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*Counsel for Defendant/Counterclaimant Panorama
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DISTRICT COURT

CLARK COUNTY, NEVADA

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada corporation,

Plaintiffs,

vs.

PANORAMA TOWERS CONDOMINIUM
UNIT OWNERS' ASSOCIATION, a Nevada
non-profit corporation,

Defendant.

Case No.: A-16-744146-D
Dept. No.: XXII

**PANORAMA TOWERS
CONDOMINIUM UNIT OWNERS'
ASSOCIATION'S NOTICE OF APPEAL**

1 PANORAMA TOWERS CONDOMINIUM
2 UNIT OWNERS' ASSOCIATION, a Nevada
3 non-profit corporation, and Does 1 through
4 1000,

Counterclaimants,

5 vs.

6 LAURENT HALLIER, an individual;
7 PANORAMA TOWERS I, LLC, a Nevada
8 limited liability company; PANORAMA
9 TOWERS I MEZZ, LLC, a Nevada limited
10 liability company; M.J. DEAN
11 CONSTRUCTION, INC., a Nevada
12 Corporation; SIERRA GLASS & MIRROR,
13 INC.; F. ROGERS CORPORATION; DEAN
14 ROOFING COMPANY; FORD
15 CONTRACTING, INC.; INSULPRO, INC.;
XTREME XCAVATION; SOUTHERN
NEVADA PAVING, INC.; FLIPPINS
TRENCHING, INC.; BOMBARD
MECHANICAL, LLC; R. RODGERS
CORPORATION; FIVE STAR PLUMBING &
HEATING, LLC, dba Silver Star Plumbing; and
ROES 1 through 1000, inclusive,

Counter-defendants.

16
17 PLEASE TAKE NOTICE that Defendant/Counterclaimant Panorama Towers
18 Condominium Unit Owners' Association hereby appeals to the Supreme Court of Nevada from
19 the Order Re: Motion to Certify Judgment as Final Under NRCP 54(b), filed on August 12, 2019
20 (the "Rule 54(b) Order"), in the Eighth Judicial District Court, Clark County, Nevada, attached
21 hereto as **Exhibit 1**, and all rulings and interlocutory orders made appealable thereby, including
22 but not limited to the Findings of Fact, Conclusions of Law and Order, filed on May 23, 2019, and
23 the Order Re: Defendant's Motion to Alter or Amend Court's Findings of Fact, Conclusions of
24 Law and Order Entered May 23, 2019, entered in this action on January 14, 2020 ("Rule 59(e)
25 Order"). The Notice of Entry of Order for the Rule 54(b) Order was filed and served on August
26 13, 2019, and the Notice of Entry of Order for the Rule 59(e) Order was filed and served on January
27
28

1 16, 2020, both of which are attached hereto as **Exhibit 2**.

2 DATED this 13th day of February, 2020.

3 Respectfully submitted,

4 KEMP, JONES & COULTHARD, LLP

5 /s/ Michael Gayan

6 MICHAEL J. GAYAN, ESQ. (#11125)

7 JOSHUA D. CARLSON, ESQ. (#11781)

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9 *Counsel for Defendant/Counterclaimant*

10 *Panorama Towers Condominium Unit Owners'*
11 *Association*

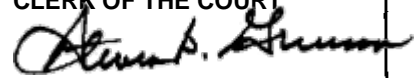
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13
14 **CERTIFICATE OF SERVICE**

15 I hereby certify that on the 13th day of February, 2020 the foregoing **PANORAMA**
16 **TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION'S NOTICE OF APPEAL**
17 was served on the following by Electronic Service to all parties on the Court's service list.
18

19 /s/ Angela D. Embrey

20 An employee of Kemp, Jones & Coulthard, LLP

EXHIBIT 1



1 OGM

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 LAURENT HALLIER, an individual;
7 PANORAMA TOWERS I, LLC, a Nevada
8 limited liability company; PANORAMA
9 TOWERS I MEZZ, LLC, a Nevada limited
10 liability company; and M.J. DEAN
11 CONSTRUCTION, INC., a Nevada
12 corporation,

13 Plaintiffs,

14 Vs.

15 PANORAMA TOWERS
16 CONDOMINIUM UNIT OWNERS'
17 ASSOCIATION, a Nevada non-profit
18 corporation.

19 Defendant.

20
21 PANORAMA TOWERS
22 CONDOMINIUM UNIT OWNERS'
23 ASSOCIATION, a Nevada non-profit
24 corporation,

25 Counter-Claimant,

26 Vs.

27 LAURENT HALLIER, an individual;
28 PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
Corporation,

Counter-Defendants.

Case No. A-16-744146-D

Dept. No. XXII

ORDER RE: MOTION TO
CERTIFY JUDGMENT AS
FINAL UNDER NRCP 54(b)

1 **PANORAMA TOWERS**
2 **CONDOMINIUM UNIT OWNERS'**
3 **ASSOCIATION, a Nevada non-profit**
4 **corporation,**

5 **Third-Party Plaintiff,**

6 **Vs.**

7 **SIERRA GLASS & MIRROR, INC.; F.**
8 **ROGERS CORPORATION; DEAN**
9 **ROOFING COMPANY; FORD**
10 **CONSTRUCTING, INC.; INSULPRO,**
11 **INC.; XTREME EXCAVATION;**
12 **SOUTHERN NEVADA PAVING, INC.;**
13 **FLIPPINS TRENCHING, INC.;**
14 **BOMBARD MECHANICAL, LLC; R.**
15 **RODGERS CORPORATION; FIVE**
16 **STAR PLUMBING & HEATING, LLC**
17 **dba SILVER STAR PLUMBING; and**
18 **ROES 1 through 1000, inclusive,**

19 **Third-Party Defendants.¹**

20 **ORDER RE: MOTION TO CERTIFY JUDGMENT AS FINAL UNDER NRCP 54(b)**

21 This matter concerning the Motion to Certify Judgment as Final Under NRCP 54(b) filed by
22 Plaintiffs/Counter-Defendants LAURENT HALLIER, PANORAMA TOWERS I, LLC,
23 PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN CONSTRUCTION, INC. on July 22, 2019
24 was heard, on Order Shortening Time, on the 6th day of August 2019 at the hour of 8:30 a.m. before
25 Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada, with
26 JUDGE SUSAN H. JOHNSON presiding; Plaintiffs/Counter-Defendants LAURENT HALLIER,
27 PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN
28 CONSTRUCTION, INC. appeared by and through its attorneys, DANIEL F. POLSENBERG, ESQ.
of the law firm, LEWIS ROCA ROTHGERBER CHRISTIE, and PETER C. BROWN, ESQ. and

¹As the subcontractors are not listed as "plaintiffs" in the primary action, the matter against them is better characterized as a "third-party" claim, as opposed to "counter-claim."

1 CYRUS S. WHITTAKER, ESQ. of the law firm, BREMER WHYTE BROWN & O'MEARA; and
2 Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM
3 UNIT OWNERS' ASSOCIATION appeared by and through its attorneys, MICHAEL J. GAYAN,
4 ESQ. and WILLIAM L. COULTHARD, ESQ. of the law firm, KEMP JONES & COULTHARD.
5 Having reviewed the papers and pleadings on file, heard oral arguments of the lawyers and taken
6 this matter under advisement, this Court makes the following Findings of Fact and Conclusions of
7 Law:
8

9 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

10 1. This case arises as a result of alleged constructional defects within both the common
11 areas and the 616 residential condominium units located within two tower structures of the
12 PANORAMA TOWERS located at 4525 and 4575 Dean Martin Drive in Las Vegas, Nevada. On
13 February 24, 2016, Defendant/Counter-Claimant PANORAMA TOWERS CONDOMINIUM UNIT
14 OWNERS' ASSOCIATION served its original NRS 40.645 Notice of Constructional Defects upon
15 Plaintiffs/Counter-Defendants (also identified herein as the "Contractors" or "Builders"), alleging
16 deficiencies within its residential tower windows, fire blocking, mechanical room piping and sewer.
17 Subsequently, after the parties engaged in the pre-litigation process ending with an unsuccessful
18 NRS 40.680 mediation held September 26, 2016, the Contractors filed their Complaint on
19 September 28, 2016 against the Owners' Association, asserting the following claims that, for the
20 most part, deal with their belief the NRS 40.645 notice was deficient:
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- 23 1. Declaratory Relief—Application of AB 125;
- 24 2. Declaratory Relief—Claim Preclusion;
- 25 3. Failure to Comply with NRS 40.600, *et seq.*;
- 26 4. Suppression of Evidence/Spoliation;
- 27 5. Breach of Contract (Settlement Agreement in Prior Litigation);
- 28

6. Declaratory Relief—Duty to Defend; and

7. Declaratory Relief—Duty to Indemnify.

2. On March 1, 2017, PANORAMA TOWER CONDOMINIUM UNIT OWNERS' ASSOCIATION filed its Answer and Counter-Claim, alleging the following claims:

1. Breach of NRS 116.4113 and 116.4114 Express and Implied Warranties; as well as those of Habitability, Fitness, Quality and Workmanship;

2. Negligence and Negligence *Per Se*;

3. Products Liability (against the manufacturers);

4. Breach of (Sales) Contract;

5. Intentional/Negligent Disclosure; and

6. Duty of Good Faith and Fair Dealing; Violation of NRS 116.1113.

3. This Court previously dismissed the constructional defect claims within the mechanical room as being time-barred by virtue of the “catch-all” statute of limitations of four (4) years set forth in NRS 11.220.² With respect to challenges to the sufficiency and validity of the NRS 40.645 notice, this Court stayed the matter to allow PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION to amend it with more specificity. This Court ultimately determined the amended NRS 40.645 notice served upon the Builders on April 15, 2018 was valid only with respect to the windows' constructional defects.³

4. On April 23, 2019, this Court heard two motions filed by the parties, to wit: (1) the Contractors' Motion for Summary Judgment Pursuant to NRS 11.202(1) filed February 11, 2019 and (2) the Association's Conditional Counter-Motion for Relief Pursuant to NRS 40.695(2) filed March 1, 2019. After hearing the parties' arguments, this Court took the matter under advisement, and on

²See Findings of Fact, Conclusions of Law and Order filed September 15, 2017.

³See Findings of Fact, Conclusions of Law and Order filed November 30, 2018.

1 May 23, 2019, issued its third Findings of Fact, Conclusions of Law and Order which granted the
2 Builders' motion, and denied the Association's Conditional Counter-Motion. As pertinent here, this
3 Court concluded the Owners' Association's remaining constructional defect claims lodged against
4 the Builders were time-barred by the six-year statute of repose set forth in NRS 11.202(1).

5 4. On June 3, 2019, the Association filed its Motion for Reconsideration and/or Stay of
6 the Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting Plaintiffs'
7 Motion for Summary Judgment or alternatively, a Motion to Stay the Court's Order.⁴ Ten days
8 later, on June 13, 2019, the Association filed a second Motion for Reconsideration and/or to Alter or
9 Amend the Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting
10 Plaintiffs' Motion for Summary Judgment. These two motions essentially were the same except the
11 second alerted the Court the Nevada Legislature passed AB 421 on June 1, 2019, and such was
12 signed by the Governor and formally enacted on June 3, 2019. As pertinent here, AB 421 amends
13 NRS 11.202 by extending the statute of repose period from six (6) to ten (10) years and it is to be
14 applied retroactively to actions in which the substantial completion of the improvement to real
15 property occurred before October 1, 2019, the date in which the amendment takes effect.

16 The Builders opposed the two motions on several grounds. First, they noted this Court
17 entered a final order on May 23, 2019, the Notice of Entry of Order was filed May 28, 2019, and
18 thus, by the time the Motion for Reconsideration and/or Stay was filed June 3, 2019, there was no
19 pending matter to stay. Second, while AB 421 was enacted and will apply retroactively, it does not
20 become effective until October 1, 2019, meaning, currently, there is no change in the law. That is,
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25 ⁴The Association moved this Court to stay the Order upon the basis the Nevada Legislature had passed
26 Assembly Bill (referred to as "AB" herein) 421 on June 1, 2019, which "immediately and retroactively extends the
27 statute of repose to 10 years." See Motion for Reconsideration of the Court's May 23, 2019 Findings of Fact,
28 Conclusions of Law and Order Granting Plaintiffs' Motion for Summary Judgment or alternatively, a Motion to Stay the
Court's Order filed June 3, 2019, p. 4. The Association urged this Court to stay the Order until such time as AB 241 was
enacted or rejected by the Governor. As set forth *infra*, the Governor signed the bill on June 3, 2019 which was to take
effect October 1, 2019.

1 as the law stands, the period for the statute of repose is six (6) years as enacted February 24, 2015,
2 and not ten (10). Third, as the Association's claims have already been adjudicated, AB 421 cannot
3 be interpreted to revive those causes of action.

4 This Court denied the Association's first Motion for Reconsideration and/or Stay filed June
5 3, 2019 at the July 16, 2019 hearing; it took the June 13, 2019 motion under advisement, and
6 ultimately, it was denied via Order filed August 9, 2019. In summary, this Court concluded the
7 newly-amended NRS 11.202 becomes effective October 1, 2019, whereby the current state of the
8 law is such the statute of repose is six (6) years, and not ten (10). If the Nevada Legislature had
9 intended AB 421's retroactive effect to be applied now, it would have said so just as it had in
10 enacting AB 125 in February 2015.

12 5. The Contractors have moved this Court to certify the May 23, 2019 Findings of Fact,
13 Conclusions of Law and Order as final under Rule 54(b) of the Nevada Rules of Civil Procedure
14 (NRCP). They argue the Order is final in that it granted summary judgment with respect to the
15 Association's claims in their entirety, and there is no just reason for delaying the entry of final
16 judgment. The Owners' Association opposes upon the bases (1) the May 23, 2019 Order is "silent
17 as to which of the Association's legal claims were resolved in this action,"⁵ and "[t] repeated
18 references to 'construction defect claims' are too vague and insufficient to make the [] Order final
19 and appealable;"⁶ (2) the Order "could not have resolved the Association's contract-based claims;"⁷
20 and (3) the Builders will not face hardship or injustice by waiting for the issue to be appealed after
21 all parties' claims are resolved.
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26 ⁵See Defendant's (1) Opposition to Plaintiffs'/Counter-Defendants' Motion to Certify Judgment as Final Under
27 Rule 54(b) and (2) Response to Plaintiffs'/Counter-Defendants' Opposition to Defendant's/Counter-Claimant's July 16,
28 2019 Oral Motion to Postpone the Court's Ruling on the Motion for Reconsideration of and/or to Alter or Amend the
Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order filed August 1, 2019, p. 11.

⁶*Id.*, p. 12.

⁷*Id.*, p. 14.

CONCLUSIONS OF LAW

1
2 1. NRCP 54 was recently amended to reflect virtually the identical wording of Rule 54
3 of the Federal Rules of Civil Procedure (FRCP). NRCP 54(b) provides:

4 (b) *Judgment on Multiple Claims or Involving Multiple Parties.* When an action presents
5 more than one claim for relief—whether as a claim, counterclaim, crossclaim, or third-party
6 claim—or when multiple parties are involved, the court may direct entry of a final judgment
7 as to one or more, but fewer than all, claims or parties only if the court expressly determines
8 that there is no just reason for delay. Otherwise, any order or other decision, however
9 designated, that adjudicates fewer than all claims or the rights and liabilities of fewer than all
the parties does not end the action as to any of the claims or parties and may be revised at
any time before the entry of a judgment adjudicating all the claims and all the parties' rights
and liabilities.

10 Clearly, NRCP 54(b) permits district courts to authorize immediate appeal of dispositive rulings on
11 separate claims in a civil action raising multiple claims. This rule “was adopted...specifically to
12 avoid the possible injustice of delay[ing] judgment o[n] a *distinctly separate* claim [pending]
13 adjudication of the entire case....The Rule thus aimed to augment, not diminish, appeal
14 opportunity.” See Jewel v. National Security Agency, 810 F.3d 622, 628 (9th Cir. 2015), *quoting*
15 Gelboim v. Bank of America Corp., ____ U.S. ____ 135 S.Ct. 897, 902-903, 190 L.Ed.2d 789 (2015)
16 (interpreting FRCP 54).
17

18 2. Over sixty (60) years ago, the United States Supreme Court outlined steps to be
19 followed in making determinations under FRCP 54(b), of which NRCP 54(b) is now the same. See
20 Sears, Roebuck & Company v. Mackey, 351 U.S. 427, 76 S.Ct. 895, 100 L.Ed. 1297 (1956), *cited by*
21 Curtiss-Wright Corporation v. General Electric Company, 446 U.S. 1, 7, 100 S.Ct. 1460, 1464, 64
22 L.Ed.2d 1 (1980). The district court first must determine it is dealing with a “final judgment.” It
23 must be a “judgment” in the sense it is a decision upon a cognizable claim for relief, and it must be
24 “final” or an “an ultimate disposition of an individual claim entered in the course of a multiple
25 claims action.” *Id.*, *quoting* Sears, Roebuck & Company, 351 U.S. at 436, 76 S.Ct. at 900.
26
27 ...
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1 3. Once it finds “finality,” the district court must determine whether there is any just
2 reason for delay. Not all final judgments on individual claims should be immediately appealable
3 even if they are separable from the remaining unresolved claims. It is left to the sound judicial
4 discretion of the district court to determine the appropriate time when each final decision in a
5 multiple claims action is ready for appeal. Curtiss-Wright Corporation, 446 U.S. at 8, 100 S.Ct. at
6 1464-1465, *citing* Sears, Roebuck & Company, 351 U.S. at 437, 76 S.Ct. at 899, 900. Thus, in
7 deciding whether there is no just reason to delay the appeal of the May 23, 2019 Findings of Fact,
8 Conclusions of Law and Order, which granted the Builders’ February 11, 2019 Motion for Summary
9 Judgment, this Court must take into account the judicial administrative interests as well as the
10 equities involved. Consideration of the former is necessary to assure application of NRCP 54(b) will
11 not result in the appellate courts deciding the same issues more than once on separate appeals.
12

13 4. Here, the Owners’ Association argues against NRCP 54(b) certification upon the
14 bases the May 23, 2019 Order is not final as it is “silent as to which of the Association’s legal claims
15 were resolved in this action”⁸ and further, the Order “could not have resolved the Association’s
16 contract-based claims.”⁹ This Court disagrees with both of the Association’s positions. The May
17 23, 2019 16-page Order specifically details this Court’s reasoning and conclusion the Owners’
18 Association’s constructional defect claims are time-barred by the six-year statute of repose.
19 Notably, this Court specifically set forth on page 13 of the Order “[t]he Association’s counter-claims
20 of negligence, intentional/negligent disclosure, breach of sales contract, products liability, breach of
21 express and implied warranties under and violations of NRS Chapter 116, and breach of duty of
22 good faith and fair dealing are for monetary damages as a result of constructional defects to its
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26 ⁸See Defendant’s (1) Opposition to Plaintiffs’/Counter-Defendants’ Motion to Certify Judgment as Final Under
27 Rule 54(b) and (2) Response to Plaintiffs’/Counter-Defendants’ Opposition to Defendant’s/Counter-Claimant’s July 16,
28 2019 Oral Motion to Postpone the Court’s Ruling on the Motion for Reconsideration of and/or to Alter or Amend the
Court’s May 23, 2019 Findings of Fact, Conclusions of Law and Order filed August 1, 2019, p. 11.

