yeah. I got you.

19 MR. RANDAZZA: This is an old-fashioned SLAPP  
20 case. This would have applied even prior to the 2013 or  
21 2015 amendments. It's aimed at procuring governmental  
22 actions. So, the *Shapiro versus Welt* analysis is  
23 irrelevant because we are not claiming subparagraph 4.  
24 This wasn't published on it. If this were a consumer  
25 review, this were published on Yelp, this were published on

1 a blog, then I'd be talking about that.

2 THE COURT: Okay. Now I understand exactly what  
3 you're saying.

4 MR. RANDAZZA: An important factor to note on  
5 prong 1 is that if there is a mixed cause of action, they  
6 have to run the table. If there is one piece of my  
7 client's actions that are protected, we go through the gate  
8 of prong 1 and, then, we start talking about prong 2. Even  
9 false statements of fact are protected under prong 1. Now,  
10 I do not concede that anything here was false. And the  
11 question is knowing falsity. So, even if every single  
12 thing on this is erroneous, if even one of them were  
13 without knowledge of its falsity, we'd be through prong 1.  
14 We then have a big fight on prong 2. But prong 1 is  
15 covered then. And that is made clear in a number of cases  
16 that Your Honor did not mention but that we've cited in our  
17 briefing. *Peregrine Funding*, 133 Cal. App. 4<sup>th</sup> 658. And I  
18 can give you copies of those if you want them. *Lauter*  
19 *versus Anoufrieve*, 642 F. Spp. 2d 1060. And *Salma versus*  
20 *Capon*, 164 Cal. App. 4<sup>th</sup> 1275.

21 Now, these are not Nevada cases. But, as we  
22 briefed, Nevada -- the Nevada Legislature and the Nevada  
23 Supreme Court have both essentially said: Incorporate  
24 California case law because we have, really, the same  
25 statute with the same purpose.

1           THE COURT: And they said that explicitly in  
2 *Shapiro*.

3           MR. RANDAZZA: Yes, Your Honor. Therefore, what  
4 we have to look at here is -- because, you know, and that  
5 mixed cause of action rule makes perfect sense. Otherwise,  
6 I would advise any defamation plaintiff in this state to  
7 simply include anything they can find that's irrelevant in  
8 the claim and, then, push it outside of protection. The  
9 presumption is protection. So, we really have seven  
10 statements all incorporated into one cause of action. And  
11 if any one of those is true or was made without knowledge  
12 as to its falsity, we're past the prong 1 gate.

13           Now, the first statement that they claim is  
14 defamatory is Ms. Williams's opinion that she was being  
15 treated in a biased manner. This is an opinion. You  
16 cannot prove this true or false. We're done. Prong 1.  
17 Now, one could say that wasn't my intent to be biased. The  
18 statement was something about if once you are -- if you're  
19 successful one day, maybe you'll come back to me. Now, I  
20 look at that on its surface, I might say: That doesn't  
21 seem very biased at all to me. But it has the inherent  
22 presumption that she's not already successful. She's as  
23 educated as I am. She is -- has a very professional job  
24 that I can't even understand how to do.

25           So, why would we make that presumption? Well, she

1 believed that presumption was made due to her gender and  
2 her racial identity. Maybe she's wrong. But, you know,  
3 that happened. And, then, Mr. Lazer got extremely agitated  
4 about that and made a barrage of -- sent a barrage of e-  
5 mails, one of which was for some strange reason. And we  
6 have this -- where is it? It's Exhibit 14, the e-mail to  
7 the lender.

8 MR. SHEPARD: I think it's Exhibit 8 to the  
9 Motion.

10 MR. RANDAZZA: Exhibit 8 to the Motion is an e-  
11 mail to the lender where -- you know, where I see where if  
12 there was some misunderstanding about that, I can probably  
13 understand why that happened. Because, in that, Mr. Lazer  
14 says: I can't be racist, I like jazz music, and that's at  
15 the heart of African American culture. I mean, it's -- I  
16 can't be racist because I listen to Snoop Dogg argument  
17 just doesn't make any sense to me. And I can see how  
18 somebody could -- somebody who would make that statement  
19 could be someone who is inadvertently racist, perhaps at  
20 least somewhat tone deaf to how it might work.

21 THE COURT: So, what exhibit am I looking at?  
22 Because I'm looking at 8 and I don't see.

23 [Colloquy at counsel table]

24 MR. RANDAZZA: Exhibit 8 at --

25 THE COURT: Thirty-five to -- okay.

1 MR. RANDAZZA: -- at 8, pages 35 to 36. So, you  
2 know, if you look at paragraphs 2 and 3, she brings up the  
3 -- he brings up the statement. And, then, he says:

4 Bryan, you don't know me. I was head of community  
5 service project that delivered income to black  
6 families. You know, really, what I'm saying here is  
7 that when I look at this, I play and write jazz, which  
8 is truly at the very heart of black/African culture.

9 You know, I can see how the guy might have had a  
10 completely innocent intent but just might not get it. But  
11 that's not really the point. The point is, did she feel  
12 that way when she wrote this complaint? She has a  
13 declaration that says she did. She stands by that today.  
14 So, if Your Honor is satisfied that a statement of opinion  
15 cannot be false, I don't want to waste your time going  
16 through all seven statements. I will happily go through  
17 all of them. But if you're convinced that we're passed  
18 prong 1 or, if you'd like to, perhaps it would be more  
19 efficient if we had them respond to the prong 1 allegations  
20 and, then, we go to prong 2, however you want to do it.  
21 I'm just trying to be efficient.