⁹*Id.*, p. 14.

1 windows in the two towers.” In short, the May 23, 2019 Order was not silent as to which of the
2 Association’s counter-claims were resolved; the Order specifically enumerated and decided all the
3 claims.

4 Further, while the Association argues the Order “could not have resolved the Association’s
5 contract-based claims.”¹⁰ a review of the Association’s Fourth Cause of Action entitled “Breach of
6 Contract” within the Counter-Claim indicates it is an action seeking monetary damages as a result of
7 constructional defects. It states, *inter alia*, the Developers entered into written contracts¹¹
8 representing the individual units were constructed in a professional and workmanlike manner and in
9 accordance with all applicable standards of care in the building industry. The Developers breached
10 the Sales Contracts “by selling units containing the Defects described above, *and as a direct result*
11 *of said breaches, The (sic) Association and its individual members have suffered the losses and*
12 *damages described above.*”¹² (Emphasis added) Clearly, the “Breach of Contract” action, seeking
13 monetary damages as a result of constructional defects, was addressed and analyzed within this
14 Court’s May 23, 2019 Order as time-barred by virtue of the six-year statute of repose. This Court
15 concludes its May 23, 2019 Findings of Fact, Conclusions of Law and Order is final as it was an
16 ultimate disposition of all the Association’s causes of action set forth within the Counter-Claim.
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19 5. The next issue that must be determined is whether there is any just reason for delay.
20 In this regard, this Court considers whether the May 23, 2019 Findings of Fact, Conclusions of Law
21 and Order dealt with matters distinctly separable from the remaining unresolved claims. This Court,
22 therefore, turns to the claims for relief set forth in the Builders’ Complaint to determine which of
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26 ¹⁰*Id.*, p. 14.

27 ¹¹Notably, the Fourth Cause of Action does not state with whom the Developers entered into the Sales
28 Contracts. Presumably, the contracts were between the Developers and the members of the Association, and not with the
Association itself. The homeowners are not Counter-Claimants in this case.

¹²See Defendant Panorama Tower Condominium Unit Owners’ Association’s Answer to Complaint and
Counterclaim filed March 1, 2017, p. 32, Paragraph 71.

1 them remain unresolved, and if they are separate from the Association's causes of action contained
2 in the Counter-Claim.

3 The First Claim for Relief sought declaratory relief regarding the application of Assembly
4 Bill (AB) 125 enacted and effective as of February 24, 2015. In its various Findings of Fact,
5 Conclusions of Law and Orders issued in this case, this Court determined AB 125 reflects the state
6 of the law between February 24, 2015 to September 30, 2019' and was applied in this Court's
7 analyses whereby this cause of action is resolved. The Second Claim for Relief seeks a declaration
8 from this Court the Association's claims are precluded, as in this Builders' view, the rights and
9 obligations of the parties in this matter were resolved by way of Settlement Agreement reached in a
10 prior litigation. This Second Claim for Relief is distinctly different from the causes adjudged in the
11 May 23, 2019 Order, and thus, it is not yet resolved. The Third Claim for Relief accuses the
12 Association of failure to comply with the pre-litigation process set forth in NRS 40.600 through
13 40.695. This Court dealt with the issues presented in the Third Claim for Relief within its
14 September 15, 2017 and November 30, 2018 Findings of Fact, Conclusions of Law and Orders;
15 ultimately, it found the Association failed to provide an adequate NRS 40.645 notice with respect to
16 the constructional defects allegedly found in the Towers' sewer system¹³ and fire walls. It
17 determined the notice was adequate concerning the constructional defects found in the Towers'
18 windows. The Third Claim for Relief is resolved.

19 The Fourth Claim for Relief is entitled "suppression of evidence/spoliation," and essentially
20 the Contractors seek sanctions against the Association for its alleged failure to retain the parts and
21 mechanisms removed or replaced during the sewer repair, and prior to sending the Builders the NRS
22 40.645 notice. Assuming there were no other suppression of evidence or spoliation issues with
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28 ¹³The sewer system had been repaired prior to the Association sending the NRS 40.645 notice meaning the
Builders were not accorded their right to repair under NRS Chapter 40.

1 respect to constructional defects in the windows, fire walls or mechanical room, the Fourth Claim
2 for Relief also is resolved as this Court concluded, in its November 30, 2018 Order, the NRS 40.645
3 notice was insufficient with respect to the sewer deficiencies and the Builders were not notified of
4 the constructional defects prior to repair. If there are remaining suppression of evidence or
5 spoliation issues, such deal with whether this Court should issue sanctions upon the Association for
6 its failure to preserve. In this Court's view, such matters are moot given its prior conclusions claims
7 relating to the mechanical room are barred by the four-year statute of limitations, the NRS 40.645
8 notice was insufficient with respect to constructional defects allegedly within the fire walls, and
9 lastly, the window deficiencies are time-barred by the six-year statute of repose. In other words,
10 whether there remain spoliation issues, this Court concludes the Fourth Claim for Relief is moot.
11

12 The Fifth Claim for Relief for breach of the Settlement Agreement made in resolving party
13 differences in the prior litigation remains undecided for the same reason this Court concluded the
14 "claim preclusion" issues identified in the Second Claim for Relief were not determined. Likewise,
15 the Sixth and Seventh Claims for Relief, seeking declaratory relief given the Association's duty to
16 defend and indemnify under the Settlement Agreement, have not been decided. In short, the
17 remaining causes are the Second, Fifth, Sixth and Seventh Claims for Relief set forth in the
18 Contractors' Complaint and they are distinctly separate from the Associations' constructional defect
19 claims decided in the Findings of Fact, Conclusions of Law and Orders filed September 15, 2017,
20 November 30, 2018 and May 23, 2019.
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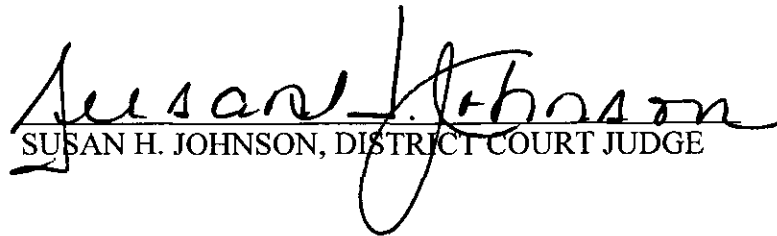
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23 6. In summary, the May 23, 2019 Findings of Fact, Conclusions of Law and Order
24 resulted in a culmination of a final adjudication, wholly resolving the causes set forth within the
25 Association's Counter-Claim. The claims remaining are those are made by the Builders and deal
26 specifically with the adherence of the parties' concessions set forth within the prior litigation's
27 Settlement Agreement. These causes are distinctly different from the constructional defect claims
28

1 alleged in the Counter-Claim. In this Court's view, entry of a separate judgment now would not
2 require any appellate court to decide the same issues more than once on separate appeals.

3 Accordingly, based upon the foregoing Findings of Fact and Conclusions of Law,

4 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** the Motion to Certify
5 Judgment as Final Under NRCP 54(b) filed by Plaintiffs/Counter-Defendants LAURENT
6 HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J.
7 DEAN CONSTRUCTION, INC. on July 22, 2019 is granted.
8

9 DATED this 12th day of August 2019.

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12 SUSAN H. JOHNSON, DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify, on the 12th day of August 2019, I electronically served (E-served), placed within the attorneys' folders located on the first floor of the Regional Justice Center or mailed a true and correct copy of the foregoing ORDER RE: MOTION TO CERTIFY JUDGMENT AS FINAL UNDER NRCP 54(b) to the following counsel of record, and that first-class postage was fully prepaid thereon:

PETER C. BROWN, ESQ.
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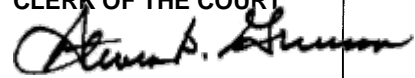
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14 *Attorneys for Plaintiffs Laurent Hallier;*
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15 *I Mezz, LLC; and M.J. Dean Construction, Inc.*

16 DISTRICT COURT
17 CLARK COUNTY, NEVADA

18 LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
19 limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada
20 limited liability company; and M.J.
DEAN CONSTRUCTION, INC., a Nevada
21 Corporation,

22 Plaintiffs,

23 vs.

24 PANORAMA TOWERS CONDOMINIUM
UNIT OWNERS' ASSOCIATION, a
25 Nevada non-profit corporation,

26 Defendant.

27 And related counterclaims.
28

Case No. A-16-744146-D

Dept. No. 22

**NOTICE OF ENTRY OF ORDER RE:
MOTION TO CERTIFY JUDGMENT AS
FINAL UNDER NRCP 54(b)**

1 Please take notice that an "Order re: Motion to Certify Judgment as Final
2 under NRCP 54(b)" was entered on August 12, 2019. A true and correct copy is
3 attached hereto and made part hereof.

4 Dated this 13th day of August, 2019.

5 LEWIS ROCA ROTHGERBER CHRISTIE LLP

6 By: /s/Abraham G. Smith

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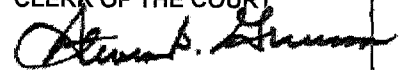
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OGM

DISTRICT COURT
CLARK COUNTY, NEVADA

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
corporation,

Plaintiffs,

Vs.

PANORAMA TOWERS
CONDOMINIUM UNIT OWNERS'
ASSOCIATION, a Nevada non-profit
corporation.

Defendant.

PANORAMA TOWERS
CONDOMINIUM UNIT OWNERS'
ASSOCIATION, a Nevada non-profit
corporation,

Counter-Claimant,

Vs.

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
Corporation,

Counter-Defendants.

Case No. A-16-744146-D

Dept. No. XXII

ORDER RE: MOTION TO
CERTIFY JUDGMENT AS
FINAL UNDER NRCP 54(b)

1 PANORAMA TOWERS
2 CONDOMINIUM UNIT OWNERS'
3 ASSOCIATION, a Nevada non-profit
4 corporation,

5
6 Third-Party Plaintiff,

7 Vs.

8 SIERRA GLASS & MIRROR, INC.; F.
9 ROGERS CORPORATION; DEAN
10 ROOFING COMPANY; FORD
11 CONSTRUCTING, INC.; INSULPRO,
12 INC.; XTREME EXCAVATION;
13 SOUTHERN NEVADA PAVING, INC.;
14 FLIPPINS TRENCHING, INC.;
15 BOMBARD MECHANICAL, LLC; R.
16 RODGERS CORPORATION; FIVE
17 STAR PLUMBING & HEATING, LLC
18 dba SILVER STAR PLUMBING; and
19 ROES 1 through 1000, inclusive,

20 Third-Party Defendants.¹

21 **ORDER RE: MOTION TO CERTIFY JUDGMENT AS FINAL UNDER NRCP 54(b)**

22 This matter concerning the Motion to Certify Judgment as Final Under NRCP 54(b) filed by
23 Plaintiffs/Counter-Defendants LAURENT HALLIER, PANORAMA TOWERS I, LLC,
24 PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN CONSTRUCTION, INC. on July 22, 2019
25 was heard, on Order Shortening Time, on the 6th day of August 2019 at the hour of 8:30 a.m. before
26 Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada, with
27 JUDGE SUSAN H. JOHNSON presiding; Plaintiffs/Counter-Defendants LAURENT HALLIER,
28 PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN
CONSTRUCTION, INC. appeared by and through its attorneys, DANIEL F. POLSENBERG, ESQ.
of the law firm, LEWIS ROCA ROTHGERBER CHRISTIE, and PETER C. BROWN, ESQ. and

¹As the subcontractors are not listed as "plaintiffs" in the primary action, the matter against them is better characterized as a "third-party" claim, as opposed to "counter-claim."

1 CYRUS S. WHITTAKER, ESQ. of the law firm, BREMER WHYTE BROWN & O'MEARA; and
2 Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM
3 UNIT OWNERS' ASSOCIATION appeared by and through its attorneys, MICHAEL J. GAYAN,
4 ESQ. and WILLIAM L. COULTHARD, ESQ. of the law firm, KEMP JONES & COULTHARD.
5 Having reviewed the papers and pleadings on file, heard oral arguments of the lawyers and taken
6 this matter under advisement, this Court makes the following Findings of Fact and Conclusions of
7 Law:
8

9 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

10 1. This case arises as a result of alleged constructional defects within both the common
11 areas and the 616 residential condominium units located within two tower structures of the
12 PANORAMA TOWERS located at 4525 and 4575 Dean Martin Drive in Las Vegas, Nevada. On
13 February 24, 2016, Defendant/Counter-Claimant PANORAMA TOWERS CONDOMINIUM UNIT
14 OWNERS' ASSOCIATION served its original NRS 40.645 Notice of Constructional Defects upon
15 Plaintiffs/Counter-Defendants (also identified herein as the "Contractors" or "Builders"), alleging
16 deficiencies within its residential tower windows, fire blocking, mechanical room piping and sewer.
17 Subsequently, after the parties engaged in the pre-litigation process ending with an unsuccessful
18 NRS 40.680 mediation held September 26, 2016, the Contractors filed their Complaint on
19 September 28, 2016 against the Owners' Association, asserting the following claims that, for the
20 most part, deal with their belief the NRS 40.645 notice was deficient:
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- 23 1. Declaratory Relief—Application of AB 125;
- 24 2. Declaratory Relief—Claim Preclusion;
- 25 3. Failure to Comply with NRS 40.600, *et seq.*;
- 26 4. Suppression of Evidence/Spoliation;
- 27 5. Breach of Contract (Settlement Agreement in Prior Litigation);
- 28

6. Declaratory Relief—Duty to Defend; and

7. Declaratory Relief—Duty to Indemnify.

2. On March 1, 2017, PANORAMA TOWER CONDOMINIUM UNIT OWNERS' ASSOCIATION filed its Answer and Counter-Claim, alleging the following claims:

1. Breach of NRS 116.4113 and 116.4114 Express and Implied Warranties; as well as those of Habitability, Fitness, Quality and Workmanship;

2. Negligence and Negligence *Per Se*;

3. Products Liability (against the manufacturers);

4. Breach of (Sales) Contract;

5. Intentional/Negligent Disclosure; and

6. Duty of Good Faith and Fair Dealing; Violation of NRS 116.1113.

3. This Court previously dismissed the constructional defect claims within the mechanical room as being time-barred by virtue of the "catch-all" statute of limitations of four (4) years set forth in NRS 11.220.² With respect to challenges to the sufficiency and validity of the NRS 40.645 notice, this Court stayed the matter to allow PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION to amend it with more specificity. This Court ultimately determined the amended NRS 40.645 notice served upon the Builders on April 15, 2018 was valid only with respect to the windows' constructional defects.³

4. On April 23, 2019, this Court heard two motions filed by the parties, to wit: (1) the Contractors' Motion for Summary Judgment Pursuant to NRS 11.202(1) filed February 11, 2019 and (2) the Association's Conditional Counter-Motion for Relief Pursuant to NRS 40.695(2) filed March 1, 2019. After hearing the parties' arguments, this Court took the matter under advisement, and on

²See Findings of Fact, Conclusions of Law and Order filed September 15, 2017.

³See Findings of Fact, Conclusions of Law and Order filed November 30, 2018.

1 May 23, 2019, issued its third Findings of Fact, Conclusions of Law and Order which granted the
2 Builders' motion, and denied the Association's Conditional Counter-Motion. As pertinent here, this
3 Court concluded the Owners' Association's remaining constructional defect claims lodged against
4 the Builders were time-barred by the six-year statute of repose set forth in NRS 11.202(1).

5 4. On June 3, 2019, the Association filed its Motion for Reconsideration and/or Stay of
6 the Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting Plaintiffs'
7 Motion for Summary Judgment or alternatively, a Motion to Stay the Court's Order.⁴ Ten days
8 later, on June 13, 2019, the Association filed a second Motion for Reconsideration and/or to Alter or
9 Amend the Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting
10 Plaintiffs' Motion for Summary Judgment. These two motions essentially were the same except the
11 second alerted the Court the Nevada Legislature passed AB 421 on June 1, 2019, and such was
12 signed by the Governor and formally enacted on June 3, 2019. As pertinent here, AB 421 amends
13 NRS 11.202 by extending the statute of repose period from six (6) to ten (10) years and it is to be
14 applied retroactively to actions in which the substantial completion of the improvement to real
15 property occurred before October 1, 2019, the date in which the amendment takes effect.

16 The Builders opposed the two motions on several grounds. First, they noted this Court
17 entered a final order on May 23, 2019, the Notice of Entry of Order was filed May 28, 2019, and
18 thus, by the time the Motion for Reconsideration and/or Stay was filed June 3, 2019, there was no
19 pending matter to stay. Second, while AB 421 was enacted and will apply retroactively, it does not
20 become effective until October 1, 2019, meaning, currently, there is no change in the law. That is,
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25 ⁴The Association moved this Court to stay the Order upon the basis the Nevada Legislature had passed
26 Assembly Bill (referred to as "AB" herein) 421 on June 1, 2019, which "immediately and retroactively extends the
27 statute of repose to 10 years." See Motion for Reconsideration of the Court's May 23, 2019 Findings of Fact,
28 Conclusions of Law and Order Granting Plaintiffs' Motion for Summary Judgment or alternatively, a Motion to Stay the
Court's Order filed June 3, 2019, p. 4. The Association urged this Court to stay the Order until such time as AB 241 was
enacted or rejected by the Governor. As set forth *infra*, the Governor signed the bill on June 3, 2019 which was to take
effect October 1, 2019.

1 as the law stands, the period for the statute of repose is six (6) years as enacted February 24, 2015,
2 and not ten (10). Third, as the Association's claims have already been adjudicated, AB 421 cannot
3 be interpreted to revive those causes of action.

4 This Court denied the Association's first Motion for Reconsideration and/or Stay filed June
5 3, 2019 at the July 16, 2019 hearing; it took the June 13, 2019 motion under advisement, and
6 ultimately, it was denied via Order filed August 9, 2019. In summary, this Court concluded the
7 newly-amended NRS 11.202 becomes effective October 1, 2019, whereby the current state of the
8 law is such the statute of repose is six (6) years, and not ten (10). If the Nevada Legislature had
9 intended AB 421's retroactive effect to be applied now, it would have said so just as it had in
10 enacting AB 125 in February 2015.

12 5. The Contractors have moved this Court to certify the May 23, 2019 Findings of Fact,
13 Conclusions of Law and Order as final under Rule 54(b) of the Nevada Rules of Civil Procedure
14 (NRCP). They argue the Order is final in that it granted summary judgment with respect to the
15 Association's claims in their entirety, and there is no just reason for delaying the entry of final
16 judgment. The Owners' Association opposes upon the bases (1) the May 23, 2019 Order is "silent
17 as to which of the Association's legal claims were resolved in this action,"⁵ and "[t] repeated
18 references to 'construction defect claims' are too vague and insufficient to make the [] Order final
19 and appealable;"⁶ (2) the Order "could not have resolved the Association's contract-based claims;"⁷
20 and (3) the Builders will not face hardship or injustice by waiting for the issue to be appealed after
21 all parties' claims are resolved.

24 ...

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26 ⁵See Defendant's (1) Opposition to Plaintiffs'/Counter-Defendants' Motion to Certify Judgment as Final Under
27 Rule 54(b) and (2) Response to Plaintiffs'/Counter-Defendants' Opposition to Defendant's/Counter-Claimant's July 16,
28 Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order filed August 1, 2019, p. 11.

⁶*Id.*, p. 12.

⁷*Id.*, p. 14.

CONCLUSIONS OF LAW

1
2 1. NRCP 54 was recently amended to reflect virtually the identical wording of Rule 54
3 of the Federal Rules of Civil Procedure (FRCP). NRCP 54(b) provides:

4 (b) *Judgment on Multiple Claims or Involving Multiple Parties.* When an action presents
5 more than one claim for relief—whether as a claim, counterclaim, crossclaim, or third-party
6 claim—or when multiple parties are involved, the court may direct entry of a final judgment
7 as to one or more, but fewer than all, claims or parties only if the court expressly determines
8 that there is no just reason for delay. Otherwise, any order or other decision, however
9 designated, that adjudicates fewer than all claims or the rights and liabilities of fewer than all
the parties does not end the action as to any of the claims or parties and may be revised at
any time before the entry of a judgment adjudicating all the claims and all the parties' rights
and liabilities.

10 Clearly, NRCP 54(b) permits district courts to authorize immediate appeal of dispositive rulings on
11 separate claims in a civil action raising multiple claims. This rule “was adopted...specifically to
12 avoid the possible injustice of delay[ing] judgment o[n] a *distinctly separate* claim [pending]
13 adjudication of the entire case....The Rule thus aimed to augment, not diminish, appeal
14 opportunity.” See Jewel v. National Security Agency, 810 F.3d 622, 628 (9th Cir. 2015), *quoting*
15 Gelboim v. Bank of America Corp., ____ U.S. ____ 135 S.Ct. 897, 902-903, 190 L.Ed.2d 789 (2015)
16 (interpreting FRCP 54).
17

18 2. Over sixty (60) years ago, the United States Supreme Court outlined steps to be
19 followed in making determinations under FRCP 54(b), of which NRCP 54(b) is now the same. See
20 Sears, Roebuck & Company v. Mackey, 351 U.S. 427, 76 S.Ct. 895, 100 L.Ed. 1297 (1956), *cited by*
21 Curtiss-Wright Corporation v. General Electric Company, 446 U.S. 1, 7, 100 S.Ct. 1460, 1464, 64
22 L.Ed.2d 1 (1980). The district court first must determine it is dealing with a “final judgment.” It
23 must be a “judgment” in the sense it is a decision upon a cognizable claim for relief, and it must be
24 “final” or an “an ultimate disposition of an individual claim entered in the course of a multiple
25 claims action.” *Id.*, *quoting* Sears, Roebuck & Company, 351 U.S. at 436, 76 S.Ct. at 900.
26
27 ...
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1 3. Once it finds “finality,” the district court must determine whether there is any just
2 reason for delay. Not all final judgments on individual claims should be immediately appealable
3 even if they are separable from the remaining unresolved claims. It is left to the sound judicial
4 discretion of the district court to determine the appropriate time when each final decision in a
5 multiple claims action is ready for appeal. Curtiss-Wright Corporation, 446 U.S. at 8, 100 S.Ct. at
6 1464-1465, *citing* Sears, Roebuck & Company, 351 U.S. at 437, 76 S.Ct. at 899, 900. Thus, in
7 deciding whether there is no just reason to delay the appeal of the May 23, 2019 Findings of Fact,
8 Conclusions of Law and Order, which granted the Builders’ February 11, 2019 Motion for Summary
9 Judgment, this Court must take into account the judicial administrative interests as well as the
10 equities involved. Consideration of the former is necessary to assure application of NRCP 54(b) will
11 not result in the appellate courts deciding the same issues more than once on separate appeals.
12

13 4. Here, the Owners’ Association argues against NRCP 54(b) certification upon the
14 bases the May 23, 2019 Order is not final as it is “silent as to which of the Association’s legal claims
15 were resolved in this action”⁸ and further, the Order “could not have resolved the Association’s
16 contract-based claims.”⁹ This Court disagrees with both of the Association’s positions. The May
17 23, 2019 16-page Order specifically details this Court’s reasoning and conclusion the Owners’
18 Association’s constructional defect claims are time-barred by the six-year statute of repose.
19 Notably, this Court specifically set forth on page 13 of the Order “[t]he Association’s counter-claims
20 of negligence, intentional/negligent disclosure, breach of sales contract, products liability, breach of
21 express and implied warranties under and violations of NRS Chapter 116, and breach of duty of
22 good faith and fair dealing are for monetary damages as a result of constructional defects to its
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26 ⁸See Defendant’s (1) Opposition to Plaintiffs’/Counter-Defendants’ Motion to Certify Judgment as Final Under
27 Rule 54(b) and (2) Response to Plaintiffs’/Counter-Defendants’ Opposition to Defendant’s/Counter-Claimant’s July 16,
28 Court’s May 23, 2019 Findings of Fact, Conclusions of Law and Order filed August 1, 2019, p. 11.

⁹*Id.*, p. 14.

1 windows in the two towers.” In short, the May 23, 2019 Order was not silent as to which of the
2 Association’s counter-claims were resolved; the Order specifically enumerated and decided all the
3 claims.

4 Further, while the Association argues the Order “could not have resolved the Association’s
5 contract-based claims.”¹⁰ a review of the Association’s Fourth Cause of Action entitled “Breach of
6 Contract” within the Counter-Claim indicates it is an action seeking monetary damages as a result of
7 constructional defects. It states, *inter alia*, the Developers entered into written contracts¹¹
8 representing the individual units were constructed in a professional and workmanlike manner and in
9 accordance with all applicable standards of care in the building industry. The Developers breached
10 the Sales Contracts “by selling units containing the Defects described above, *and as a direct result*
11 *of said breaches, The (sic) Association and its individual members have suffered the losses and*
12 *damages described above.*”¹² (Emphasis added) Clearly, the “Breach of Contract” action, seeking
13 monetary damages as a result of constructional defects, was addressed and analyzed within this
14 Court’s May 23, 2019 Order as time-barred by virtue of the six-year statute of repose. This Court
15 concludes its May 23, 2019 Findings of Fact, Conclusions of Law and Order is final as it was an
16 ultimate disposition of all the Association’s causes of action set forth within the Counter-Claim.
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19 5. The next issue that must be determined is whether there is any just reason for delay.
20 In this regard, this Court considers whether the May 23, 2019 Findings of Fact, Conclusions of Law
21 and Order dealt with matters distinctly separable from the remaining unresolved claims. This Court,
22 therefore, turns to the claims for relief set forth in the Builders’ Complaint to determine which of
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26 ¹⁰*Id.*, p. 14.

27 ¹¹Notably, the Fourth Cause of Action does not state with whom the Developers entered into the Sales
28 Contracts. Presumably, the contracts were between the Developers and the members of the Association, and not with the
Association itself. The homeowners are not Counter-Claimants in this case.

¹²See Defendant Panorama Tower Condominium Unit Owners’ Association’s Answer to Complaint and
Counterclaim filed March 1, 2017, p. 32, Paragraph 71.

1 them remain unresolved, and if they are separate from the Association's causes of action contained
2 in the Counter-Claim.

3 The First Claim for Relief sought declaratory relief regarding the application of Assembly
4 Bill (AB) 125 enacted and effective as of February 24, 2015. In its various Findings of Fact,
5 Conclusions of Law and Orders issued in this case, this Court determined AB 125 reflects the state
6 of the law between February 24, 2015 to September 30, 2019' and was applied in this Court's
7 analyses whereby this cause of action is resolved. The Second Claim for Relief seeks a declaration
8 from this Court the Association's claims are precluded, as in this Builders' view, the rights and
9 obligations of the parties in this matter were resolved by way of Settlement Agreement reached in a
10 prior litigation. This Second Claim for Relief is distinctly different from the causes adjudged in the
11 May 23, 2019 Order, and thus, it is not yet resolved. The Third Claim for Relief accuses the
12 Association of failure to comply with the pre-litigation process set forth in NRS 40.600 through
13 40.695. This Court dealt with the issues presented in the Third Claim for Relief within its
14 September 15, 2017 and November 30, 2018 Findings of Fact, Conclusions of Law and Orders;
15 ultimately, it found the Association failed to provide an adequate NRS 40.645 notice with respect to
16 the constructional defects allegedly found in the Towers' sewer system¹³ and fire walls. It
17 determined the notice was adequate concerning the constructional defects found in the Towers'
18 windows. The Third Claim for Relief is resolved.
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22 The Fourth Claim for Relief is entitled "suppression of evidence/spoliation," and essentially
23 the Contractors seek sanctions against the Association for its alleged failure to retain the parts and
24 mechanisms removed or replaced during the sewer repair, and prior to sending the Builders the NRS
25 40.645 notice. Assuming there were no other suppression of evidence or spoliation issues with
26

27 _____
28 ¹³The sewer system had been repaired prior to the Association sending the NRS 40.645 notice meaning the
Builders were not accorded their right to repair under NRS Chapter 40.

1 respect to constructional defects in the windows, fire walls or mechanical room, the Fourth Claim
2 for Relief also is resolved as this Court concluded, in its November 30, 2018 Order, the NRS 40.645
3 notice was insufficient with respect to the sewer deficiencies and the Builders were not notified of
4 the constructional defects prior to repair. If there are remaining suppression of evidence or
5 spoliation issues, such deal with whether this Court should issue sanctions upon the Association for
6 its failure to preserve. In this Court's view, such matters are moot given its prior conclusions claims
7 relating to the mechanical room are barred by the four-year statute of limitations, the NRS 40.645
8 notice was insufficient with respect to constructional defects allegedly within the fire walls, and
9 lastly, the window deficiencies are time-barred by the six-year statute of repose. In other words,
10 whether there remain spoliation issues, this Court concludes the Fourth Claim for Relief is moot.
11

12 The Fifth Claim for Relief for breach of the Settlement Agreement made in resolving party
13 differences in the prior litigation remains undecided for the same reason this Court concluded the
14 "claim preclusion" issues identified in the Second Claim for Relief were not determined. Likewise,
15 the Sixth and Seventh Claims for Relief, seeking declaratory relief given the Association's duty to
16 defend and indemnify under the Settlement Agreement, have not been decided. In short, the
17 remaining causes are the Second, Fifth, Sixth and Seventh Claims for Relief set forth in the
18 Contractors' Complaint and they are distinctly separate from the Associations' constructional defect
19 claims decided in the Findings of Fact, Conclusions of Law and Orders filed September 15, 2017,
20 November 30, 2018 and May 23, 2019.
21

22 6. In summary, the May 23, 2019 Findings of Fact, Conclusions of Law and Order
23 resulted in a culmination of a final adjudication, wholly resolving the causes set forth within the
24 Association's Counter-Claim. The claims remaining are those are made by the Builders and deal
25 specifically with the adherence of the parties' concessions set forth within the prior litigation's
26 Settlement Agreement. These causes are distinctly different from the constructional defect claims
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1 alleged in the Counter-Claim. In this Court's view, entry of a separate judgment now would not
2 require any appellate court to decide the same issues more than once on separate appeals.

3 Accordingly, based upon the foregoing Findings of Fact and Conclusions of Law,

4 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** the Motion to Certify
5 Judgment as Final Under NRCP 54(b) filed by Plaintiffs/Counter-Defendants LAURENT
6 HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J.
7 DEAN CONSTRUCTION, INC. on July 22, 2019 is granted.
8

9 DATED this 12th day of August 2019.

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12 SUSAN H. JOHNSON, DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify, on the 12th day of August 2019, I electronically served (E-served), placed within the attorneys' folders located on the first floor of the Regional Justice Center or mailed a true and correct copy of the foregoing ORDER RE: MOTION TO CERTIFY JUDGMENT AS FINAL UNDER NRCP 54(b) to the following counsel of record, and that first-class postage was fully prepaid thereon:

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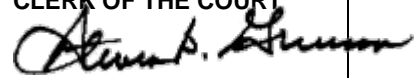
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Attorneys for Plaintiffs,
LAURENT HALLIER; PANORAMA TOWERS I, LLC;
PANORAMA TOWERS I MEZZ, LLC; and M.J. DEAN
CONSTRUCTION, INC.

DISTRICT COURT
CLARK COUNTY, NEVADA

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada Corporation,

Plaintiffs,

vs.

PANORAMA TOWERS CONDOMINIUM
UNIT OWNERS' ASSOCIATION, a Nevada
non-profit corporation,

Defendant.

PANORAMA TOWERS CONDOMINIUM
UNIT OWNERS' ASSOCIATION, a Nevada
non-profit corporation,

Counter-Claimant,

vs.

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA

) Case No. A-16-744146-D

) Dept. XXII

) **NOTICE OF ENTRY OF ORDER RE:**
) **DEFENDANT'S MOTION TO ALTER**
) **OR AMEND COURT'S FINDINGS OF**
) **FACTS, CONCLUSIONS OF LAW AND**
) **ORDER ENTERED MAY 23, 2019**

1 TOWERS I MEZZ, LLC, a Nevada limited)
liability company; and M.J. DEAN)
2 CONSTRUCTION, INC., a Nevada Corporation;)
SIERRA GLASS & MIRROR, INC.; F.)
3 ROGERS CORPORATION; DEAN ROOFING)
COMPANY; FORD CONTRACTING, INC.;)
4 INSULPRO, INC.; XTREME EXCAVATION;)
SOUTHERN NEVADA PAVING, INC.;)
5 FLIPPINS TRENCHING, INC.; BOMBARD)
MECHANICAL, LLC; R. RODGERS)
6 CORPORATION; FIVE STAR PLUMBING &)
HEATING, LLC, dba SILVER STAR)
7 PLUMBING; and ROES 1 through , inclusive,)
Counter-Defendants.)
8)
9)

10
11 PLEASE TAKE NOTICE that an Order Re: Defendant's Motion to Alter or Amend Court's
12 Findings of Facts, Conclusions Of Law and Order Entered May 23, 2019 was entered on the 14th day
13 of January 2020. A true copy is attached hereto and made part hereof.
14

15 Dated: January 16, 2020

BREMER WHYTE BROWN & O'MEARA LLP


16
17
18 By: 

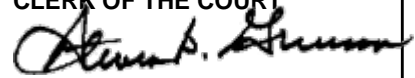
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CONSTRUCTION, INC.

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of January 2020, a true and correct copy of the foregoing document was electronically served through Odyssey upon all parties on the master e-file and serve list.


Kimberley Chapman, and employee of
Bremer Whyte Brown & O'Meara



1 **ORDR**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 **LAURENT HALLIER, an individual;**
7 **PANORAMA TOWERS I, LLC, a Nevada**
8 **limited liability company; PANORAMA**
9 **TOWERS I MEZZ, LLC, a Nevada limited**
10 **liability company; and M.J. DEAN**
11 **CONSTRUCTION, INC., a Nevada**
12 **corporation,**

13 **Plaintiffs,**

14 **Vs.**

15 **PANORAMA TOWERS**
16 **CONDOMINIUM UNIT OWNERS'**
17 **ASSOCIATION, a Nevada non-profit**
18 **corporation.**

19 **Defendant.**

20 **PANORAMA TOWERS**
21 **CONDOMINIUM UNIT OWNERS'**
22 **ASSOCIATION, a Nevada non-profit**
23 **corporation,**

24 **Counter-Claimant,**

25 **Vs.**

26 **LAURENT HALLIER, an individual;**
27 **PANORAMA TOWERS I, LLC, a Nevada**
28 **limited liability company; PANORAMA**
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
Corporation,

Counter-Defendants.

Case No. A-16-744146-D

Dept. No. XXII

ORDER RE: DEFENDANT'S
MOTION TO ALTER OR
AMEND COURT'S FINDINGS
OF FACT, CONCLUSIONS OF
LAW AND ORDER ENTERED
MAY 23, 2019

1 PANORAMA TOWERS
2 CONDOMINIUM UNIT OWNERS'
3 ASSOCIATION, a Nevada non-profit
4 corporation,

5
6 Third-Party Plaintiff,

7 Vs.

8 SIERRA GLASS & MIRROR, INC.; F.
9 ROGERS CORPORATION; DEAN
10 ROOFING COMPANY; FORD
11 CONSTRUCTING, INC.; INSULPRO,
12 INC.; XTREME EXCAVATION;
13 SOUTHERN NEVADA PAVING, INC.;
14 FLIPPINS TRENCHING, INC.;
15 BOMBARD MECHANICAL, LLC; R.
16 RODGERS CORPORATION; FIVE
17 STAR PLUMBING & HEATING, LLC
18 dba SILVER STAR PLUMBING; and
19 ROES 1 through 1000, inclusive,

20 Third-Party Defendants.¹

21 **ORDER RE: DEFENDANT'S MOTION TO ALTER OR AMEND COURT'S FINDINGS OF**
22 **FACT, CONCLUSIONS OF LAW AND ORDER ENTERED MAY 23, 2019**

23 This matter concerning Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA
24 TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION'S Motion to Alter or Amend
25 Court's Findings of Fact, Conclusions of Law and Order Entered May 23, 2019 which was filed
26 September 9, 2019, came on for hearing on the 17th day of October 2019 at the hour of 9:00 a.m.
27 before Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada with
28 JUDGE SUSAN H. JOHNSON presiding; Plaintiffs/Counter-Defendants LAURENT HALLIER,
PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN
CONSTRUCTION, INC. appeared by and through their attorneys, DANIEL F. POLSENBERG,

¹As the subcontractors are not listed as "plaintiffs" in the primary action, the matter against them is better characterized as a "third-party" claim, as opposed to "counter-claim."

1 ESQ. of the law firm, LEWIS ROCA ROTHGERBER CHRISTIE, and PETER C. BROWN, ESQ.
2 and DEVIN R. GIFFORD, ESQ. of the law firm, BREMER WHYTE BROWN & O'MEARA; and
3 Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM
4 UNIT OWNERS' ASSOCIATION appeared by and through its attorneys, FRANCIS I. LYNCH,
5 ESQ. of the law firm, LYNCH & ASSOCIATES, and WILLIAM L. COUTHARD, ESQ. and
6 MICHAEL J. GAYAN, ESQ. of the law firm, KEMP JONES COULTHARD. Having reviewed the
7 papers and pleadings on file herein, heard oral arguments of the lawyers and taken this matter under
8 advisement, this Court makes the following Findings of Fact and Conclusions of Law.

10 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

11 1. The facts and procedural history have been set forth several times within this Court's
12 various orders filed in this case with the most updated and recent information being written in the
13 August 9, 2019 Order Re: Defendant's Motion for Reconsideration and/or to Alter or Amend the
14 Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting Plaintiffs' Motion
15 for Summary Judgment Pursuant to NRS 11.202(1). This Court adopts its Findings of Fact and
16 Procedural History as set forth within the August 9, 2019 Order, and incorporates them as though
17 fully set forth herein.