22 THE COURT: No. That's fair. But I'm not going  
23 to tell you how I'm going to rule right now. But you make  
24 your --

25 MR. RANDAZZA: Then I will continue the exercise,

1 Your Honor.

2 THE COURT: Sure.

3 MR. RANDAZZA: So, we go on to the next statement  
4 contained in the same cause of action. So, I only need  
5 one. So, she says that Mr. Lazer told her about personal  
6 details about their relationship with the seller and how  
7 they met. Now, there's -- Lazer only disputes that he  
8 disclosed how they met, not other personal details, and he  
9 admits to disclosing some personal details in his response  
10 to the NRED. I don't see how this could be a defamatory  
11 statement but it's clearly a true statement. In fact, he's  
12 admitted that part of it is true. He disputes small parts  
13 of it. So, we've now got a -- you know, if we were landing  
14 on an aircraft carrier, we've hooked two of the cables  
15 already.

16 Now, Mr. Lazer told Williams what commission he  
17 was earning on the sale of the condo. Well, he admits that  
18 he disclosed this. He just says there's nothing wrong with  
19 doing that because he had authorization to do that. Maybe  
20 that's true. She didn't know that. She called -- as we  
21 put -- as in the record, she called the Real Estate  
22 Division to ask if that was proper.

23 I apologize. I misspoke. That's not true. She  
24 was under the impression that that was not permissible.  
25 Perhaps she's wrong. But she believed that to be a problem



1 and she disclosed that in the NRED complaint.

2           So, Lazer contacted the appraiser prior to  
3 appraisal. That's the one where she contacted the NRED and  
4 asked: Is that ethical? They told her it wasn't. Now, if  
5 that person's wrong, that person's wrong. But he admits  
6 that he does it. She thought it was unethical. She got  
7 that information. She didn't even need to check on that  
8 but she checked on it. So, again, if this statement is  
9 protected, they're all protected. Doesn't mean we went on  
10 prong 2. But it means that we're past prong 1.

11           Removing property from the condo. Well, Lazer  
12 admitted in his response to the NRED that she eventually  
13 allowed everything to be removed other than a wall mounted  
14 bracket and the wall mounted shelf, which she believes to  
15 be fixtures. That would be my legal opinion as well. So,  
16 there's no rebuttal to that from Lazer. He may dispute  
17 whether the fixtures or personal property. But if she  
18 comes to the same legal conclusion that I do and I didn't  
19 do that well in property, Your Honor. But I didn't take  
20 the TV bracket when I sold my house because I said it was a  
21 fixture. So, did she know that was false? I don't know  
22 how she could.

23           Williams didn't receive a receipt for earnest  
24 money paid. Well, Lazer admits he didn't provide a  
25 receipt. He only says it wasn't normal for him to do so.

1 It's literally true. Again, we're past prong 1.

2 Williams didn't get a signed contract from Lazer.  
3 Well, he admits that the one that he sent her wasn't the  
4 final version and the version with all the terms didn't  
5 even exist until May 21<sup>st</sup>. So, we have an e-mail exchange  
6 with Bryan Jolly, the loan officer, that the signed  
7 contract was sent on the 23<sup>rd</sup>. And if we're getting down  
8 into this minutia, I think we've already lost track of what  
9 the case is about.

10 Williams says she was not responsible for delays  
11 in closing the escrow. Well, Williams waited until we know  
12 there was an appraisal done or at or above the purchase  
13 price. All of this, all of these delays, she claims it  
14 wasn't her fault. Well, that's a matter of dispute of  
15 opinion.

16 And, then, there's this question about whether the  
17 seller told Williams that Lazer was trying to derail the  
18 deal. Well, when we look at the e-mails, he's actually  
19 threatening that. So, I think we've got that proven.

20 So, if any one of those statements in this NRED  
21 complaint was made without knowledge of its falsity, we've  
22 got ones that are true, if they're true, it doesn't matter.  
23 If it's false, it only matters if she knew it. Now, the  
24 anti-SLAPP statute makes it clear that that's just a  
25 threshold shelving. Even in the anti-SLAPP statute where

1 it has a provision now that you can seek discovery on some  
2 issues, you can't even seek discovery on prong 1 because  
3 the presumption is prong 1 is pretty easy. So, if you --  
4 let's do -- if you're a little puzzled about that, Your  
5 Honor --

6 THE COURT: Well, I do. Because whether it's  
7 prong 1, 2, 3, or 4, doesn't that last -- and it's --

8 MR. RANDAZZA: Your Honor, there are only two  
9 prongs.

10 THE COURT: The way the statute directs -- so bear  
11 with me a second. On your Motion, it said -- so, on page  
12 4, you plot quote the NRS 41.637.

13 MR. RANDAZZA: Your Honor, I'm talking about prong  
14 1 as to -- of the statute that is it protected conduct.  
15 And, then, prong 2 is do they have a reasonable likelihood  
16 of success? Are you -- you're talking --

17 THE COURT: So, you're looking at the other 660 or  
18 --

19 MR. RANDAZZA: Yes, Your Honor. So, what you're  
20 talking about -- you're looking at page 4 of my Motion?

21 THE COURT: Yeah. So, basically, you know, under  
22 that, under whether you're proceeding under subsection 1 as  
23 you say you are, which makes sense. But, regardless of  
24 what subsection, the qualifier for all of them, which are  
25 truthful or are made without knowledge of its falsehood.