19 2. Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS
20 CONDOMINIUM UNIT OWNERS' ASSOCIATION filed its most recent motion on September 9,
21 2019, arguing, by the time this matter is heard, it will be after October 1, 2019 when Assembly Bill
22 (referred to as "AB" herein) 421 becomes effective, and the retroactive application of the new ten-
23 year Statute of Repose is to be applied. In the view of the Owners' Association, the now-controlling
24 law no longer supports dismissal of its claims as time-barred by the six-year Statute of Repose in
25 effect prior to October 1, 2019. PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'

27 ...
28

1 ASSOCIATION, therefore, seeks an order altering or amending this Court's May 23, 2019 Order
2 with the finding its claims were timely filed.

3 3. Plaintiffs LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA
4 TOWERS I MEZZ, LLC and M.J. DEAN CONSTRUCTION, INC. oppose upon the bases AB 421
5 does not resurrect claims previously adjudicated as time-barred under 2015 Legislature's AB 125's
6 six (6) year Statute of Repose. Further, if AB 421 were to be applied to revive the association's
7 constructional defect claims, such would result in a "clear constitutional infringement" ²on the
8 builders' vested due process rights.
9

10 CONCLUSIONS OF LAW

11 1. As alluded to above, PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'
12 ASSOCIATION moves this Court to amend or alter its May 23, 2019 decision pursuant to Rule 59
13 of the Nevada Rules of Civil Procedure (NRCP). NRCP 59 accords litigants the opportunity to
14 move the Court to alter or amend a judgment or seek a new trial for any of the following causes or
15 grounds materially affecting the substantial rights of the moving party:
16

17 A. Irregularity in the proceedings of the court, jury, master or adverse party or in
18 any order of the court or master, or any abuse of discretion by which either party was
19 prevented from having a fair trial;

20 B. Misconduct of the jury or prevailing party;

21 C. Accident or surprise that ordinary prudence could not have guarded against;

22 D. Newly discovered evidence material for the party making the motion that the
23 party could not, with reasonable diligence, have discovered and produced at the trial;

24 E. Manifest disregard by the jury of the instructions of the Court;
25
26

27 ²See Plaintiffs'/Counter-Defendants' Opposition to Defendants'/Counter-Claimants' Motion to Alter or Amend
28 the Court's Findings of Fact, Conclusions of Law, and Order Entered on May 23, 2019 filed September 26, 2019, p.4.

1 F. Excessive damages appearing to have been given under the influence of
2 passion or prejudice; or

3 G. Error in law occurring at the trial and objected to by the party making the
4 motion.

5 Case law interpreting NRCP 59 provides the motion to amend or alter must state the grounds with
6 particularity and the relief sought. *See United Pacific Insurance Co. v. St. Denis*, 81 Nev. 103, 399
7 P.3d 135 (1965). Further, the motion to alter or amend a judgment must be filed no later than 28
8 days after service of written notice of entry of judgment. *See* NRCP 59(e). In this case, there was
9 no argument presented to suggest PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'
10 ASSOCIATION'S motion was untimely.³

11
12 3. The basis for the Owners' Association's position this Court should amend or alter its
13 May 23, 2019 decision stems from the enactment of AB 421 which, as stated above, became
14 effective October 1, 2019. AB 421 extends the statute of repose addressed in NRS 11.202 from six
15 (6) to ten (10) years. AB 421, Section 7, states in part:

17 NRS 11.202 is hereby amended to read as follows:

18 11.202 1. No action may be commenced against the owner, occupier or any person
19 performing or furnishing the design, planning, supervision or observation of construction, or
20 the construction of an improvement to real property more than **10** years after the substantial
completion of such an improvement. ... (Emphasis in original)

21 AB 421, Section 11, Subsection 4 also provides "[t]he period of limitations on actions set forth in
22 NRS 11.202, as amended by section 7 of this act, apply *retroactively* to actions in which the
23 substantial completion of the improvement to real property occurred before October 1, 2019."
24 (Emphasis added). This Court now considers whether AB 421 should be applied retroactively to
25

26
27 ³On September 9, 2019, the Owners' Association moved this Court to amend or alter its decision expressed
28 within its Findings of Fact, Conclusions of Law and Order filed May 23, 2019. The May 23, 2019 Order became final
and appealable on August 12, 2019 when this Court granted Plaintiffs' Motion to Certify Judgment as Final and
Appealable under NRCP 54(b), whereby the motion is timely under NRCP 59(e).

1 resurrect the Owners' Association's constructional defect claims under the new ten-year Statute of
2 Repose when they previously had expired under the prior six-year period as set forth within this
3 Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order.

4 4. It has long been established in American jurisprudence a court is to apply the law in
5 effect at the time it renders its decision unless doing so would result in manifest injustice or there is
6 statutory direction or legislative history to the contrary. Bradley v. School Board of City of
7 Richmond, 416 U.S. 696, 710, 94 S.Ct. 2006, 2016, 40 L.Ed.2d 476 (1974). The origin and
8 justification for this rule are found in the words of Mr. Chief Justice Marshall in United States v.
9 Schooner Peggy, 1 Cranch 103, 110, 2 L.Ed. 49 (1801):

11 It is in the general true that the province of an appellate court is only to enquire whether a
12 judgment when rendered was erroneous or not. But if subsequent to the judgment and before
13 the decision of the appellate court, a law intervenes and positively changes the rule which
14 governs, the law must be obeyed, or its obligation denied. If the law be constitutional...I
15 know of no court which can contest its obligation. It is true that in mere private cases
16 between individuals, a court will and ought to struggle hard against a construction which
17 will, by a retrospective operation, affect the rights of parties, but in great national
18 concerns...the court must decide according to existing laws, and if it be necessary to set
19 aside a judgment, rightful when rendered, but which cannot be affirmed but in violation of
20 law, the judgment must be set aside.

21 5. In keeping with the dictates set forth by the United States Supreme Court, this Court
22 considers whether its application of NRS 11.202 (2015)'s six-year statute of repose within its May
23 23, 2019 Order would not be affirmed or result in manifest injustice, as, unfortunately, there appears
24 to be no statutory directive or legislative history to the contrary.

25 6. "[O]nce a statute of limitations has expired, the defendant has a vested right to invoke
26 the bar of the limitations period as a defense to a cause of action. That right cannot be taken away
27 by the legislature without offending...due process protections...." Doe A. v. Diocese of Dallas, 234
28 Ill.2d 393, 409, 917 N.E.2d 475, 485 (2009), *quoting* M.E.H. v. L.H., 177 Ill.2d 207, 214-215, 685
N.E.2d 335 (1997). Accordingly, "[i]f the claims were time-barred under the old law, they remain

1 time-barred after the repose period was abolished by the legislature.” M.E.H., 177 Ill.2d at 215, 685
2 N.E.2d 335.

3 7. It is clear when the bar of a statute of limitations has become complete by the running
4 of the full statutory period, the right to plead the statute as a defense is a vested right, which cannot
5 be destroyed by legislation, since it is protected therefrom by Section 1 of the Fourteenth
6 Amendment to the United States Constitution, as well as the Nevada Constitution.⁴ Thus, while the
7 Nevada Legislature most certainly has the authority to enact or change NRS 11.202 to reflect a
8 longer Statute of Repose period with retroactive effect, it lacks the power to reach back and breathe
9 life into a time-barred claim.
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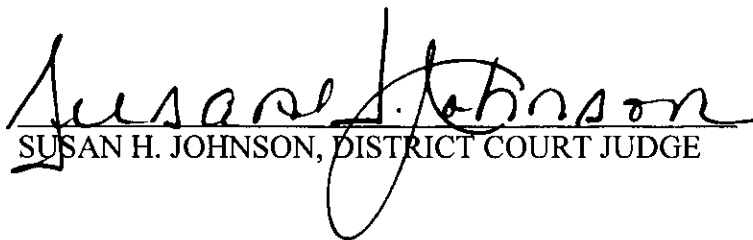
11 8. Suffice it to say, in its view, this Court’s application of NRS 11.202 (2015) at the
12 time it rendered its May 23, 2019 Findings of Fact and Conclusions of Law was, and still is correct.
13 Arguably, manifest injustice would result if this Court were to amend or alter its prior ruling to
14 reverse itself and revive PANORAMA TOWERS CONDOMINIUM UNIT OWNERS’
15 ASSOCIATION’S time-barred claims. Notwithstanding the aforementioned, this Court notes none
16 of the factors set forth by NRCP 59 for amending or altering its May 23, 2019 decision are present
17 here. Indeed, there were no irregularities in the proceedings. There was no misconduct by any
18 party. There were no accidents or surprises, or errors in law. For these reasons, this Court denies
19 Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM
20 UNIT OWNERS’ ASSOCIATION’S Motion to Alter or Amend Court’s Findings of Fact,
21 Conclusions of Law and Order Entered May 23, 2019 which was filed September 9, 2019.
22
23 ...
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25
26 ⁴Section 1 of the Fourteenth Amendment to the United States Constitution provides “[a]ll persons born or
27 naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State
28 wherein they reside. *No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*” (Emphasis added). *Also see* Article 1, Sections 1 and 2 of the Nevada Constitution.

1 Based upon the foregoing Findings of Fact and Conclusions of Law,

2 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** Defendant/Counter-
3 Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'
4 ASSOCIATION'S Motion to Alter or Amend Court's Findings of Fact, Conclusions of Law and
5 Order Entered May 23, 2019 which was filed September 9, 2019, is denied.

6 DATED this 14th day of January 2020.

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9 SUSAN H. JOHNSON, DISTRICT COURT JUDGE
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify, on the 14th day of January 2020, I electronically served (E-served), placed
3 within the attorneys' folders located on the first floor of the Regional Justice Center or mailed a true
4 and correct copy of the foregoing ORDER RE: DEFENDANT'S MOTION TO ALTER OR
5 AMEND COURT'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ENTERED
6 MAY 23, 2019 to the following counsel of record, and that first-class postage was fully prepaid
7 thereon:
8


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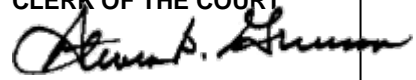
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*Counsel for Defendant/Counterclaimant Panorama
Towers Condominium Unit Owners' Association*

DISTRICT COURT

CLARK COUNTY, NEVADA

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
corporation,

Plaintiffs,

vs.

PANORAMA TOWERS CONDOMINIUM
UNIT OWNERS' ASSOCIATION, a Nevada
non-profit corporation,

Defendant.

Case No.: A-16-744146-D
Dept. No.: XXII

**PANORAMA TOWERS CONDOMINIUM
UNIT OWNERS' ASSOCIATION'S CASE
APPEAL STATEMENT**

PANORAMA TOWERS CONDOMINIUM
UNIT OWNERS' ASSOCIATION, a Nevada
non-profit corporation, and Does 1 through
1000,

Counterclaimants,

vs.

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; M.J. DEAN
CONSTRUCTION, INC., a Nevada
Corporation; SIERRA GLASS & MIRROR,
INC.; F. ROGERS CORPORATION;; DEAN
ROOFING COMPANY; FORD
CONTRACTING, INC.; INSULPRO, INC.;
XTREME XCAVATION; SOUTHERN
NEVADA PAVING, INC.; FLIPPINS
TRENCHING, INC.; BOMBARD
MECHANICAL, LLC; R. RODGERS
CORPORATION; FIVE STAR PLINBING &
HEATING, LLC, dba Silver Star Plumbing;
and ROES 1 through 1000, inclusive,

Counter-defendants.

Defendant/Counterclaimant Panorama Towers Condominium Unit Owners' Association, by
and through their counsel of record, Lynch & Associates Law Group, Williams & Gumbiner, LLP, and
Kemp, Jones & Coulthard, LLP hereby file this Case Appeal Statement regarding their Notice of
Appeal pursuant to Nevada Rule of Appellate Procedure 3(f):

1. Name of appellants filing this Case Appeal Statement:

Panorama Towers Condominium Unit Owners' Association, Inc.

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

Honorable District Court Judge Susan H. Johnson, Eighth Judicial District Court, Clark County,
Nevada

///

///

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

Panorama Towers Condominium Unit Owners' Association, Inc.

Represented by: Francis I. Lynch, Esq. (#4145)
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1445 American Pacific Drive, Suite 110 #293
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Scott Williams, Esq. (*pro hac vice*)
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Michael J. Gayan, Esq. (#11135)
Joshua D. Carlson, Esq. (#118781)
KEMP, JONES & COULTHARD, LLP
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Las Vegas, Nevada 89169

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

Laurent Hallier; Panorama Towers I, LLC; Panorama Towers I Mezz, LLC; and M.J. Dean Construction, Inc.

Represented by: Daniel F. Polsenberg, Esq. (#2376)
Joel D. Henriod, Esq. (#8492)
Abraham G. Smith, Esq. (#13250)
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Peter C. Brown, Esq. (#5887)
Jeffrey W. Saab, Esq. (11261)
Devin R. Gifford, Esq. (#14055)
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1160 N. Town Center Drive, Suite 250
Las Vegas, Nevada 89144

///

///

///

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

5 Scott Williams, Esq., counsel for Panorama Towers Condominium Unit Owners' Association,
6 Inc., was granted permission to appear before the district court under SCR 42. The Minute Order
7 granting such permission is attached hereto as **Exhibit 1**. To date, the district court has not entered any
8 other order related to Mr. Williams' admission in this matter.

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

11 Panorama Towers Condominium Unit Owners' Association, Inc. was represented by retained
12 counsel in the district court.

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

15 Panorama Towers Condominium Unit Owners' Association, Inc. is represented by retained
16 counsel on appeal.

17 **8. Indicate whether appellant was granted leave to proceed in forma pauperis, and if**
18 **so, the date of the district court's order granting such leave:**

19 Panorama Towers Condominium Unit Owners' Association, Inc. did not request and was not
20 granted leave to proceed in forma pauperis.

21 **9. Indicate the date that the proceedings commenced in the district court (e.g., date**
22 **complaint, indictment, information, or petition was filed):**

23 Laurent Hallier; Panorama Towers I, LLC; Panorama Towers I Mezz, LLC; and M.J. Dean
24 Construction, Inc. filed their Complaint in the district court on September 28, 2016.

25 ///

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27 ///

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

4 In February 2016, Panorama Towers Condominium Unit Owner's Association, Inc. (the
5 "Homeowners Association") served Laurent Hallier; Panorama Towers I, LLC; Panorama Towers I
6 Mezz, LLC; and M.J. Dean Construction, Inc. (collectively the "Builders") with a Chapter 40 Notice
7 alleging construction defects in the Homeowners Association's two high-rise condominium towers.
8 After the Builders conducted perfunctory pre-litigation inspections and disclaimed in writing all
9 liability for any of the construction defects, the parties participated in the pre-litigation mediation
10 required by statute. On September 28, 2016, just two days after that mediation ended without any
11 resolution of the Homeowners Association's claims, the Builders pre-emptively filed this action against
12 the Homeowners Association seeking to enforce a prior contractual agreement and obtain declaratory
13 relief related to the Homeowners Association's construction defect claims. On March 1, 2017, after the
14 Homeowners Association's unsuccessfully sought to dismiss the Builders' Complaint, the
15 Homeowners Association timely filed its Answer and Counterclaim against the Builders. The
16 Homeowners Association's Counterclaim contained the construction defect claims contained within
17 the Chapter 40 Notice.

18 On March 20, 2017, the Builders filed their first motion for summary judgment that challenged,
19 among other things, the sufficiency of the Homeowners Association's Chapter 40 Notice. On
20 September 15, 2017, the district court granted the Builders' motion in part and gave the Homeowners
21 Association leave to amend the Chapter 40 Notice to provide additional detail. On August 3, 2018, after
22 the Homeowners Association served the Builders with an Amended Chapter 40 Notice, the Builders
23 filed another motion for summary judgment challenging the sufficiency of the amended notice. On
24 November 30, 2018, the district court granted the Builders' motion in part and determined the
25 Homeowners Association provided sufficient notice of the window design defect.

26 On October 22, 2018, the Builders filed their third motion for summary judgment challenging
27 the Homeowners Association's standing to assert claims related to the window design defect. On March
28 11, 2019, the district court entered its order denying that motion.

1 On February 11, 2019, the Builders filed their fourth motion for summary judgment, this time
2 challenging the timeliness of the Association's construction defect counterclaims under NRS
3 11.202(1). On March 1, 2019, the Association filed its opposition to the motion and a countermotion.
4 On April 23, 2019, the Court heard the Builders' motion and the Association's countermotion. On May
5 23, 2019, the Court entered its Order granting the Builders' motion and denying the Association's
6 countermotion ("May 23, 2019 Order"). In its Order, the Court determined the dates of substantial
7 completion for the two high-rise towers at issue are "January 16, 2008 (Tower I) and March 16, 2008
8 (Tower II)" On May 28, 2019, the Builders filed a Notice of Entry for the Order.

9 On June 1, 2019, the Nevada Legislature passed Assembly Bill 421 and delivered it to Governor
10 Sisolak for consideration. On June 3, 2019, the Association filed a motion for reconsideration of the
11 Order. In the reconsideration motion, the Homeowners Association noted the status of AB421 and the
12 possibility of filing another motion for reconsideration should the bill become Nevada law. On June
13 13, 2019, the Homeowners Association filed a separate motion for reconsideration of the May 23, 2019
14 Order based on AB 421's enactment. On July 16, 2019, the Court heard both of the Association's
15 motions and denied the Homeowners Association's June 3, 2019, reconsideration request, but took the
16 June 13, 2019 reconsideration request under advisement. On August 9, 2019, the Court entered its order
17 denying the Association's motion for reconsideration specifically related to AB421 ("August 9, 2019
18 Reconsideration Order"). Later on August 9, 2019, the Builders filed a notice of entry of the August 9,
19 2019 Reconsideration Order.

20 On July 22, 2019, the Builders filed their motion requesting to certify the May 23, 2019 Order
21 as a final judgment pursuant to Rule 54(b). The Homeowners Association filed its opposition on August
22 1, 2019. On August 12, 2019, the Court filed its order granting the Builders' motion and certifying the
23 May 23, 2019 Order as final judgment under NRCP 54(b) ("Rule 54(b) Order"). On August 13, 2019,
24 the Builders filed a notice of entry of the Rule 54(b) Order.

25 On September 9, 2019, the Homeowners Association filed its Motion to Alter or Amend the
26 Court's Findings of Fact, Conclusions of Law and Order Entered on May 23, 2019, requesting for the
27 first time to alter or amend the May 23, 2019 Order pursuant to NRCP 59(e). On January 14, 2020, the
28 Court filed its Order Re: Defendant's Motion to Alter or Amend Court's Findings of Fact, Conclusions

of Law and Order Entered May 23, 2019 (“Rule 59(e) Order”), denying the motion. On January 16, 2020, the Builders filed a notice of entry of the Rule 59(e) Order.

On February 13, 2020, the Homeowners Association timely filed its Notice of Appeal of the district court’s various orders, including but not limited to the May 23, 2019 Order, the Rule 54(b) Order, and the Rule 59(e) Order.

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

This case has not previously been the subject of an appeal to or original writ proceeding in the Supreme Court or Court of Appeals.

12. Indicate whether this appeal involves child custody or visitation:

This appeal does not involve child custody or visitation.

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

This appeal involves the possibility of settlement.

DATED: February 13, 2020

KEMP, JONES & COULTHARD, LLP

/s/ Michael Gayan

MICHAEL J. GAYAN, ESQ., (#11135)
JOSHUA D. CARLSON, ESQ. (#11781)
KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway, 17th Floor
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FRANCIS I. LYNCH, ESQ. (#4145)
LYNCH & ASSOCIATES LAW GROUP
1445 American Pacific Drive, Suite 110 #293
Henderson, Nevada 89074

SCOTT WILLIAMS (California Bar #78588)
WILLIAMS & GUMBINER, LLP
1010 B Street, Suite 200
San Rafael, California 94901

Attorneys for Defendant/Counterclaimant

Certificate of Service

I hereby certify that on the 13th day of February, 2020, the foregoing **PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION'S CASE APPEAL STATEMENT** was served on the following by Electronic Service to all parties on the Court's service list.

/s/ Angela D. Embrey

An employee of Kemp, Jones & Coulthard, LLP

EXHIBIT 1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

January 13, 2017

A-16-744146-D Laurent Hallier, Plaintiff(s)
vs.
Panorama Towers Condominium Unit Owners Association, Defendant(s)

January 13, 2017

Minute Order

HEARD BY: Johnson, Susan

COURTROOM: Chambers

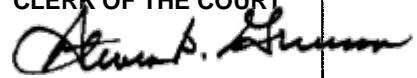
COURT CLERK: Keri Cromer

JOURNAL ENTRIES

- Having examined Defendant s Motion to Associate Counsel filed January 3, 2017, noted the motion was electronically served upon the parties, a Non-Opposition was filed thereto on January 5, 2017, and there is good cause therefore, COURT ORDERS Defendant s Motion to Associate Counsel filed January 3, 2017 is GRANTED pursuant to SCR 42 and EDCR 2.20(e).

Accordingly, the matter scheduled to be heard Tuesday, February 7, 2017 at 10:30 a.m. is VACATED pursuant to EDCR 2.23. Counsel is to prepare and submit a proposed Order to the Court within ten (10) days of this Minute Order or no later than Monday, January 30, 2017 pursuant to EDCR 7.21.

CLERK'S NOTE: The above minute order has been distributed to counsel by the Judicial Executive Assistant, via electronic service, facsimile and/or mail. kc/1-13-17



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Admitted Pro Hac Vice

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10 MICHAEL J. GAYAN, ESQ. (#11125)
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14
15 *Counsel for Defendant/Counterclaimant Panorama
Towers Condominium Unit Owners' Association*

16
17 **DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
20 limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
21 liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
22 corporation,

23 Plaintiffs,

24 vs.

25 PANORAMA TOWERS CONDOMINIUM
UNIT OWNERS' ASSOCIATION, a Nevada
26 non-profit corporation,

27 Defendant.
28

Case No.: A-16-744146-D
Dept. No.: XXII

NOTICE OF POSTING BOND

PANORAMA TOWERS CONDOMINIUM
UNIT OWNERS' ASSOCIATION, a Nevada
non-profit corporation, and Does 1 through
1000,

Counterclaimants,

vs.

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; M.J. DEAN
CONSTRUCTION, INC., a Nevada
Corporation; SIERRA GLASS & MIRROR,
INC.; F. ROGERS CORPORATION; DEAN
ROOFING COMPANY; FORD
CONTRACTING, INC.; INSULPRO, INC.;
XTREME XCAVATION; SOUTHERN
NEVADA PAVING, INC.; FLIPPINS
TRENCHING, INC.; BOMBARD
MECHANICAL, LLC; R. RODGERS
CORPORATION; FIVE STAR PLUMBING &
HEATING, LLC, dba Silver Star Plumbing;
and ROES 1 through 1000, inclusive,

Counter-defendants.

Defendant/Counterclaimant Panorama Towers Condominium Unit Owners' Association, by
and through their counsel of record, Kemp, Jones & Coulthard, LLP, hereby give notice that a bond
was posted in the amount of \$500.00 with this Court on February 14, 2020, as security pursuant to the
Notice of Appeal filed on February 13, 2020. A copy of the receipt of the posting of the bond is
attached hereto as Exhibit A.

DATED this 14th day of February, 2020.

KEMP, JONES & COULTHARD, LLP

/s/ Michael Gayan

MICHAEL J. GAYAN, ESQ. (#11125)
JOSHUA D. CARLSON, ESQ. (#11781)
KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
*Counsel for Defendant/Counterclaimant Panorama
Towers Condominium Unit Owners' Association*

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of February, 2020, the foregoing **NOTICE OF POSTING BOND** was served on the following by Electronic Service to all parties on the Court's service list.

/s/ Angela D. Embrey

An employee of Kemp, Jones & Coulthard, LLP

Exhibit A

OFFICIAL RECEIPT

District Court Clerk of the Court 200 Lewis Ave, 3rd Floor Las Vegas, NV 89101

Payor
Kemp, Jones & Coulthard, LLP

Receipt No.
2020-09497-CCCLK

Transaction Date
02/14/2020

Description	Amount Paid
-------------	-------------

On Behalf Of Panorama Towers Condominium Unit Owners Association

A-16-744146-D

Laurent Hallier, Plaintiff(s) vs. Panorama Towers Condominium Unit Owners Association, Defendant

(s)

Appeal Bond

Appeal Bond

SUBTOTAL

500.00

500.00

PAYMENT TOTAL

500.00

Check (Ref #75363) Tendered

500.00

Total Tendered

500.00

Change

0.00

Notice of Appeal - filed on 2/13/20 on behalf of Panorama Towers Condominium Unit Owners

02/14/2020

11:19 AM

Cashier

Station RJCC1

Audit

37361791

OFFICIAL RECEIPT

CASE SUMMARY**CASE NO. A-16-744146-D****Laurent Hallier, Plaintiff(s)****vs.****Panorama Towers Condominium Unit Owners
Association, Defendant(s)**§
§
§
§
§Location: **Department 22**
Judicial Officer: **Johnson, Susan**
Filed on: **09/28/2016**
Cross-Reference Case Number: **A744146****CASE INFORMATION**Case Type: **Chapter 40**Case
Status: **09/28/2016 Open****DATE****CASE ASSIGNMENT****Current Case Assignment**Case Number A-16-744146-D
Court Department 22
Date Assigned 09/28/2016
Judicial Officer Johnson, Susan**PARTY INFORMATION**

		<i>Lead Attorneys</i>
Plaintiff	Hallier, Laurent	Brown, Peter C. <i>Retained</i> 702-258-6665(W)
	MJ Dean Construction Inc	Brown, Peter C. <i>Retained</i> 702-258-6665(W)
	Panorama Towers I LLC	Brown, Peter C. <i>Retained</i> 702-258-6665(W)
	Panorama Towers I Mezz LLC	Brown, Peter C. <i>Retained</i> 702-258-6665(W)
Defendant	Panorama Towers Condominium Unit Owners Association	Lynch, Francis I <i>Retained</i> 7028681115(W)
Counter Claimant	Panorama Towers Condominium Unit Owners Association	Lynch, Francis I <i>Retained</i> 7028681115(W)
Counter Defendant	Bombard Mechanical LLC	
	Dean Roofing Company	
	F. Rogers Corporation	
	Five Star Plumbing & Heating LLC	
	Flippins Trenching Inc	
	Ford Contracting Inc	
	Hallier, Laurent	Brown, Peter C. <i>Retained</i>

CASE SUMMARY**CASE NO. A-16-744146-D**

702-258-6665(W)

Insulpro Inc**MJ Dean Construction Inc****Brown, Peter C.***Retained*

702-258-6665(W)

Panorama Towers I LLC**Brown, Peter C.***Retained*

702-258-6665(W)

Panorama Towers I Mezz LLC**Brown, Peter C.***Retained*

702-258-6665(W)

R. Rodgers Corporation**Sierra Glass & Mirror Inc****Southern Nevada Paving Inc****Xtreme Xcavation****Special Master****Hale, Floyd A**

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<u>EVENTS</u>	
09/28/2016	 Complaint (CD, Complex) Filed By: Counter Defendant Hallier, Laurent <i>Complaint</i>	
09/29/2016	 Demand for Jury Trial Filed By: Counter Defendant Hallier, Laurent <i>Demand for Jury Trial</i>	
10/11/2016	 Summons Filed by: Counter Defendant Hallier, Laurent <i>Summons - Panorama Towers Condominium Unit Owners' Association</i>	
12/07/2016	 Motion to Dismiss Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Motion to Dismiss Complaint</i>	
12/20/2016	 Stipulation and Order Filed by: Counter Defendant Hallier, Laurent <i>Stipulation and Order to Continue Hearing on Defendant Panorama Towers Condominium Unit Owners' Association's Motion to Dismiss Complaint</i>	
12/20/2016	 Notice of Entry of Stipulation and Order Filed By: Counter Defendant Hallier, Laurent <i>Notice of Entry of Stipulation and Order to Continue Hearing on Defendant Panorama Towers Condominium Unit Owners' Association's Motion to Dismiss Complaint</i>	
01/03/2017	 Motion to Associate Counsel Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Motion to Associate Counsel</i>	
01/04/2017	 Opposition to Motion	








CASE SUMMARY

CASE NO. A-16-744146-D

	<p>Filed By: Counter Defendant Hallier, Laurent <i>Plaintiffs' Opposition to Defendant Panorama Towers Unit Owners Association's Motion to Dismiss Complaint</i></p>
01/04/2017	<p> Appendix Filed By: Counter Defendant Hallier, Laurent <i>Appendix to Plaintiffs' Opposition to Defendant Panorama Towers Unit Owners Association's Motion to Dismiss Complaint</i></p>
01/04/2017	<p> Notice Filed By: Counter Defendant Hallier, Laurent <i>Notice of Submission of Exhibit for In Camera Review</i></p>
01/05/2017	<p> Non Opposition Filed By: Counter Defendant Hallier, Laurent <i>Plaintiff Laurent Hallier's, Panorama Tower I, LLC's, Panorama Towers I Mezz, LLC's and M.J. Dean Construction, Inc.'s Non- Opposition to Defendant Panorama Towers Condominium Unit Owners' Association's Motion to Associate Counsel</i></p>
01/10/2017	<p> Stipulation and Order Filed by: Counter Defendant Hallier, Laurent <i>Stipulation and Order to Deem the Case Complex and to Appoint Floyd Hale as Special Master</i></p>
01/10/2017	<p> Notice of Entry of Stipulation and Order Filed By: Counter Defendant Hallier, Laurent <i>Notice of Entry of Stipulation and Order to Deem the Case Complex and to Appoint Floyd Hale as Special Master</i></p>
01/17/2017	<p> Reply in Support Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Defendant's Reply in Support of Motion to Dismiss Complaint</i></p>
02/09/2017	<p> Notice of Entry of Order Filed By: Counter Defendant Hallier, Laurent <i>Notice of Entry of Order Denying Defendant Panorama Towers Condominium Unit Owners' Association's Motion to Dismiss Complaint</i></p>
02/09/2017	<p> Order Denying Motion Filed By: Counter Defendant Hallier, Laurent <i>Order Denying Defendant Panorama Towers Condominium Unit Owners' Association's Motion to Dismiss Complaint</i></p>
02/17/2017	<p> Notice of Special Master Hearing Filed By: Special Master Hale, Floyd A <i>Notice of Special Master Hearing</i></p>
03/01/2017	<p> Answer and Counterclaim Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Defendant Panorama Towers Condominium Unit Owners' Association's Answer to Complaint and Counterclaim</i></p>
03/02/2017	<p> Notice of Special Master Hearing Filed By: Special Master Hale, Floyd A <i>Notice of Special Master Hearing</i></p>

CASE SUMMARY

CASE NO. A-16-744146-D

03/20/2017	 <p>Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing Re Defendant's Motion to Dismiss Complaint January 24, 2017</i></p>
03/20/2017	 <p>Motion for Summary Judgment Filed By: Counter Defendant Hallier, Laurent <i>Plaintiffs/Counter-Defendants Laurent Hallier's, Panorama Towers I, LLC's, Panorama Towers I Mezz, LLC's, and M.J. Dean Construction, Inc.'s Motion for Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's Counter-Claim and Plaintiffs/Counter-Defendants Laurent Hallier's, Panorama Towers I, LLC's, Panorama Towers I Mezz, LLC's and M.J. Dean Construction, Inc.'s Motion for Partial Summary Judgment on Their Third Claim for Relief in Their Complaint for Declaratory Relief</i></p>
03/23/2017	 <p>Case Management Order Filed By: Special Master Hale, Floyd A <i>Case Management Order</i></p>
03/23/2017	 <p>Notice of Special Master Hearing Filed By: Special Master Hale, Floyd A <i>Notice of Rescheduled Special Master Hearing</i></p>
03/27/2017	 <p>Notice of Entry of Order Filed By: Special Master Hale, Floyd A <i>Notice of Entry of Order (CMO)</i></p>
04/04/2017	 <p>Notice of Entry of Order Filed By: Counter Defendant Hallier, Laurent <i>Notice of Entry of Stipulation and Order to Continue Hearing on Plaintiffs/Counter-Defendants Laurent Hallier's Panorama Towers I, LLC's, Panorama Towers I Mezz, LLC's and M.J. Dean Construction, Inc.'s Motion for Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's Counter-Claim and Plaintiffs/Counter Defendants Laurent Hallier's Panorama Towers I, LLC's, Panorama Towers I Mezz, LLC's and M.J. Dean Construction, Inc.'s Motion for Partial Summary Judgment on Their Third Claim for Relief in Their Complaint for Declaratory Relief</i></p>
04/04/2017	 <p>Stipulation and Order Filed by: Counter Defendant Hallier, Laurent <i>Stipulation and Order to Continue Hearing on Plaintiffs/Counter-Defendants Laurent Hallier's Panorama Towers I, LLC's, Panorama Towers I Mezz, LLC's and M.J. Dean Construction, Inc.'s Motion for Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's Counter-Claim and Plaintiffs/Counter Defendants Laurent Hallier's Panorama Towers I, LLC's, Panorama Towers I Mezz, LLC's and M.J. Dean Construction, Inc.'s Motion for Partial Summary Judgment on Their Third Claim for Relief in Their Complaint for Declaratory Relief</i></p>
04/18/2017	 <p>Notice Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Notice of Filing of Request for Exemption from Arbitration</i></p>
04/26/2017	 <p>Opposition to Motion For Summary Judgment Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Defendant/Counterclaimant Panorama Towers Condominium Unit Owners' Association's Opposition To Plaintiffs/Counterdefendants' Motion For Summary Judgment On The Counterclaim And Oppostion To Plaintiffs/Counterdefendants' Motion For Partial Summary Judgment On Their Third Claim For Relief In Their Complaint For Declaratory Relief</i></p>
05/05/2017	 <p>Commissioners Decision on Request for Exemption - Granted</p>

CASE SUMMARY

CASE NO. A-16-744146-D

Commissioner's Decision on Request for Exemption - Granted

05/08/2017



Arbitration File
Arbitration File

05/10/2017



Reply in Support

Filed By: Counter Defendant Hallier, Laurent
Plaintiffs/Counter-Defendants Laurent Hallier's, Panorama Towers I, LLC's, Panorama Towers I Mezz, LLC's and M.J. Dean Construction, Inc.'s Reply in Support of Motion for Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's Counter-Claim and Plaintiffs/Counter-Defendants Laurent Hallier's, Panorama Towers I, LLC's, Panorama Towers I Mezz, LLC's and in Support of M.J. Dean Construction, Inc.'s Motion for Partial Summary Judgment on Their Third Claim for Relief in their Complaint for Declaratory Relief

05/16/2017



Re-Notice

Filed by: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc
Re-Notice of Hearing of Plaintiffs/Counter-Defendants Laurent Hallier's, Panorama Towers I, LLC's, Panorama Towers I, Mezz, LLC's, and M.J. Dean Construction, Inc.'s Motion for Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's Counter-Claim and Plaintiffs/Counter-Defendants Laurent Hallier's, Panorama Towers I, LLC's, Panorama Towers I Mezz, LLC's and M.J. Dean Construction, Inc.'s Motion for Partial Summary Judgment on Their Third Claim for Relief in Their Complaint for Declaratory Relief

05/16/2017



Order
Order

05/18/2017



Notice of Special Master Hearing
Notice of Rescheduled Special Master Hearing

06/14/2017



Notice of Entry

Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc
Notice of Entry of Order Re: Objectoin to Commissioner's Decision on Request for Exemption and Sanctions Against Counsel

06/19/2017



Arbitration File
Arbitration File

06/22/2017



Special Master Order

Filed By: Special Master Hale, Floyd A
Special Master Order Holding Case Management Order Discovery Requirements in Abeyance and Notice of Rescheduled Special Master Hearing

06/29/2017



Motion

Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Motion to Enlarge Time for Service

06/30/2017



Affidavit of Service

Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Affidavit of Service (Dean Roofing Company)

06/30/2017



Affidavit of Service

CASE SUMMARY

CASE NO. A-16-744146-D

	Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Affidavit of Service (Five Star Plumbing & Heating LLC dba Silver Star Plumbing)</i>
06/30/2017	 Affidavit of Service Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Affidavit of Service (Flippins Trenching Inc.)</i>
06/30/2017	 Affidavit of Service Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Affidavit of Service (Ford Contracting Inc.)</i>
06/30/2017	 Affidavit of Service Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Affidavit of Service (Sierra Glass & Mirror Inc.)</i>
07/06/2017	 Affidavit of Service Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Affidavit of Service (Southern Nevada Paving, Inc)</i>
07/06/2017	 Affidavit of Service Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Affidavit of Service (Insulpro, Inc.)</i>
07/06/2017	 Affidavit of Service Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Affidavit of Service (Bombard Mechanical, LLC)</i>
07/17/2017	 Opposition Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Laurent Hallier; Panorama Towers I, LLC; Panorama Towers I Mezz, LLC and M.J. Dean Construction, Inc.'s Opposition to Panorama Unit Owners Association's Motion to Enlarge Time</i>
07/21/2017	 Records Transcript of Hearing <i>Re-notice of Hearing of Plaintiff's/Counter-Defendants Laurent Hallier's, Panorama Towers I, LLC's, Panorama Towers I, Mezz, LLC's, and MJ Dean Construction, Inc's Motion for Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owner's Association's Counter-Claim and Plaintiff's/Counter Defendants Laurent Hallier's, Panorama Towers i, LLC's, Panorama Towers i Mezz, LLC's and MJ Dean Construction, Inc's Motion for Partial Summary Judgment on Their Third Claim for Relief in Their Complaint for Declaratory Relief June 20, 2017</i>
07/25/2017	 Reply in Support Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Reply in Support of Motion to Enlarge Time for Service</i>
08/07/2017	 Order Denying Motion Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Order Denying Defendant Panorama Towers Condominium Unit Owners' Association's Motion to Enlarge Time for Service</i>
08/07/2017	 Notice of Entry of Order