1 MR. RANDAZZA: Right.

2 THE COURT: So, that's kind of where I got hung up  
3 last time.

4 MR. RANDAZZA: Well, maybe that's the confusion,  
5 Your Honor, is that we have to look at 41.660 for the two  
6 prongs. Step one is: Is it covered as an anti-SLAPP  
7 protectable communication? That's really not hard for us  
8 because that's a very --

9 THE COURT: Right.

10 MR. RANDAZZA: -- very low threshold. So, I think  
11 I've shown that we've passed through that threshold. So,  
12 now, we get on to prong 2. In prong 2, we have two  
13 different lines of defense. One is that since it is  
14 seeking governmental intervention, this is privileged. If  
15 you make a complaint about a professional to a government  
16 agency, that is covered under an absolute privilege. So,  
17 people can make frivolous bar complaints against lawyers  
18 all they like, we can't sue for that. You can make  
19 frivolous complaints against even realtors, judges, anybody  
20 you want that has some kind of governmental regulation.  
21 It's unfortunate for people with a professional license  
22 that they might have to deal with that. But that is the  
23 decision that we've made because we don't want to  
24 discourage citizens from complaining about bad cops,  
25 worrying about they're going to get sued, bad lawyers

1 complaining they're going to get sued, or bad realtors. I  
2 see nothing that says a realtor is exempt from this. It  
3 seems very clear that they are not exempt from.

4 Now, if that's the case, then I don't even need to  
5 get into the truth or the falsity of the statements.  
6 That'll take us about another half an hour, Your Honor.  
7 So, I -- again, I want to be efficient with your time. If  
8 you'd like me to go through every bit of it, I'll be happy  
9 to.

10 THE COURT: No. There's no need on that one.  
11 Thank you.

12 MR. RANDAZZA: Okay. Well, then, Your Honor, if  
13 you have no other questions about this, I hope that we're  
14 clear now about what I mean by prong 1 and prong 2 and I'm  
15 not referring to these sub subcategories of prong 1, I want  
16 to give the rest of the time to Mr. Lazer's attorney.

17 THE COURT: Thank you.

18 MR. RANDAZZA: Of course, subject to rebuttal.

19 MR. TRIPPIEDI: Yes, Your Honor. Before I get  
20 into the substance of the Motion, I'd like to address an  
21 issue I brought up at the beginning of my Opposition, which  
22 is violation by the defendant of EDCR 2.20. The Motion by  
23 the defendant is 34 pages. Now, they would argue that one  
24 of those pages simply contains a signature. Some of those  
25 pages, part of them is a caption. But, the point is, if I

1 count up the 21 pages in their argument, and, then, I think  
2 14 pages in their statement of fact, which, for some reason  
3 were filed in a separate document. Well, it's so they  
4 wouldn't be at page 35, I guess. But, the point is, there  
5 are too many pages in this document. Even if we move --  
6 remove the signature page from one of the documents, the  
7 Motion itself totals over 30 pages. So, it's definitely  
8 and clearly in violation of 2.20. The problem with 2.20 is  
9 we don't have an enforcement provision that tells us what  
10 you are supposed to do if an attorney violates that rule.  
11 So --

12 THE COURT: So, I would take the substance of --  
13 you know, let's assume that, you know, I am looking at the  
14 number of pages. So, substantively, their Motion's 20  
15 pages long. Substantively, the quote/unquote, statement of  
16 facts, is 10 pages long. So, I'm inclined to hear the  
17 substance.

18 MR. TRIPPIEDI: All right. Well, I just wanted to  
19 make my argument because it did require us more time to  
20 respond to that, to read it, to research it, more than is  
21 allowed by the rules. So, I would -- I did request, it  
22 doesn't sound like you're interested, but I requested the  
23 Motion be denied or, perhaps that we can --

24 THE COURT: Your argument is made in the briefs  
25 and I disagree with you.

1 MR. TRIPPIEDI: Thank you.

2 THE COURT: Okay.

3 MR. TRIPPIEDI: Your Honor, as to the substance of  
4 the Motion, I think you already said it. But, when we were  
5 here in September, you found that you -- at this juncture  
6 of the case, there was not sufficient proof by the  
7 defendant. It is their burden in this Motion by a  
8 preponderance of the evidence to show good faith, or  
9 truthfulness, or a knowledge of falsity -- or no knowledge  
10 of falsity, and they haven't done that at this point.  
11 We're still there. They have tried to -- clearly, they've  
12 added more pages to their document. But it hasn't changed  
13 the fact that they cannot meet that burden at this point.

14 Counsel, respectfully, goes through the statute  
15 and talks about prong 1, prong 2. But, the fact is, they  
16 need to meet this particular portion of the statute that  
17 talks about truthfulness without knowledge of falsity and  
18 they haven't done that at this point.

19 I have -- you know, in my Motion and in the  
20 previous argument, I went through these various statements  
21 and I'm going to go through them again right now.

22 THE COURT: That's fine. That's fine.

23 MR. TRIPPIEDI: I know Your Honor's read this.  
24 But just to emphasize these points.

25 THE COURT: Sure.

1           MR. TRIPPIEDI: So, the first issue -- and counsel  
2 didn't point this out, the defendant makes various  
3 arguments regarding -- I apologize. The defendant, in her  
4 NRED statement of fact, made various statements regarding  
5 racism, sexism, unprofessionalism, being unethical, and  
6 referred to texts and e-mails that contain that  
7 information. But no such texts or e-mails were ever  
8 provided. In fact, there's not even one text or one e-mail  
9 that mentions Mr. Williams's gender or race. So, we're not  
10 there. There's nothing -- absolutely nothing there. And I  
11 understand the racism, sexism, those are factual -- those  
12 are opinions. I get that.

13           But she's making reference to texts and e-mails to  
14 support those opinions and they don't exist. And those are  
15 opinions. But, Your Honor, taken in context with all the  
16 various falsehoods contained within her statement of fact,  
17 those are -- these are extremely damaging and upsetting  
18 statements by Ms. Williams to -- as against Mr. Lazer. And  
19 they have -- they had real consequences for him.

20           But, as far as the factual verifiable  
21 demonstratively false statements, the first one is that the  
22 plaintiff did not share any confidential information with  
23 the defendant. And the defendant tries to work around that  
24 by saying she -- you know, the seller was authorized. She  
25 didn't know that the seller authorized Mr. Lazer to



1 disclose the amount of the -- of his commission. But, the  
2 fact is, she made this statement without any knowledge of  
3 if it was true, she basically just jumped the gun and made  
4 an argument against Mr. Lazer to NRED without verifying it.  
5 And that is clearly a false statement and she -- that's  
6 defamatory.

7           The second is she said that speaking to the  
8 appraiser was unethical. That's untrue. He was simply  
9 sharing information regarding comps, comparable properties,  
10 upgrades on the property, and that is -- there's nothing  
11 unethical about that. So, that is a false statement made  
12 in her statement of fact to NRED.

13           She also -- there's multiple occasions where she  
14 stated that Mr. Lazer lied. And, in addition to being just  
15 damaging to his character, it's also false. She cannot  
16 come up with one false -- one lie, one false statement that  
17 Mr. Lazer said. Her first one was that -- about the  
18 personal property issue, that there was no personal  
19 property left there, that she allowed them to remove  
20 everything, the seller to remove all of her personal  
21 property. But we know that's not true because the seller  
22 has written and signed a declaration stating that she was  
23 not allowed to remove all of her personal property.

24           So, Mr. Lazer didn't lie about that. It's  
25 verified not only by his declaration but by the declaration

1 of the person that Ms. Williams is alleging was actually --  
2 didn't -- was the person that didn't even allow her to  
3 remove the property. So, that's not a true statement. Mr.  
4 Lazer didn't lie about that fact.

5           Additionally, Mr. Lazer didn't provide a signed  
6 copy of the contract to Ms. Williams on May 18<sup>th</sup>. She  
7 signed it and made two very small additions and she had  
8 that. She could have made copies right there. And, then,  
9 at that point, Mr. Lazer, on her command, sent the signed  
10 contract with the two additional changes to the lender.  
11 So, that was provided. And that was a false statement by  
12 Ms. Williams in her NRED statement of fact.

13           Ms. Williams also claims Mr. Lazer lied about Ms.  
14 Williams meeting her due diligence -- or failing to meet  
15 her due diligence timelines. That's verified, again, by e-  
16 mails. And, actually, Ms. Williams admits now in the -- in  
17 her declaration in support of this Motion, that she did  
18 wait to provide the condo certification. And that -- we're  
19 arguing that was the cause of the delay. And she admits  
20 that she actually did wait until after the appraisal was  
21 done to get the condo certification. Well, that was her  
22 decision. I understand that she didn't want to spend a  
23 nonrefundable amount on a condo cert. But the fact is that  
24 that action is what delayed this closing. And she admits  
25 that that action delayed the closing.

1 [Colloquy at counsel table]

2 MR. TRIPPIEDI: Additionally, the -- as we argued  
3 and Mr. Lazer said his declaration in this case, the amount  
4 of the down payment fluctuated in this case and that also  
5 caused a delay. So, again, Mr. Lazer did not lie about Mr.  
6 Williams causing the delays.

7 The plaintiff also did not try to sabotage the  
8 deal. That's a statement that Ms. Williams, in her NRED  
9 statement of fact, attributes to the seller. She alleges  
10 that the seller told her Mr. Lazer tried to sabotage the  
11 deal. But, in her declaration, she directly contradicts  
12 that statement. The seller does. She says: I never said  
13 such thing. So, that's clearly something that Ms. Williams  
14 knew was false and should not have been included in her  
15 statement of fact. And it's actionable and it's not  
16 covered under anti-SLAPP provisions.

17 And, lastly, is the matter of the EMD receipt. I  
18 mean, this is a small fry. But, in the context of all of  
19 these other false statements, it's still a false statement.  
20 It's misleading at best that she's saying, he never  
21 provided me an EMD receipt, the earnest money deposit  
22 receipt. But the fact, it's not his obligation to do so.  
23 So, we have various lies. And, then, we also have various  
24 misleading statements. And, then, we also have various  
25 statements of opinion that are extremely harmful and

1 detrimental to Mr. Lazer's career, particularly when we're  
2 talking about NRED, which is the governing body of  
3 Realtors. So, those are all of the false statements of  
4 fact and opinion, racism, sexism, everything else, throw it  
5 all in there. But we have clearly several demonstratively  
6 false statements of fact that are countered by the  
7 declarations of Mr. Williams -- Mr. Lazer, as well as the  
8 seller herself.