CASE SUMMARY

CASE NO. A-16-744146-D

	<p>Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc</p> <p><i>Notice of Entry of Order Denying Defendant Panorama Towers Condominium Unit Owners' Association's Motion to Enlarge Time for Service</i></p>
08/23/2017	<p> Motion</p> <p>Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association</p> <p><i>Panorama Towers Condominium Unit Owners' Association's Motion for Leave to Amend its Pleadings and to Enlarge Time for Service</i></p>
09/11/2017	<p> Opposition</p> <p>Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc</p> <p><i>Laurent Hallier; Panorama Towers I, LLC; Panorama Towers I Mezz, LLC and M/J. Dean Constructon, Inc.'s Opposition to Panorama Unit Owners Association's Motion to Amend Pleadings and Enlarge Time for Services</i></p>
09/15/2017	<p> Findings of Fact, Conclusions of Law and Order</p> <p><i>Findings of Fact, Conclusions of Law and Order</i></p>
09/18/2017	<p> Notice of Special Master Hearing</p> <p><i>Notice of Special Master Hearing</i></p>
09/25/2017	<p> Notice of Entry</p> <p>Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc</p> <p><i>Notice of Entry of Order as to Plaintiffs/Counter-Defendants Laurent Hallier's, Panorama Towers I, LLC's, Panorama Towers I Mexx, LLC's, and M.J. Dean Construction, Inc.'s Motion for Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's Counter-Claim and Plaintiffs/Counter-Defendants Laurent Hallier's, Panorama Towers I, LLC's, Panorama towrs I Mexx, LLC's and M.J. Dean Construction, Inc.'s Motion for Partial Summary Judgment on Their Third Claim for Relief in Their Complaint for Declaratory Relief</i></p>
09/27/2017	<p> Recorders Transcript of Hearing</p> <p><i>Defendant/Counterclaimant Panorama Towers Condominium Unit Owner's Association Motion to Enlarge Time for Service August 1, 2017</i></p>
09/27/2017	<p> Request</p> <p>Filed by: Counter Claimant Panorama Towers Condominium Unit Owners Association</p> <p><i>Request to Vacate Hearing Pursuant to Court's Order Staying Proceedings</i></p>
10/10/2017	<p> Motion for Clarification</p> <p>Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association</p> <p><i>Motion for Clarification</i></p>
10/27/2017	<p> Opposition</p> <p>Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc</p> <p><i>Laurent Hallier; Panorama Towers I, LLC; Panorama Towers I Mezz, LLC and M.J. Dean Construction, Inc.'s Opposition to Panorama Unit Owners Association's Motion for Clarification of this Court's September 15, 2017 Order</i></p>
11/07/2017	

CASE SUMMARY

CASE NO. A-16-744146-D

	 Stipulation and Order Filed by: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Stipulation and Order to Continue Hearing on Panorama Towers Condominium Unit Owners' Association's Motion for Clarification</i>
11/08/2017	 Notice of Entry Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Notice of Entry of Stipulation and Order to Continue Hearing on Panorama Towers Condominium Unit Owners' Association's Motion for Clarification</i>
11/15/2017	 Reply in Support Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Panorama Towers Condominium Unit Owner's Association's Reply in Support of Motion for Clarification of this Court's 9/15/17 Order</i>
01/09/2018	 Recorders Transcript of Hearing <i>Panorama Towers Condominium Unit Owners' Association's Motion for Clarification of This Court's 9-15-17 Order November 21, 2017</i>
02/01/2018	 Order Denying Motion Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Order Denying Defendant Panorama Towers Condominium Unit Owners' Association's Motion for Clarification of this Courts September 5, 2017 Order</i>
02/26/2018	 Notice of Special Master Hearing <i>Notice of Special Master Hearing</i>
04/10/2018	 Recorders Transcript of Hearing <i>Recorder's Transcript of hearing Re Status Check Re: Stay (per 9-15-17 order) March 15, 2018</i>
04/26/2018	 Notice of Special Master Hearing <i>Notice of Rescheduled Special Master Hearing</i>
05/21/2018	 Recorders Transcript of Hearing <i>Status Check RE: Stay (Per 9-15-17 Order) April 12, 2018</i>
06/04/2018	 Order Filed By: Counter Defendant Hallier, Laurent <i>Order</i>
06/05/2018	 Notice of Entry of Order Filed By: Counter Defendant Hallier, Laurent <i>Notice of Entry of Order</i>
08/03/2018	 Motion for Summary Judgment Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I</i>

CASE SUMMARY

CASE NO. A-16-744146-D

Mezz, LLC, And M.J. Dean Construction, Inc. s Motion For Summary Judgment On Defendant/Counterclaimant Panorama Tower Condominium Unit Owners Association s April 5, 2018 Amended Notice Of Claims

08/07/2018



Notice of Special Master Hearing
Notice of Rescheduled Special Master Hearing

09/04/2018



Stipulation and Order
Filed by: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc
Stipulation and Order to Continue Hearing on Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC and M.J. Dean Construction, Inc.'s Motion for Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's April 5, 2018 Amended Notice of Claims

09/04/2018



Opposition to Motion For Summary Judgment
Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Opposition to Plaintiffs/Counterdefendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc. s Motion for Summary Judgment on Defendant/Counterclaimant Panorama Tower Condominium Unit Owners Association s April 5, 2018 Amended Notice of Claims

09/05/2018



Notice of Entry
Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc
Notice of Entry of Stipulation and Order to Continue Hearing on Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC and M.J. Dean Construction, Inc.'s Motion for Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's April 5, 2018 Amended Notice of Claims

09/25/2018



Reply in Support
Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc
Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc. s Reply in Support of Motion for Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners Association s April 5, 2018 Amended Notice of Claims

10/01/2018



Notice of Association of Counsel
Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Notice of Association of Counsel

10/09/2018



Notice of Special Master Hearing
Special Master Report and Notice of Special Master Hearing

10/18/2018



Notice of Special Master Hearing
Notice of Rescheduled Special Master Hearing

10/22/2018



Motion for Declaratory Relief
Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc
Plaintiffs/Counter-Defendants' Motion For Declaratory Relief Regarding Standing

CASE SUMMARY

CASE NO. A-16-744146-D

10/22/2018	 Certificate of Service Filed by: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Certificate of Service</i>
10/22/2018	 Appendix Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Appendix to Plaintiffs/Counter-Defendants' Motions For Declaratory Relief Regarding Standing [Volume I OF III]</i>
10/22/2018	 Appendix Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Appendix to Plaintiffs/Counter-Defendants' Motion for Declaratory Relief Regarding Standing [Volume II of III]</i>
10/22/2018	 Appendix Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Appendix to Plaintiffs/Counter-Defendants' Motion for Declaratory Relief Regarding Standing [Volume III of III]</i>
11/01/2018	 Notice of Special Master Hearing <i>Notice of Special Master Hearing</i>
11/06/2018	 Special Master Recommendation and District Court Order <i>Special Master Recommendation and District Court Order Amending Case Agenda</i>
11/15/2018	 Notice of Special Master Hearing <i>Notice of Special Master Hearing</i>
11/16/2018	 Opposition to Motion Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Defendant's Opposition to Plaintiffs/Counter-Defendants' Motion for Declaratory Relief Regarding Standing and Countermotions to Exclude Inadmissible Evidence and for Rule 56(f) Relief</i>
11/19/2018	 Errata Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Errata to Defendant's Oppositon to Plaintiff's Counter-Defendants' Motion for Declaratory Relief Regarding Standing and Countermotions to Exclude Inadmissible Evidence and for Rule 56(f) Relief</i>
11/20/2018	 Order <i>Order Setting Trial and Pre-Trial Dates</i>
11/30/2018	 Findings of Fact, Conclusions of Law and Order <i>Findings of Fact, Conclusions of Law and Order</i>
12/17/2018	 Motion Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I

CASE SUMMARY

CASE NO. A-16-744146-D

LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc

Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc.'s Motion for Reconsideration of their Motion for Summary Judgment Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's April 5, 2018 Amended Notice of Claims

01/08/2019



Stipulation and Order

Filed by: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc

Stipulation and Order to Reset Hearing on Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc.'s Motion for Declaratory Relief Regarding Standing and Defendant/Counterclaimant's Counter-Motions to Exclude Inadmissible Evidence and for Rule 56(f) Relief

01/14/2019



Notice of Entry

Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc

Notice of Entry of Stipulation and Order to Reset Hearing on Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC and M.J. Dean Construction, Inc.'s Motion for Declaratory Relief Regarding Standing and Defendant/CounterClaimant's Counter-Motions to Exclude Inadmissible Evidence and for Rule 56(f) Relief

01/14/2019



Special Master Order

Special Master Order Holding Case Agenda in Abeyance

01/14/2019



Notice of Special Master Hearing

Notice of Special Master Hearing

01/17/2019



Stipulation and Order

Filed by: Counter Claimant Panorama Towers Condominium Unit Owners Association

Stipulation and Order to Reset Hearing on Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc.'s Motion for Reconsideration of Their Motion for Summary Judgment on Panorama Towers Condominium Unit Owners' Association's April 5, 2018 Amended Notice of Claims

01/22/2019



Opposition to Motion

Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Defendant's Opposition to Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc.'s Motion for Reconsideration of their Motion for Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's April 5, 2018 Amended Notice of Claims

01/22/2019



Reply

Filed by: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc

Plaintiffs/Counter-Defendants' Reply in Support of Motion for Declaratory Relief Regarding Standing and Oppositions to Defendant/CounterClaimant's Counter-Motions to Exclude Inadmissible Evidence and for Rule 56(f) Relief

01/22/2019



Appendix

Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc

CASE SUMMARY

CASE NO. A-16-744146-D

Appendix to Plaintiffs/Counter-Defendants' Reply in Support of Motion for Declaratory Relief Regarding Standing and Oppositions to Defendant/Counter-Claimant's Counter-Motions to Exclude Inadmissible Evidence and for Rule 56(f) Relief [Volume I of I]

01/29/2019



Reply in Support

Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Defendant's Reply in Support of Countermotion to Exlude Inadmissible Evidence and for Rule 56(f) Relief

02/04/2019



Reply in Support

Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc
Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc.'s Reply in Support of Motion for Reconsideration of their Motion for Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's April 5, 2018 Amended Notice of Claims

02/05/2019



Errata

Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc
Errata to: Plaintiffs/Counter-Defendants Reply in support of Motion for Declaratory Relief Regarding Standing and Oppositions to Defendant/Counterclaimant s Counter-Motions to Exclude Inadmissible Evidence and for Rule 56(f) Relief

02/05/2019



Errata

Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc
Errata to: Plaintiffs/Counter-Defendants' Motion for Declaratory Relief Regarding Standing [Volume I of II]

02/11/2019



Motion for Summary Judgment

Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc
Plaintiffs/Counter-Defendants Motion for Summary Judgment Pursuant to NRS 11.202(1)

02/28/2019



Recorders Transcript of Hearing

All Pending Motions February 12, 2019

03/01/2019



Opposition to Motion For Summary Judgment

Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Opposition

03/11/2019



Order Denying Motion

Order Denying Plaintiffs/Counter-Defendants' Motion for Reconsideration of Their Motion for Summary Judgment on Defendant/Counter-Claimant's April 5, 2018 Amended Notice of Claims

03/11/2019



Order Denying Motion

Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Order Denying Plaintiffs/Counter-Defendants' Motion for Declaratory Relief Regarding Standing

03/12/2019

CASE SUMMARY

CASE NO. A-16-744146-D

	 Stipulation and Order Filed by: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Stipulation and Order to Continue Hearing Date of Plaintiffs/Counter-Defendants' Motion for Summary Judgment Pursuant to NRS 11.202(1), and the Opposition and Countermotion</i>
03/12/2019	 Notice of Entry Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Notice of Entry of Order Granting Stipulation and Order to Continue Hearing Date of Plaintiffs/Counter-Defendants' Motion for Summary Judgment Pursuant to NRS 11.202(1) and the Opposition and Countermotion</i>
03/12/2019	 Notice of Entry of Order Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Notice of Entry of Order</i>
03/12/2019	 Notice of Entry of Order Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Notice of Entry of Order</i>
03/14/2019	 Notice of Special Master Hearing <i>Notice of Special Master Hearing</i>
03/15/2019	 Reply in Support Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Plaintiffs Laurent Hallier; Panorama Towers I, LLC; Panorama Towers I Mezz, LLC; and M.J. Dean Construction, Inc.'s, Reply in Support of Their Motion for Summary Judgment Pursuant to NRS 11.202(1); And Opposition to Defendant/Counter-Claimant's Conditional Countermotion</i>
03/15/2019	 Appendix Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Appendix to Plaintiffs/Counter-Defendants' Reply in Support of their Motion for Summary Judgment Pursuant to NRS 11.202(1); and Opposition to Defendant/Counter-Claimant's Conditional Countermotion [Volume I of I]</i>
03/19/2019	 Reply in Support Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Reply</i>
03/22/2019	 Stipulation and Order Filed by: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Stipulation and Order to Continue Hearing Date of Plaintiffs/Counter-Defendants' Motion for Summary Judgment Pursuant to NRS 11.202(1); and the Opposition and Countermotion (Second Request)</i>
03/22/2019	 Notice of Entry Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean









CASE SUMMARY

CASE NO. A-16-744146-D

	Construction Inc <i>Notice of Entry of Stipulation and Order to Continue Hearing Date of Plaintiffs/Counter-Defendants' Motion for Summary Judgment Pursuant to NRS 11.202(1); and the Opposition and Countermotion (Second Request)</i>
03/26/2019	 Notice of Special Master Hearing <i>Notice of Cancellation of Special Master Hearing</i>
04/10/2019	 Notice of Compliance Party: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Defendant's First Notice of Compliance</i>
05/13/2019	 Notice of Special Master Hearing <i>Notice of Special Master Hearing</i>
05/20/2019	 Special Master Recommendation and District Court Order <i>Special Master Recommendation and District Court Order Amending Case Agenda</i>
05/23/2019	 Findings of Fact, Conclusions of Law and Order <i>Findings Of Fact, Conclusions of Law And Order</i>
05/28/2019	 Notice of Entry Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>NOTICE OF ENTRY OF ORDER AS TO PLAINTIFF S COUNTERDEFENDANTS MOTION FOR SUMMARY JUDGMENT PURSUANT TO NRS 11.202(L) FILED FEBRUARY 11, 2019 AND DEFENDANT S COUNTER-CLAIMANT S CONDITIONAL COUNTER-MOTION FOR RELIEF PURSUANT TO NRS 40.695(2) FILED MARCH 1, 2019</i>
05/28/2019	 Memorandum of Costs and Disbursements Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>PLAINTIFFS VERIFIED MEMORANDUM OF COSTS AND DISBURSEMENTS</i>
05/29/2019	 Errata Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>NOTICE OF ERRATA TO PLAINTIFFS VERIFIED MEMORANDUM OF COSTS AND DISBURSEMENTS</i>
05/31/2019	 Motion to Retax Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Defendant's Motion to Re-Tax and Settle Costs</i>
06/03/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
06/03/2019	 Motion to Reconsider Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Defendant's Motion for Reconsideration of the Court's May 23, 2019 Findings of Fact, Conclusions of Law, and Order Granting Plaintiffs' Motion for Summary Judgment Pursuant to NRS 11.202(1) or, in the alternative, Motion to Stay the Court's Order</i>

CASE SUMMARY

CASE NO. A-16-744146-D

06/04/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
06/13/2019	 Motion to Reconsider Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Defendant's Motion for Reconsideration and/or to Alter or Amend 5-23-19 FFCL</i>
06/13/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
06/16/2019	 Motion for Attorney Fees Filed By: Counter Defendant Hallier, Laurent <i>Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc. s, Motion for Attorney's Fees Pursuant To NRS 18.010(2)(B)</i>
06/16/2019	 Appendix Filed By: Counter Defendant Hallier, Laurent <i>Appendix to Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc. s, Motion for Attorney's Fees Pursuant To NRS 18.010(2)(B)-Volume I of II</i>
06/16/2019	 Appendix Filed By: Counter Defendant Hallier, Laurent <i>Appendix to Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc. s, Motion for Attorney's Fees Pursuant To NRS 18.010(2)(B)-Volume II of II</i>
06/17/2019	 Stipulation and Order Filed by: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Stipulation and Order to Continue Hearing Dates and to set the Briefing Schedules of (1) Defendant's Motion to Re-Tax and Settle Costs, and (2) Defendant's Motion for Reconsideration of the Court's May 23, 2019 Findings of Fact, Conclusions of Law, and Order Granting Plaintiffs' Motion for Summary Judgment Pursuant to NRS 11.202(1) or, in the Alternative, Motion to Stay the Court's Order</i>
06/18/2019	 Notice of Entry Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Notice of Entry of Stipulation and Order to Continue Hearing Dates and to set the Briefing Schedules of (1) Defendant's Motion to Re-Tax and Settle Costs, and (2) Defendant's Motion for Reconsideration of the Court's May 23, 2019 Findings of Fact, Conclusions of Law, and Order Granting Plaintiffs' Motion for Summary Judgment Pursuant to NRS 11.202(1) or, in the Alternative, Motion to Stay the Court's Order</i>
06/21/2019	 Opposition to Motion Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC and M.J. Dean Construction, Inc.'s Opposition to Defendant/Counter-Claimant's Motion to Re-Tax and Settle Costs</i>
06/21/2019	 Opposition to Motion Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I

CASE SUMMARY

CASE No. A-16-744146-D

LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc

PLAINTIFFS/COUNTER-DEFENDANTS LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC, AND M.J. DEAN CONSTRUCTION, INC. S, OPPOSITION TO DEFENDANTS/COUNTER-CLAIMANTS MOTION FOR RECONSIDERATION OF THE COURT S MAY 23, 2019 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER GRANTING PLAINTIFFS/COUNTER-DEFENDANTS MOTION FOR SUMMARY JUDGMENT PURSUANT TO NRS 11.202(1) OR, IN THE ALTERNATIVE, MOTION TO STAY THE COURT S ORDER

06/21/2019



Appendix

Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc

APPENDIX TO PLAINTIFFS/ COUNTER-DEFENDANTS LAURENT HALLIER; PANORAMA TOWERS I, LLC; PANORAMA TOWERS I MEZZ, LLC; AND M.J. DEAN CONSTRUCTION, INC. S, OPPOSITION TO DEFENDANTS/COUNTER-CLAIMANTS MOTION FOR RECONSIDERATION OF THE COURT S MAY 23, 2019 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFF S/COUNTER-DEFENDANTS MOTION FOR SUMMARY JUDGMENT PURSUANT TO NRS 11.202(1) OR, IN THE ALTERNATIVE, MOTION TO STAY THE COURT S ORDER

07/01/2019



Opposition to Motion

Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc

PLAINTIFFS/COUNTER-DEFENDANTS LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC, AND M.J. DEAN CONSTRUCTION, INC. S, OPPOSITION TO DEFENDANTS/COUNTER-CLAIMANTS MOTION FOR RECONSIDERATION OF AND/OR TO ALTER OR AMEND THE COURT S MAY 23, 2019 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS MOTION FOR SUMMARY JUDGMENT PURSUANT TO NRS 11.202(1)

07/01/2019



Opposition to Motion

Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Opposition to Motion for Attorneys Fees

07/09/2019



Reply in Support

Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Defendant's Reply in Support of Motion for Reconsideration of and/or to Alter or Amend FFCL

07/09/2019



Reply in Support

Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Defendant's Reply in Support of Motion to Re-Tax and Settle Costs

07/09/2019



Reply in Support

Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Defendant's Reply in Support of Motion for Reconsideration of FFCL, Motion to Stay

07/09/2019












Reply in Support

Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc

PLAINTIFFS/COUNTER-DEFENDANTS LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC, AND M.J. DEAN CONSTRUCTION, INC. S, REPLY IN SUPPORT OF MOTION FOR ATTORNEY S FEES PURSUANT TO NRS 18.010(2) (B)