9           Additionally, there's the fact that the defendant  
10 submitted her statement of fact two days before Mr. Lazer  
11 was going to file a defamation complaint in 2017. And, as  
12 I've outlined in my Motion -- in my Opposition, in 2017 in  
13 the summer, after the closing, Mr. Lazer and Ms. Williams -  
14 - Mr. Lazer had sent Ms. Williams a demand letter for  
15 defamation and she retained counsel. There was negotiation  
16 back and forth between Mr. Lazer and Ms. Williams's counsel  
17 and, ultimately, they could not come to any sort of  
18 agreement. Mr. Lazer said: I'm filing a Complaint on -- I  
19 think the date was August 25<sup>th</sup> or 26<sup>th</sup>. And Ms. Williams  
20 filed her statement of fact with NRED two days before that  
21 date -- or, a day before. So, clearly, her action was in  
22 anticipation. It was retaliatory against Mr. Lazer's  
23 threats and that's not good faith. That's an act of  
24 retaliation.

25           The next issue, Your Honor, in going through the

1 statute itself, NRS 41.637 sub 3 requires an issue under  
2 consideration. The message -- or, the communication must  
3 be --

4 THE COURT: So, what Mr. Randazza has stated is  
5 they're proceeding under subsection 1. Is that right?  
6 That's what you told me. Correct?

7 MR. RANDAZZA: To be clear, Your Honor, yes. Our  
8 thrust is 1, in the alternative, 2 or 3.

9 THE COURT: Okay. Okay.

10 MR. RANDAZZA: So, if he --

11 THE COURT: So, go ahead and argue 3, then.

12 MR. TRIPPIEDI: On sub 3, it states that the  
13 communication must be made as to an issue under  
14 consideration. And there was nothing under consideration  
15 on Ms. Williams's major statement of fact. She instigated  
16 the investigation of NRED by her actions. So, the  
17 statute's language could have said it was -- the  
18 communication protected isn't an action that instigates  
19 investigation. But it doesn't say that. It says it has to  
20 -- it must be part of an issue that's under consideration  
21 with the governmental body. We don't have that here. We  
22 have an instigating act by Ms. Williams. So, it was not  
23 under consideration. And it's not an issue of public  
24 concern either. Under NRS 41.650, there is the threshold  
25 that the defendant's communication must be made -- regard

1 to an issue of public concern. And she hasn't made any  
2 argument in this regard that any of -- anything contained  
3 in her statement of fact was an issue of public concern.  
4 That is a separate ground under which Your Honor can deny  
5 this Motion.

6 Now, going back to sub 3 again of 41.637, it  
7 states that the communication must be made as part of an  
8 official proceeding. But we have -- we really don't have  
9 any argument or cogent argument by the defendant that it  
10 was part of an official proceeding, that the statement of  
11 fact is part of the official proceeding. It was a form Ms.  
12 Williams filled out and submitted to NRED. They conducted  
13 an investigation and they closed the investigation without  
14 doing anything. I don't even see a formal opinion, a  
15 formal letter closing the case. We didn't get anything  
16 until Ms. Williams inquired about it, I think well after  
17 the investigation was actually completed. So, it is not an  
18 official proceeding as required under sub 3. And there's  
19 case law under the -- regarding the Fair Report Privilege  
20 that says that a private investigation or an investigation  
21 that's not open to the public is not part of an official  
22 proceeding.

23 And I already went through all of the various  
24 false statements that Ms. Williams made in her statement of  
25 fact, which is a requirement of the 41.637. You know?

1 And, so, I won't reiterate those. But there are various  
2 demonstratively false facts.

3 [Colloquy at counsel table]

4 MR. TRIPPIEDI: So, the defendant has not met his  
5 burden to prove by a preponderance of the evidence that he  
6 can meet -- she can meet all of her burdens under the  
7 statute. At a minimum, there are -- the preponderance of  
8 evidence, we need more than 50 percent, we need 51 percent  
9 kind of threshold. We talked about that in civil law. And  
10 we have declarations by both Mr. Lazer and the seller that  
11 contradict the statements made by Ms. Williams in her  
12 statement of fact. And, so, that's -- I don't see how she  
13 could possibly meet her threshold to -- to prove by a  
14 preponderance of the evidence.

15 And we also have -- even if she does meet her  
16 burden under a preponderance of the evidence, if the  
17 plaintiff can make a prima facie case that the  
18 communication was defamatory and it was not made in good  
19 faith and it was false, that's -- we can still avoid anti-  
20 SLAPP -- the anti-SLAPP statute that way. So, and when --  
21 based on all the statements that I made -- that I  
22 represented to Your Honor, were made -- were false, that is  
23 a prima facie case under the statute to survive against an  
24 anti-SLAPP argument.

25 Court's indulgence a moment, Your Honor?

1 THE COURT: Sure.

2 MR. TRIPPIEDI: Your Honor, there's various other  
3 arguments that the defendant made in his Motion. But I  
4 will rest for now.

5 THE COURT: Okay.

6 MR. RANDAZZA: Your Honor, plaintiff's counsel  
7 said -- now, remember, we don't concede that anything here  
8 was false. We certainly don't concede it was made with  
9 knowledge of falsity. But he said in his argument: She  
10 didn't know about one of the facts. Well, if she didn't  
11 know, then she couldn't know that it was false. He's made  
12 our argument for us. They make the argument for us as well  
13 in their Opposition at page 5 where they say: The  
14 defendant believes it is unprofessional, racist, and sexist  
15 to make these comments. I adopt their position. The  
16 defendant believes it. If the defendant believes it, it's  
17 protected.

18 Now, if a near -- let's just say for the sake of  
19 argument there is a -- something in length, it's whether  
20 somebody got a copy of the contract on one day or another  
21 or who told what to somebody, I think there's at least  
22 enough room here to say there could be a mistake of fact.  
23 Now, if that mistake were sufficient to call it a lie, I  
24 don't say it is because if I were to say that, I would be  
25 compelled to accuse them of lying right now today. And I'm



1 not going to do that. I'm merely going to point out the  
2 factual error in this presentation. The timeline as shown  
3 in the record is that there was a phone call between the  
4 parties where apparently the relationship went quite sour,  
5 June 23<sup>rd</sup>. On June 27<sup>th</sup>, this text message that they tell us  
6 they have never seen, was sent. It is Exhibit 3 to their  
7 Opposition. Again, I don't believe that they were lying, I  
8 just believe they may have misremembered what is attached  
9 to their Opposition at Exhibit 3. Then, we have this  
10 barrage of e-mail from Mr. Lazer. I'm sorry. One e-mail  
11 but it's extremely long. That's attached to the Jolly  
12 declaration, Exhibit A at 35 to 36.

13 THE COURT: That's a multiple page long. Right?

14 MR. RANDAZZA: Yes, Your Honor.

15 THE COURT: Yeah.

16 MR. RANDAZZA: Closing on the property, July 24<sup>th</sup>.  
17 On that same day, Mr. Lazer makes a demand, which is  
18 attached to the Williams declaration, paragraph 32, that he  
19 -- she pay him for sending this text message to him.  
20 You'll remember, perhaps from the original Complaint, he  
21 was suing for defamation over a text message being sent to  
22 him with no third-party publication. So, on August 1<sup>st</sup>, in  
23 the Opposition at Exhibit 8, my client refused through  
24 counsel that demand for payment. The ultimatum date, the  
25 pay me by this date, if we look at the Opposition, Exhibit

1 7, was August 15<sup>th</sup>. So, then, the NRED complaint was filed  
2 on August 24<sup>th</sup>. I don't see how that could be filed in  
3 retaliation for something that was threatened but never  
4 happened.

5 Let's presume that the timeline that they  
6 misrepresented is the real timeline. Sorry. Erroneously  
7 misrepresented. Honest mistake. This honest mistake  
8 timeline was the one we follow. There is no exception in  
9 the statute for a retaliatory Complaint. You can file one  
10 just because you're a jerk. That's too bad. I'd love to  
11 be wise enough to craft an exception to that. But even if  
12 it is retaliatory. So, I don't think that we should refer  
13 to them for perjury for what is in the declaration because  
14 the declaration does state this.

15 MR. TRIPPIEDI: Your Honor, this is ridiculous,  
16 Your Honor.

17 THE COURT: No. It's not. I mean --

18 MR. RANDAZZA: Okay. If I look at his  
19 declaration, --

20 THE COURT: No. You're fine.

21 MR. RANDAZZA: -- he's making these statements  
22 that say that he is aware of certain facts that he couldn't  
23 be aware of. He's making assumptions as well in his  
24 declaration. Where's his dec? One second.

25 If we look at Mr. Lazer's declaration, the

1 supplemental one, and he says at paragraph 9:

2           During the call, the defendant became defensive  
3           and agitated, likely realizing she could lose the  
4           ability to purchase the condo, which I believe led her  
5           to make false claims regarding facts of the sale.

6           That's from his point of view. If I were to adopt  
7           his analysis, that would be perjury, the fact that they  
8           have a disagreement over the opinion of the events. Now,  
9           I'm not going to say refer him for perjury but I'd like him  
10          to pick a lane.

11          So, Your Honor, no matter which version of these  
12          facts you take, all we have here is a plaintiff saying he's  
13          offended by an NRED complaint, an NRED complaint that was  
14          originally sustained, then when he appealed, he did  
15          prevail. But a complaint to an official body procuring  
16          government action that was sustained, that there is nothing  
17          in it at all that was knowingly false, and all you need to  
18          do is find one thing in it that wasn't knowingly false and  
19          it's covered by the anti-SLAPP statute. And if so covered  
20          under prong 2, if it's outside the privilege, again, I  
21          would like to address each and every point in it as to why  
22          it's either not defamatory, has no damages. But I think  
23          that we are sufficient at this point under prong 2 as well.  
24          Thank you, Your Honor.

25          THE COURT: Thank you. The Court acknowledges the

1 additional briefing, the additional evidence submitted by  
2 both sides, both in support of the anti-SLAPP Motion and in  
3 support of the Opposition and Countermotion. But I'm going  
4 to deny the anti-SLAPP Motion to Dismiss the First Amended  
5 Complaint for largely the same reason I did the first time.  
6 So, Mr. Trippiedi, you'll prepare the Order, submit it to  
7 Mr. Randazza and Mr. Shepard for review and approval. You  
8 can go to NRS 41.660 subsection 3 and 3(a), if a special  
9 Motion to Dismiss is filed, which has happened, the Court  
10 shall, a:

11           Determine whether the moving party is established  
12           by a preponderance of the evidence if the claim is  
13           based upon a good faith communication in furtherance of  
14           the right to petition or the right to free speech in  
15           direct connection with an issue of public concern.

16           So, as before, I have the same issue and,  
17 therefore, do not -- I'm not able to find and therefore do  
18 not find that the moving parties established by a  
19 preponderance of the evidence that the claim is based upon  
20 a good faith communication. So, the good faith -- again,  
21 it's the same issue as before.