CASE SUMMARY

CASE NO. A-16-744146-D

07/12/2019	 Order Shortening Time Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc.'s, Application for Order Shortening Time on Motion for Attorneys Fees Pursuant to NRS 18.010(2)(B)</i>
07/12/2019	 Notice <i>Notice of Association of Counsel</i>
07/12/2019	 Objection <i>Objection to Unnoticed Motion for Continuance</i>
07/19/2019	 Opposition Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc PLAINTIFFS/COUNTER-DEFENDANTS LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC, AND M.J. DEAN CONSTRUCTION, INC. S, OPPOSITION TO DEFENDANT/COUNTER-CLAIMANT S JULY 16, 2019 ORAL MOTION TO POSTPONE THE COURT S RULING ON THE MOTION FOR RECONSIDERATION OF AND/OR TO ALTER OR AMEND THE COURT S MAY 23, 2019 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS MOTION FOR SUMMARY JUDGMENT PURSUANT TO NRS 11.202(1)
07/22/2019	 Motion <i>Motion to Certify Judgment as Final Under Rule 54(b) (On Order Shortening Time)</i>
07/24/2019	 Order Denying Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant MJ Dean Construction Inc <i>Order Denying Defendant's Motion for Reconsideration of the Court's May 23, 2019 Findings of Fact, Conclusions of Law, and Order Granting Plaintiffs' Motion for Summary Judgment Pursuant to NRS 11.202(1) or, in the Alternative, Motion to Stay the Court's Order</i>
07/24/2019	 Notice of Entry of Order Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Notice of Entry of Order Denying Defendant's Motion for Reconsideration of the Court's May 23, 2019 Findings of Fact, Conclusions of Law, and Order Granting Plaintiffs' Motion for Summary Judgment Pursuant to NRS 11.202(1) or, in the Alternative, Motion to Stay the Court's Order</i>
08/01/2019	 Opposition to Motion Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Defendant's (1) Opposition to Plaintiffs/Counter-Defendants' Motion to Certify Judgment as Final Under Rule 54(b) and (2) Response to Plaintiffs/Counter-Defendants' Opposition to Defendant/Counterclaimant's July 16, 2019 Oral Motion to Postpone the Court's Ruling on the Motion for Reconsideration of and/or to Alter or Amend the Court's May 23, 2019 Findings of Fact, Conclusions of Law, and Order Granting Plaintiffs' Motion for Summary Judgment Pursuant to NRS 11.202(1)</i>
08/05/2019	 Reply Filed by: Counter Defendant Panorama Towers I LLC <i>Reply Brief on "Motion to Certify Judgment as Final Under Rule 54(b)"</i>

CASE SUMMARY

CASE NO. A-16-744146-D

08/09/2019	 Order <i>Order re: Defendant's Motion for Reconsideration and/or to Alter or Amend the Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting Plaintiffs' Motion for Summary Judgment Pursuant to NRS 11.202(1) Filed June 13, 2019</i>
08/09/2019	 Notice of Entry of Order <i>Notice of Entry of Order Denying Defendant's Motion for Reconsideration and/or to Alter or Amend the Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting Plaintiffs' Motion for Summary Judgment Pursuant to NRS 11.202(1) Filed June 13, 2019</i>
08/12/2019	 Order <i>Order Re: Motion to Certify Judgment as Final Under NRCP 54(b)</i>
08/13/2019	 Notice of Entry of Order Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Notice of Entry fo Order Re Motion to Certify Judgment as Final Under NRCP 54(b)</i>
08/13/2019	 Notice of Entry of Order Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Notice of Entry of Order Re: Motion to Certify Judgment as Final Under NRCP 54(b)</i>
08/15/2019	 Recorders Transcript of Hearing <i>Defenant's Motion for Reconsideration and/or To Alter or Amend The Court's May 23, 2019 Finding of Fact, Conclusions of Law, and Order Granting Plaintiff's Motion for Summary Judgment Pursuant to NRS 11.202(1) July 16, 2019</i>
09/09/2019	 Motion to Amend Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Defendant's Motion to Alter or Amend the Court's Findings of Fact</i>
09/10/2019	 Clerk's Notice of Hearing <i>Clerk's Notice of Hearing</i>
09/23/2019	 Stipulation and Order Filed by: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Stipulation and Order to Continue Briefing and Hearing on Defendant's Motion to Alter or Amend the Court's Findings of Fact, Conclusions of Law, and Order Entered on May 23, 2019</i>
09/23/2019	 Notice of Entry Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc <i>Notice of Entry of Stipulation and Order to Continue Hearing on Defendant's Motion to Alter or Amend the Court's Findings of Fact, Conclusions of Law, and Order Entered on May 23, 2019</i>
09/25/2019	 Recorders Transcript of Hearing <i>Recorder's Transcript Motion to Certify August 6, 2019</i>
09/26/2019	 Opposition

CASE SUMMARY

CASE NO. A-16-744146-D

Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc

Plaintiffs/Counter-Defendants Laurent Hallier Panorama Towers I, LLC Panorama Towers I Mezz LLC and M.J Dean Construction INC's Opposition to Defendants / Counter-Claimants' Motion to Alter or Amend the Court's Findings of Fact, Conclusions of Law and Order Entered On May 23, 2019 (Filed 09/09/2019)

10/10/2019



Reply in Support

Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Defendant's Reply in Support of Motion to Alter or Amend the Courts Findings of Fact, Conclusions of Law, and Order Entered on May 23, 2019

12/09/2019



Notice of Special Master Hearing

Notice of Special Master Hearing

01/14/2020



Order Denying Motion

Order Re: Defendant's Motion to Alter or Amend Court's Findings of Fact, Conclusions of Law and Order Entered May 23, 2019

01/16/2020



Notice of Entry of Order

Filed By: Counter Defendant Panorama Towers I Mezz LLC
NOTICE OF ENTRY OF ORDER RE: DEFENDANT S MOTION TO ALTER OR AMEND COURT S FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER ENTERED MAY 23, 2019

01/20/2020



Supplement

Filed by: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc
First Supplement to Plaintiffs' Verified Memorandum of Costs and Disbursements

01/27/2020



Motion to Retax

Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association
Defendant/Counterclaimant's Renewed Motion to Re-Tax and Settle Costs

01/28/2020



Clerk's Notice of Hearing

Notice of Hearing

02/06/2020



Supplement

Filed by: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc
PLAINTIFFS/COUNTER-DEFENDANTS LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC, AND M.J. DEAN CONSTRUCTION, INC. S FIRST SUPPLEMENT TO THEIR MOTION FOR ATTORNEYS FEES PURSUANT TO NRS 18.010(2)(B)

02/06/2020







Exhibits

Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant Panorama Towers I Mezz LLC; Counter Defendant MJ Dean Construction Inc
EXHIBITS TO PLAINTIFFS/COUNTERDEFENDANTS LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC, AND M.J. DEAN CONSTRUCTION, INC. S FIRST SUPPLEMENT TO THEIR MOTION FOR ATTORNEYS FEES PURSUANT TO NRS 18.010(2)(B)

02/10/2020

CASE SUMMARY

CASE NO. A-16-744146-D

	 Opposition to Motion Filed By: Counter Defendant Hallier, Laurent; Counter Defendant Panorama Towers I LLC; Counter Defendant MJ Dean Construction Inc <i>Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC And M.J. Dean Construction, Inc.'s , Opposition To Defendant/Counter-Claimant's Renewed Motion To Re-Tax And Settle Costs</i>
02/13/2020	 Notice of Appeal Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Panorama Towers Condominium Unit Owners' Association's Notice of Appeal</i>
02/13/2020	 Case Appeal Statement Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Panorama Towers Condominium Unit Owners' Association's Case Appeal Statement</i>
02/14/2020	 Notice of Posting Bond Filed By: Counter Claimant Panorama Towers Condominium Unit Owners Association <i>Notice of Posting Bond</i>
	DISPOSITIONS
05/16/2017	Sanctions (Judicial Officer: Johnson, Susan) Debtors: Laurent Hallier (Plaintiff), Panorama Towers I LLC (Plaintiff), Panorama Towers I Mezz LLC (Plaintiff), MJ Dean Construction Inc (Plaintiff) Creditors: Panorama Towers Condominium Unit Owners Association (Defendant) Judgment: 05/16/2017, Docketed: 05/17/2017 Total Judgment: 100.00
09/15/2017	Partial Summary Judgment (Judicial Officer: Johnson, Susan) Debtors: Panorama Towers Condominium Unit Owners Association (Defendant) Creditors: Laurent Hallier (Plaintiff), Panorama Towers I LLC (Plaintiff), Panorama Towers I Mezz LLC (Plaintiff), MJ Dean Construction Inc (Plaintiff) Judgment: 09/15/2017, Docketed: 09/18/2017 Comment: Certain Claims
09/15/2017	Order of Dismissal (Judicial Officer: Johnson, Susan) Debtors: Laurent Hallier (Plaintiff), Panorama Towers I LLC (Plaintiff), Panorama Towers I Mezz LLC (Plaintiff), MJ Dean Construction Inc (Plaintiff) Creditors: Panorama Towers Condominium Unit Owners Association (Defendant) Judgment: 09/15/2017, Docketed: 09/18/2017 Comment: Certain Claims
11/30/2018	Summary Judgment (Judicial Officer: Johnson, Susan) Debtors: Panorama Towers Condominium Unit Owners Association (Defendant) Creditors: Laurent Hallier (Plaintiff), Panorama Towers I LLC (Plaintiff), Panorama Towers I Mezz LLC (Plaintiff), MJ Dean Construction Inc (Plaintiff) Judgment: 11/30/2018, Docketed: 11/30/2018 Comment: Certain Claim / Granted In Part
05/23/2019	Summary Judgment (Judicial Officer: Johnson, Susan) Debtors: Panorama Towers Condominium Unit Owners Association (Counter Claimant, Defendant) Creditors: Laurent Hallier (Counter Defendant, Plaintiff), Panorama Towers I LLC (Counter Defendant, Plaintiff), Panorama Towers I Mezz LLC (Counter Defendant, Plaintiff), MJ Dean Construction Inc (Counter Defendant, Plaintiff) Judgment: 05/23/2019, Docketed: 05/23/2019
08/12/2019	Summary Judgment (Judicial Officer: Johnson, Susan) Debtors: Panorama Towers Condominium Unit Owners Association (Defendant) Creditors: Laurent Hallier (Plaintiff), Panorama Towers I LLC (Plaintiff), Panorama Towers I Mezz LLC (Plaintiff), MJ Dean Construction Inc (Plaintiff)

CASE SUMMARY

CASE NO. A-16-744146-D

Judgment: 08/12/2019, Docketed: 08/13/2019

HEARINGS

01/13/2017



Minute Order (3:00 AM) (Judicial Officer: Johnson, Susan)

Minute Order - No Hearing Held;

Journal Entry Details:

Having examined Defendant's Motion to Associate Counsel filed January 3, 2017, noted the motion was electronically served upon the parties, a Non-Opposition was filed thereto on January 5, 2017, and there is good cause therefore, COURT ORDERS Defendant's Motion to Associate Counsel filed January 3, 2017 is GRANTED pursuant to SCR 42 and EDCR 2.20(e). Accordingly, the matter scheduled to be heard Tuesday, February 7, 2017 at 10:30 a.m. is VACATED pursuant to EDCR 2.23. Counsel is to prepare and submit a proposed Order to the Court within ten (10) days of this Minute Order or no later than Monday, January 30, 2017 pursuant to EDCR 7.21. CLERK'S NOTE: The above minute order has been distributed to counsel by the Judicial Executive Assistant, via electronic service, facsimile and/or mail. kc/1-13-17;

01/24/2017



Motion to Dismiss (10:30 AM) (Judicial Officer: Johnson, Susan)

Defendant's Motion to Dismiss Complaint

01/10/2017 Continued to 01/24/2017 - Stipulation and Order - Hallier, Laurent; Panorama Towers Condominium Unit Owners Association; Panorama Towers I LLC; Panorama Towers I Mezz LLC; MJ Dean Construction Inc

Motion Denied;

Journal Entry Details:

Dee Harper, Esq., Frances Lynch, Esq., and Scott Williams, Esq. present for Defendant. Arguments by Mr. Brown and Mr. Williams regarding whether or not the claims for declaratory relief were based upon hypothetical complaints that had not yet been filed, Chapter 40 notice, ABI25, and fees incurred by Plaintiffs'. Court stated its findings and ORDERED, Motion DENIED. Mr. Brown to prepare the order; opposing counsel to review as to form and content.;

02/07/2017

CANCELED Motion to Associate Counsel (10:30 AM) (Judicial Officer: Johnson, Susan)

Vacated

05/16/2017



Minute Order (3:00 AM) (Judicial Officer: Johnson, Susan)

Minute Order - No Hearing Held;

Journal Entry Details:

Pursuant to EDCR 2.20(g), the moving party shall deliver Courtesy Copies of all papers related to their Motion at least 5 judicial days before the hearing. This includes the Opposition if opposing counsel fails to deliver their own courtesy copies. As all courtesy copies have not been received, the following hearing(s) have been VACATED: Thursday, May 18, 2017: Plaintiffs Motion for Summary Judgment Should the parties wish to proceed, the Hearing will need to be Re-Noticed and courtesy copies delivered to chambers accordingly. CLERK'S NOTE: The above minute order has been distributed to counsel by the Judicial Executive Assistant, via electronic service, facsimile and/or mail. /kb 5-16-17;

05/18/2017

CANCELED Motion for Summary Judgment (10:30 AM) (Judicial Officer: Johnson, Susan)

Vacated

Plaintiffs/Counter-Defendants Laurent Hallier's, Panorama Towers I, LLC's, Panorama Towers I Mezz, LLC's, and M.J. Dean Construction, Inc.'s Motion for Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's Counter-Claim and Plaintiffs/Counter-Defendants Laurent Hallier's, Panorama Towers I, LLC's, Panorama Towers I Mezz, LLC's and M.J. Dean Construction, Inc.'s Motion for Partial Summary Judgment on Their Third Claim for Relief in Their Complaint for Declaratory Relief

04/25/2017 Continued to 05/18/2017 - Stipulation and Order - Hallier, Laurent; Panorama Towers Condominium Unit Owners Association; Panorama Towers I LLC; Panorama Towers I Mezz LLC; MJ Dean Construction Inc

06/20/2017



Motion for Summary Judgment (10:30 AM) (Judicial Officer: Johnson, Susan)

Re-Notice of Hearing of Plaintiffs/Counter-Defendants Laurent Hallier's, Panorama Towers I, LLC's, Panorama Towers I, Mezz, LLC's, and M.J. Dean Construction, Inc.'s Motion for

CASE SUMMARY

CASE NO. A-16-744146-D

Summary Judgment on Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's Counter-Claim and Plaintiffs/Counter-Defendants Laurent Hallier's, Panorama Towers I, LLC's, Panorama Towers I Mezz, LLC's and M.J. Dean Construction, Inc.'s Motion for Partial Summary Judgment on Their Third Claim for Relief in Their Complaint for Declaratory Relief

Granted in Part;

Journal Entry Details:

Jeffrey Saab, Esq., present for Plaintiffs and Sergio Salzano, Esq., present for Defendant.

Arguments by Mr. Brown and Mr. Salzano regarding the merits of the Motion. COURT ORDERED, matter taken UNDER ADVISEMENT. Colloquy regarding Special Master Hale holding off on assigning discovery deadline dates.;

08/01/2017



Motion (10:30 AM) (Judicial Officer: Johnson, Susan)

Defendant/CounterClaimant Panorama Towers Condominium Unit Owner's Association's Motion to Enlarge Time for Service

Denied Without Prejudice;

Journal Entry Details:

Mr. Hopper requested additional time to serve the three remaining parties and argued that good cause existed under the Scrimmer factors; further argued that there was no prejudice. Mr. Brown argued that Defendant waited until the 105th day into the 120-day time period to attempt service; further argued this pleading was invalid and had been from the start. Further arguments by Mr. Hopper. Court stated its findings and ORDERED, Motion DENIED WITHOUT PREJUDICE. Mr. Brown noted that they had not waived any arguments regarding Third Party Complaints. Mr. Brown to prepare the Order; Mr. Hopper to review as to form and content.;

09/28/2017

CANCELED Minute Order (3:00 AM) (Judicial Officer: Johnson, Susan)

Vacated

10/03/2017

CANCELED Motion for Leave (10:30 AM) (Judicial Officer: Johnson, Susan)

Vacated - per Judge

Panorama Towers Condominium Unit Owners' Association's Motion for Leave to Amend its Pleadings and to Enlarge Time for Service

11/21/2017



Motion for Clarification (10:30 AM) (Judicial Officer: Johnson, Susan)

Panorama Towers Condominium Unit Owners' Association's Motion for Clarification of this Court's 9-15-17 Order

Motion Denied;

Journal Entry Details:

Arguments by Mr. Salzano and Mr. Brown regarding the merits of the Motion. Court reviewed portions of its prior Order. Further arguments by Mr. Salzano. Court stated its findings and ORDERED, Motion DENIED. Mr. Brown to prepare the Order; opposing counsel to review as to form and content.;

03/15/2018



Status Check (10:30 AM) (Judicial Officer: Johnson, Susan)

03/15/2018, 04/12/2018, 08/07/2018, 10/02/2018

Status Check re: Stay (per 9/15/17 Order)

Continued;

Continued;

Continued;

Matter Heard;

Continued;

Continued;

Continued;

Matter Heard;



Journal Entry Details:

Scott Williams, Esq., present telephonically for Defendant. Mr. Brown advised a Motion for Summary Judgment had been filed on Friday, with a hearing date scheduled for 9/6/18; requested a continuance for after the hearing. No opposition by Mr. Lynch. Mr. Williams requested matter be continued into October to accommodate for a surgery. COURT ORDERED, matter CONTINUED. CONTINUED TO 10/02/2018 - 8:30 AM;

Continued;