22           But, alternatively, continuing on, even assuming  
23 that the moving party has met the burden pursuant to  
24 paragraph a, then I have to determine whether the plaintiff  
25 has demonstrated with prima facie evidence probability of

1 prevailing on the claim. And prima facie evidence is an  
2 extremely low hurdle for a plaintiff to meet. And,  
3 therefore, I would find alternatively that the plaintiff  
4 has demonstrated prima facie evidence probability of  
5 prevailing on the claims because there are multiple claims  
6 here. Obviously, under subsection c, this determination  
7 doesn't get admitted into evidence. It doesn't affect the  
8 burdens going forward. D, I have considered, as I stated,  
9 evidence, written or oral, by witnesses, affidavits,  
10 declarations. I have material evidence. And this is all  
11 whether we're proceeding, as argued by defendant, whether  
12 we're proceeding under subsections 1, 2, or 3 of 41.637.

13           And the Court disregards very much, as pointed out  
14 by defendant, that the *Delucchi* case is under subsection 4,  
15 which defendant's not moving under. So, -- or, I'm sorry.  
16 The *Shapiro versus Welt* case. Sorry. That's subsection 4,  
17 which defendant's not moving under. So, I disregard that.  
18 But I do consider and account for the *Shapiro* -- the  
19 *Delucchi versus Songer*, 133 Nevada 290 case, where the  
20 court concluded that *Delucchi* and *Hollis* presents  
21 sufficient evidence to defeat *Songer's* special motion under  
22 the summary judgment standard. Similar here where there is  
23 -- there are questions of fact, there are genuine issues of  
24 material fact in addition to that, as in particular under  
25 the good faith analysis and, therefore, the Court denies it

1 without prejudice. And denies the -- let's see, the  
2 Countermotion for Attorney's Fees is also denied. And, to  
3 be clear, although I do have the same issue, additional  
4 evidence and additional arguments were presented all based  
5 upon, also, an Amended Complaint that was filed. And, so,  
6 it's fair and proper to respond to the now operative  
7 pleading so there's no bad faith or frivolity in filing the  
8 anti-SLAPP Motion and, therefore, the Countermotion for  
9 Attorney's Fees is denied.

10 And, as I stated earlier, but include this in  
11 there, I do consider the substance of the anti-SLAPP  
12 Motion, substantively the pages numbered 30. And I'm going  
13 to rule on the merits of the Motion rather than rejected  
14 out of hand for any potential exceeding of pages. I find  
15 that's within the rule. But, even to the extent it is,  
16 it's one or two pages outside that and that, I'm going to  
17 consider it and I do.

18 MR. RANDAZZA: Your Honor, can I ask just one  
19 inquiry for clarity on the Order?

20 THE COURT: I'm not sure I'll answer. But you can  
21 ask.

22 MR. RANDAZZA: Okay. Well, is there a --  
23 obviously, we're going to appeal. So, I want to know if  
24 there is --

25 THE COURT: That's fine.

1           MR. RANDAZZA:  -- should -- is the privilege  
2 issue.  You're finding that this is not a matter of  
3 privilege?

4           THE COURT:  Well, there's a --

5           MR. RANDAZZA:  On prong 2.

6           THE COURT:  There's a genuine issue of material  
7 fact on privilege.  There are questions of fact on  
8 privilege as well.  That all goes back to -- you know, I  
9 think I understand your arguments, hopefully.  But there's  
10 more than I believe and so find, I suppose, to answer your  
11 question, more than what you're saying in terms of:  Well,  
12 this is all privileged.  I don't believe that it is all  
13 privileged.

14          MR. TRIPPIEDI:  Your Honor, can I ask for one  
15 clarification as well?

16          THE COURT:  Sure.

17          MR. TRIPPIEDI:  You denied the Motion without  
18 prejudice.

19          THE COURT:  Okay.

20          MR. TRIPPIEDI:  And that's an issue of contention  
21 for me because we've had to endure two of these very  
22 similar motions.

23          THE COURT:  Well, I not only denied it without  
24 prejudice, I told you why -- so, I'm sorry.  Go ahead and  
25 ask your question and I'll respond to you.

1           MR. TRIPPIEDI: I was going to request that Your  
2 Honor deny it with prejudice until the close of discovery.  
3 And if you -- if they want -- if after discovery they have  
4 some reason to believe that -- I don't -- I actually I  
5 don't know if discovery will make a difference. But --  
6 because it's actually on the Complaint itself now that I'm  
7 thinking about it. But, my point is, I'm concerned about  
8 this because we've already had to go through --

9           MR. RANDAZZA: I'm okay with this.

10          THE COURT: So --

11          MR. TRIPPIEDI: With prejudice?

12          MR. RANDAZZA: Yeah. It should be with prejudice,  
13 Your Honor.

14          THE COURT: Okay. Well, if you're in agreement to  
15 make it with prejudice, then the record will reflect that  
16 defendant's in agreement to consent my denial without  
17 prejudice. Defendant is in agreement that it be with  
18 prejudice. And put that in the Order.

19          MR. RANDAZZA: To be clear, I'm not conceding that  
20 it is --

21          THE COURT: Well, that's why I'm making that  
22 record --

23          MR. RANDAZZA: What I --

24          THE COURT: -- because you're the one who said  
25 make it with prejudice.



1           MR. RANDAZZA: What I'm saying, Your Honor, is  
2 that I don't think that there is a mechanism in the anti-  
3 SLAPP statute for a without prejudice denial. I think, at  
4 this point, the de novo review --

5           THE COURT: So, I'm going to disregard both your  
6 requests --

7           MR. RANDAZZA: Okay.

8           THE COURT: -- and I'm going to say it's still  
9 without prejudice.

10          MR. RANDAZZA: Thank you, Your Honor.

11          MR. TRIPPIEDI: All right. Thank you, Your Honor.

12          THE COURT: Thank you, both.

13

14                   PROCEEDING CONCLUDED AT 10:37 A.M.

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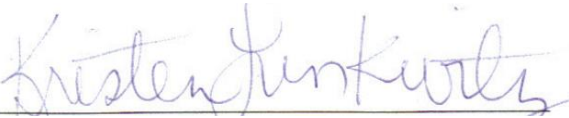
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**CERTIFICATION**

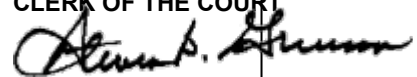
I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

**AFFIRMATION**

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.



KRISTEN LUNKWITZ  
INDEPENDENT TRANSCRIBER



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)

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20 Attorneys for Defendant,

21 Daphne Williams  
22  
23  
24  
25  
26  
27

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 20<sup>th</sup> 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

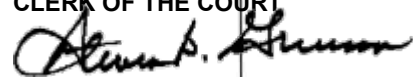
Employee,

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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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.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24



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 18<sup>th</sup> day of December, 2019.

4  
5   
6 DISTRICT COURT JUDGE  
Case No. A797156

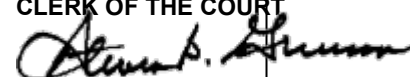
7 Respectfully submitted by:

8 RANDAZZA LEGAL GROUP, PLLC

9  
10 By: 

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

13 Attorneys for Defendant  
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**NOAS**

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**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

**CHARLES "RANDY" LAZER,**

Plaintiff,

vs.

**DAPHNE WILLIAMS,**

Defendant.

Case No. A-19-797156-C

Dept. XV

**NOTICE OF APPEAL**

Notice is hereby given that Defendant Daphne Williams hereby appeals to the Supreme Court of Nevada from the Court's Order Denying Daphne Williams's Second Anti-SLAPP Special Motion to Dismiss Under NRS 41.660, entered in this action on the 19<sup>th</sup> day of December 2019.

Dated: December 26, 2019.

Respectfully submitted:

RANDAZZA LEGAL GROUP, PLLC

/s/ Marc J. Randazza

Marc J. Randazza (NV Bar No. 12265)  
Alex J. Shepard (NV Bar No. 13582)  
2764 Lake Sahara Drive, Suite 109  
Las Vegas, Nevada 89117

Counsel for Defendant  
Daphne Williams

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 26<sup>th</sup> 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 and by email.

Respectfully submitted,  
/s/ Crystal C. Sabala  
 Employee,  
 Randazza Legal Group, PLLC

**ASTA**

Marc J. Randazza (NV Bar No. 12265)  
 Alex J. Shepard (NV Bar No. 13582)  
 RANDAZZA LEGAL GROUP, PLLC  
 2764 Lake Sahara Drive, Suite 109  
 Las Vegas, NV 89117  
 Telephone: 702-420-2001  
 ecf@randazza.com  
 Attorneys for Defendant  
 Daphne Williams

**EIGHTH JUDICIAL DISTRICT COURT  
 CLARK COUNTY, NEVADA**

**CHARLES "RANDY" LAZER,**  
 Plaintiff,  
 vs.  
**DAPHNE WILLIAMS,**  
 Defendant.

Case No. A-19-797156-C  
 Dept. XV

**CASE APPEAL STATEMENT**

Defendant Daphne Williams hereby files her Case Appeal Statement concerning the appeal of the district court's Order Denying Daphne Williams's Second Anti-SLAPP Special Motion to Dismiss Under NRS 41.660.

1. Defendant Daphne Williams is the appellant filing this case appeal statement.

2. The judge issuing the order Defendant wishes to appeal is The Honorable Joe Hardy.

3. The sole appellant is Defendant Daphne Williams. Her counsel is Randazza Legal Group, PLLC, located at 2764 Lake Sahara Drive, Suite 109, Las Vegas, Nevada 89117.

4. Respondent is Charles "Randy" Lazer. His counsel is Law Offices of Michael F. Bohn, Esq. Ltd., 2260 Corporate Cir, Suite 480, Henderson, Nevada 89074.

5. All attorneys who have appeared in this action are licensed to practice in the State of Nevada.

6. Appellant was represented by Randazza Legal Group, PLLC in the district court.

7. Appellant is represented by Randazza Legal Group, PLLC in this appeal.

8. Appellant neither requested nor was granted leave to proceed in forma pauperis.

9. Proceedings in the district court commenced on June 21, 2019, when Plaintiff filed his Complaint.

10. Plaintiff filed his First Amended Complaint on October 8, 2019.

11. The First Amended Complaint alleges causes of action for (1) defamation; (2) defamation *per se*; (3) business disparagement; (4) intentional infliction of emotional distress; and (5) negligence.

12. On October 22, 2019, Appellant filed an Anti-SLAPP Special Motion to Dismiss the First Amended Complaint Under NRS 41.660, and appeals the district court's denial of this Motion.

13. This case has not previously been the subject of an appeal to or original writ proceeding in the Supreme Court.

14. This appeal does not involve child custody or visitation.

15. This appeal does not involve the possibility of settlement.

Dated: December 26, 2019.

Respectfully submitted:

RANDAZZA LEGAL GROUP, PLLC

/s/ Marc J. Randazza

Marc J. Randazza (NV Bar No. 12265)

Alex J. Shepard (NV Bar No. 13582)

2764 Lake Sahara Drive, Suite 109

Las Vegas, Nevada 89117

Counsel for Defendant

Daphne Williams

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Respectfully submitted,  
/s/ Crystal C. Sabala  
 Employee,  
 Randazza Legal Group, PLLC