CASE SUMMARY

CASE NO. A-16-744146-D

	Continued; Continued; Matter Heard; Journal Entry Details: <i>Scott Williams, Esq., also present. Mr. Brown reviewed the facts of the case, advised an agreement had been reached with Defendants for an extension of time for Chapter 40 notice, and requested a briefing schedule; further advised there were a myriad of problems which he would be putting into a motion. Mr. Brown requested a stay, citing the terms he wanted included in it. Mr. Lynch advised this was not a new issue. COURT ORDERED, matter CONTINUED; stay GRANTED on Chapter 40 requirements for four months. Colloquy regarding who would and would not receive the notice; colloquy regarding order language. CONTINUED TO 8/07/2018 - 10:30 AM;</i> Continued; Continued; Continued; Matter Heard; Journal Entry Details: <i>Mr. Brown reviewed the procedural history of the case. Colloquy regarding Chapter 40 notice and surviving claims. COURT ORDERED, stay CONTINUED for 30 days; matter CONTINUED. CONTINUED TO: 4/12/18 - 10:30 AM;</i>
10/02/2018	Motion for Summary Judgment (8:30 AM) (Judicial Officer: Johnson, Susan) <i>Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc.'s Motion for Summary Judgment on Defendant/Counterclaimant Panorama Tower Condominium Unit Owners' Association's April 5, 2018 Amended Notice of Claims</i> Granted in Part;
10/02/2018	 All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Susan) Matter Heard; Journal Entry Details: <i>PLAINTIFFS/COUNTER-DEFENDANTS LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC, AND M.J. DEAN CONSTRUCTION, INC.'S MOTION FOR SUMMARY JUDGMENT ON DEFENDANT/COUNTERCLAIMANT PANORAMA TOWER CONDOMINIUM UNIT OWNERS' ASSOCIATION'S April 5, 2018 AMENDED NOTICE OF CLAIMS STATUS CHECK RE: STAY (PER 9/15/17 ORDER) Scott Williams, Esq., also present (telephonically). Arguments by Mr. Brown and Mr. Gayan regarding the merits of the Motion. Prior Court Order reviewed. Further arguments by counsel. COURT ORDERED, matter taken UNDER ADVISEMENT; stay LIFTED.;</i>
12/10/2018	 Minute Order (3:00 AM) (Judicial Officer: Johnson, Susan) Minute Order - No Hearing Held; Journal Entry Details: <i>Pursuant to EDCR 2.20(g), the moving party shall deliver Courtesy Copies of all papers related to their Motion at least 5 judicial days before the hearing. This includes the Opposition if opposing counsel fails to deliver their own courtesy copies. Furthermore, EDCR 7.20(d) requires that all exhibits attached to the pleadings or papers must be clearly divided by a tab. As all courtesy copies have not been received and/or properly tabbed, the following hearing(s) have been VACATED: Thursday December 13, 2018: Motion for Declaratory Relief Thursday December 13, 2018: Opposition and Countermotion Should the parties wish to proceed, the Hearing will need to be Re-Noticed. All courtesy copies must be properly tabbed and delivered to chambers 5 judicial days before the hearing. CLERK'S NOTE: The above minute order has been distributed to counsel by the Judicial Executive Assistant, via electronic service, facsimile and/or mail. kc/12-10-18;</i>
02/12/2019	Motion for Declaratory Relief (8:30 AM) (Judicial Officer: Johnson, Susan) <i>Plaintiffs/Counter-Defendants' Motion For Declaratory Relief Regarding Standing</i> See Minute Order dated 12/10/18 Denied Without Prejudice;
02/12/2019	Opposition and Countermotion (8:30 AM) (Judicial Officer: Johnson, Susan) <i>Defendant's Opposition to Plaintiffs/Counter-Defendants' Motion for Declaratory Relief Regarding Standing and Countermotions to Exclude Inadmissible Evidence and for Rule 56(f)</i>

CASE SUMMARY

CASE NO. A-16-744146-D

Relief

See Minute Order dated 12/10/18

Moot;

02/12/2019

Motion For Reconsideration (8:30 AM) (Judicial Officer: Johnson, Susan)

Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc.'s Motion for Reconsideration of their Motion for Summary Judgment Defendant/Counter-Claimant Panorama Tower Condominium Unit Owners' Association's April 5, 2018 Amended Notice of Claims

01/29/2019 Continued to 02/12/2019 - Stipulation and Order - Hallier, Laurent; Panorama Towers Condominium Unit Owners Association; Panorama Towers I LLC; Panorama Towers I Mezz LLC; MJ Dean Construction Inc; Hale, Floyd A; Sierra Glass & Mirror Inc; F. Rogers Corporation; Dean Roofing Company; Ford Contracting Inc; Flippins Trenching Inc; Bombard Mechanical LLC; R. Rodgers Corporation; Five Star Plumbing & Heating LLC; Xtreme Xcavation; Southern Nevada Paving Inc; Insulpro Inc

Motion Denied;

02/12/2019



All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Susan)

Matter Heard;

Journal Entry Details:

PLAINTIFFS/COUNTER-DEFENDANTS' MOTION FOR DECLARATORY RELIEF REGARDING STANDING DEFENDANT'S OPPOSITION TO PLAINTIFFS/COUNTER-DEFENDANTS' MOTION FOR DECLARATORY RELIEF REGARDING STANDING AND COUNTERMOTIONS TO EXCLUDE INADMISSIBLE EVIDENCE AND FOR RULE 56(F) RELIEF PLAINTIFFS/COUNTER-DEFENDANTS LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC, AND M.J. DEAN CONSTRUCTION, INC.'S MOTION FOR RECONSIDERATION OF THEIR MOTION FOR SUMMARY JUDGMENT DEFENDANT/COUNTER-CLAIMANT PANORAMA TOWER CONDOMINIUM UNIT OWNERS' ASSOCIATION'S April 5, 2018 AMENDED NOTICE OF CLAIMS Scott Williams, Esq., appearing telephonically for Defendant. Exhibits presented (see worksheet). Arguments by Mr. Gifford and Mr. Gayan regarding the merits of the Motion for Reconsideration. Mr. Gayan requested an oral Motion for 56(f) relief if the Court was inclined to grant this Motion. Court stated its findings and ORDERED, Motion for Reconsideration DENIED. Arguments by Mr. Saab and Mr. Gayan regarding the merits of the Motion for Declaratory Relief. Court advised there were issues of fact that needed to be explored and ORDERED, Motion for Declaratory Relief DENIED WITHOUT PREJUDICE; oral 56(f) Motion MOOT as discovery would be done.;

04/23/2019

Motion for Summary Judgment (8:30 AM) (Judicial Officer: Johnson, Susan)

Plaintiffs/ Counter-Defendants Motion for Summary Judgment Pursuant to NRS 11.202(1)

03/26/2019 Continued to 04/23/2019 - Stipulation and Order - Hallier, Laurent; Panorama Towers Condominium Unit Owners Association

Granted;

04/23/2019

Opposition and Countermotion (8:30 AM) (Judicial Officer: Johnson, Susan)

Defendant's (1) Opposition to Plaintiffs' Counter-Defendants' Motion for Summary Judgment Pursuant to NRS 11.202(1) and (2) Conditional Countermotion for Relief Pursuant to NRS 40.695(2)

03/19/2019 Continued to 03/26/2019 - Stipulation and Order - Hallier, Laurent; Panorama Towers Condominium Unit Owners Association; Panorama Towers I LLC; Panorama Towers I Mezz LLC; MJ Dean Construction Inc; Hale, Floyd A; Sierra Glass & Mirror Inc; F. Rogers Corporation; Dean Roofing Company; Ford Contracting Inc; Flippins Trenching Inc; Bombard Mechanical LLC; R. Rodgers Corporation; Five Star Plumbing & Heating LLC; Xtreme Xcavation; Southern Nevada Paving Inc; Insulpro Inc

03/26/2019 Continued to 04/23/2019 - Stipulation and Order - Hallier, Laurent; Panorama Towers Condominium Unit Owners Association

Denied;




04/23/2019



All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Susan)

CASE SUMMARY


CASE NO. A-16-744146-D

	<p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>PLAINTIFFS/ COUNTER-DEFENDANTS MOTION FOR SUMMARY JUDGMENT PURSUANT TO NRS 11.202(1) DEFENDANT'S (1) OPPOSITION TO PLAINTIFFS' COUNTER-DEFENDANTS' MOTION FOR SUMMARY JUDGMENT PURSUANT TO NRS 11.202(1) AND (2) CONDITIONAL COUNTERMOTION FOR RELIEF PURSUANT TO NRS 40.695(2) Also present, Scott Williams, Esq., appeared via telephone on behalf of Panorama Towers. Following arguments by counsel regarding their respective positions, COURT ADVISED it reviewed the briefs but did not get a chance to review all the new issues counsel brought up. COURT ORDERED, matter UNDER ADVISEMENT; it will issue a minute order with its decision. ;</i></p>
07/16/2019	<p>Motion to Retax (8:30 AM) (Judicial Officer: Johnson, Susan)</p> <p><i>Defendant's Motion to Re-Tax and Settle Costs</i></p> <p>07/02/2019 Continued to 07/16/2019 - Stipulation and Order - Hallier, Laurent; Panorama Towers Condominium Unit Owners Association</p> <p>Decision Pending;</p>
07/16/2019	<p>Motion For Reconsideration (8:30 AM) (Judicial Officer: Johnson, Susan)</p> <p><i>Defendant's Motion for Reconsideration of the Court's May 23, 2019 Findings of Fact, Conclusions of Law, and Order Granting Plaintiffs' Motion for Summary Judgment Pursuant to NRS 11.202(1) or, in the alternative, Motion to Stay the Court's Order</i></p> <p>07/09/2019 Continued to 07/16/2019 - Stipulation and Order - Hallier, Laurent; Panorama Towers Condominium Unit Owners Association</p> <p>Decision Pending;</p>
07/16/2019	<p>Motion For Reconsideration (8:30 AM) (Judicial Officer: Johnson, Susan)</p> <p><i>Defendant's Motion for Reconsideration and/or to Alter or Amend the Court's May 23, 2019 Findings of Fact, Conclusions of Law, and Order Granting Plaintiffs' Motion for Summary Judgment Pursuant to NRS 11.202(1)</i></p> <p>MINUTES</p> <p>Motion Denied;</p> <p>SCHEDULED HEARINGS</p> <p> All Pending Motions (07/16/2019 at 8:30 AM) (Judicial Officer: Johnson, Susan)</p>
07/16/2019	<p> All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Susan)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>DEFT'S MOTION FOR RECONSIDERATION AND/OR TO ALTER THE COURT'S MAY 23, 2019 FINDINGS OF FACT, CONCLUSION OF LAW, AND ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT PURSUANT TO NRS 11.202 (1).....DEFENDANT'S MOTION TO RE-TAX AND SETTLE COSTS...DEFT'S MOTION FOR RECONSIDERATION AND/OR TO ALTER THE COURT'S MAY 23, 2019 FINDINGS OF FACT, CONCLUSION OF LAW, AND ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT PURSUANT TO NRS 11.202(1) OR, IN THE ALTERNATIVE, MOTION TO STAY THE COURT'S ORDER Scott Williams present on behalf of Panorama Towers Condominium Unit Owners Association. Argument by counsel. Colloquy regarding the Motions for Reconsideration and the 54(b) certification. Court advised counsel that the Motions for Reconsideration would need to be considered further and decided upon before making a decision on the Motion to Retax. Court directed counsel to submit written motions along with further briefing which would place the matters back on calendar adding that the Court would then take the matters under advisement upon receiving everything. COURT ORDERED, plaintiff's Motion for Attorney Fees set for 7/23/19, VACATED.;</i></p>
07/23/2019	<p>CANCELED Motion for Attorney Fees (8:30 AM) (Judicial Officer: Johnson, Susan)</p> <p><i>Vacated</i></p> <p><i>Plaintiffs/Counter-Defendants Laurent Hallier, Panorama Towers I, LLC, Panorama Towers I Mezz, LLC, and M.J. Dean Construction, Inc.'s, Application for Order Shortening Time on Motion for Attorneys Fees Pursuant to NRS 18.010(2)(B)</i></p>
08/06/2019	<p> Motion (8:30 AM) (Judicial Officer: Johnson, Susan)</p>

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-16-744146-D

	<p><i>Plaintiff's Motion to Certify Judgment as Final Under Rule 54(b) (On Order Shortening Time)</i></p> <p>Motion Granted;</p> <p>Journal Entry Details:</p> <p><i>Mr. Gayan argued the May 23, 2019 order was not a final judgment. Further statements by Mr. Gayan regarding the history of the case and indication that the use of Rule 54(B) is to avoid a new controlling law, and it is inappropriate use of Rule 54(B). Mr. Polsenberg argued there is no just reason for delay, these claims are already time barred, and it is appropriate use of Rule 54(B). COURT ORDERED, matter taken UNDER ADVISEMENT.;</i></p>
10/17/2019	<p> Motion to Amend (9:00 AM) (Judicial Officer: Johnson, Susan)</p> <p><i>Defendant's Motion to Alter or Amend the Court's Findings of Fact, Conclusions of Law, and Order Entered on May 23, 2019</i></p> <p><i>10/08/2019 Continued to 10/17/2019 - Stipulation and Order - Hallier, Laurent;</i></p> <p><i>Panorama Towers Condominium Unit Owners Association</i></p> <p>Decision Pending;</p> <p>Journal Entry Details:</p> <p><i>Argument by counsel. Court advised counsel that it read everything but was to review their authorities before issuing a decision via minute order.;</i></p>
03/03/2020	<p>Motion to Retax (8:30 AM) (Judicial Officer: Johnson, Susan)</p> <p><i>Defendant/Counterclaimant's Renewed Motion to Retax and Settle Costs</i></p>
08/26/2020	<p>Pretrial/Calendar Call (8:30 AM) (Judicial Officer: Johnson, Susan)</p> <p><i>PRETRIAL/CALENDAR CALL (SET DURING CD SWEEPS)</i></p>
09/08/2020	<p>Jury Trial (1:00 PM) (Judicial Officer: Johnson, Susan)</p> <p><i>JURY TRIAL (SET DURING CD SWEEPS)</i></p>

DATE

FINANCIAL INFORMATION

Counter Claimant Panorama Towers Condominium Unit Owners Association	
Total Charges	574.00
Total Payments and Credits	574.00
Balance Due as of 2/18/2020	0.00
Counter Defendant Hallier, Laurent	
Total Charges	1,134.00
Total Payments and Credits	1,134.00
Balance Due as of 2/18/2020	0.00
Counter Defendant MJ Dean Construction Inc	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 2/18/2020	0.00
Counter Defendant Panorama Towers I LLC	
Total Charges	33.50
Total Payments and Credits	33.50
Balance Due as of 2/18/2020	0.00
Counter Defendant Panorama Towers I Mezz LLC	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 2/18/2020	0.00
Counter Claimant Panorama Towers Condominium Unit Owners Association	
Appeal Bond Balance as of 2/18/2020	500.00

DISTRICT COURT CIVIL COVER SHEET

A - 1 6 - 7 4 4 1 4 6 - D

County, Nevada

Case No. _____

X X I I

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): Laurent Hallier, an individual; Panorama Towers, I, LLC, a Nevada limited liability company; Panorama Towers I Mezz, LLC, a Nevada limited liability company; and M.J. Dean Construction, Inc., a Nevada corporation	Defendant(s) (name/address/phone): Panorama Towers Condominium Unit Owners' Association, a Nevada non-profit corporation
Attorney (name/address/phone): Peter C. Brown, Esq. and Darlene M. Cartier, Esq. Bremer, Whyte, Brown & O'Meara, LLP 1160 N. Town Center Drive, Suite 250 Las Vegas, Nevada 89144; 702-258-6665	Attorney (name/address/phone):

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


Civil Case Filing Types

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

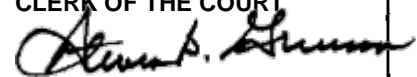
Business Court filings should be filed using the Business Court civil coversheet.

9/28/2016

Date


 Signature of initiating party or representative

See other side for family-related case filings.



OGM

DISTRICT COURT
CLARK COUNTY, NEVADA

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
corporation,

Plaintiffs,

Vs.

PANORAMA TOWERS
CONDOMINIUM UNIT OWNERS'
ASSOCIATION, a Nevada non-profit
corporation.

Defendant.

PANORAMA TOWERS
CONDOMINIUM UNIT OWNERS'
ASSOCIATION, a Nevada non-profit
corporation,

Counter-Claimant,

Vs.

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
Corporation,

Counter-Defendants.

Case No. A-16-744146-D

Dept. No. XXII

**ORDER RE: MOTION TO
CERTIFY JUDGMENT AS
FINAL UNDER NRCP 54(b)**

1 **PANORAMA TOWERS**
2 **CONDOMINIUM UNIT OWNERS'**
3 **ASSOCIATION, a Nevada non-profit**
4 **corporation,**

5 **Third-Party Plaintiff,**

6 **Vs.**

7 **SIERRA GLASS & MIRROR, INC.; F.**
8 **ROGERS CORPORATION; DEAN**
9 **ROOFING COMPANY; FORD**
10 **CONSTRUCTING, INC.; INSULPRO,**
11 **INC.; XTREME EXCAVATION;**
12 **SOUTHERN NEVADA PAVING, INC.;**
13 **FLIPPINS TRENCHING, INC.;**
14 **BOMBARD MECHANICAL, LLC; R.**
15 **RODGERS CORPORATION; FIVE**
16 **STAR PLUMBING & HEATING, LLC**
17 **dba SILVER STAR PLUMBING; and**
18 **ROES 1 through 1000, inclusive,**

19 **Third-Party Defendants.¹**

20 **ORDER RE: MOTION TO CERTIFY JUDGMENT AS FINAL UNDER NRCP 54(b)**

21 This matter concerning the Motion to Certify Judgment as Final Under NRCP 54(b) filed by
22 Plaintiffs/Counter-Defendants LAURENT HALLIER, PANORAMA TOWERS I, LLC,
23 PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN CONSTRUCTION, INC. on July 22, 2019
24 was heard, on Order Shortening Time, on the 6th day of August 2019 at the hour of 8:30 a.m. before
25 Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada, with
26 JUDGE SUSAN H. JOHNSON presiding; Plaintiffs/Counter-Defendants LAURENT HALLIER,
27 PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN
28 CONSTRUCTION, INC. appeared by and through its attorneys, DANIEL F. POLSENBERG, ESQ.
of the law firm, LEWIS ROCA ROTHGERBER CHRISTIE, and PETER C. BROWN, ESQ. and

¹As the subcontractors are not listed as "plaintiffs" in the primary action, the matter against them is better characterized as a "third-party" claim, as opposed to "counter-claim."

1 CYRUS S. WHITTAKER, ESQ. of the law firm, BREMER WHYTE BROWN & O'MEARA; and
2 Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM
3 UNIT OWNERS' ASSOCIATION appeared by and through its attorneys, MICHAEL J. GAYAN,
4 ESQ. and WILLIAM L. COULTHARD, ESQ. of the law firm, KEMP JONES & COULTHARD.
5 Having reviewed the papers and pleadings on file, heard oral arguments of the lawyers and taken
6 this matter under advisement, this Court makes the following Findings of Fact and Conclusions of
7 Law:
8

9 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

10 1. This case arises as a result of alleged constructional defects within both the common
11 areas and the 616 residential condominium units located within two tower structures of the
12 PANORAMA TOWERS located at 4525 and 4575 Dean Martin Drive in Las Vegas, Nevada. On
13 February 24, 2016, Defendant/Counter-Claimant PANORAMA TOWERS CONDOMINIUM UNIT
14 OWNERS' ASSOCIATION served its original NRS 40.645 Notice of Constructional Defects upon
15 Plaintiffs/Counter-Defendants (also identified herein as the "Contractors" or "Builders"), alleging
16 deficiencies within its residential tower windows, fire blocking, mechanical room piping and sewer.
17 Subsequently, after the parties engaged in the pre-litigation process ending with an unsuccessful
18 NRS 40.680 mediation held September 26, 2016, the Contractors filed their Complaint on
19 September 28, 2016 against the Owners' Association, asserting the following claims that, for the
20 most part, deal with their belief the NRS 40.645 notice was deficient:
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- 23 1. Declaratory Relief—Application of AB 125;
- 24 2. Declaratory Relief—Claim Preclusion;
- 25 3. Failure to Comply with NRS 40.600, *et seq.*;
- 26 4. Suppression of Evidence/Spoliation;
- 27 5. Breach of Contract (Settlement Agreement in Prior Litigation);
- 28

6. Declaratory Relief—Duty to Defend; and

7. Declaratory Relief—Duty to Indemnify.

2. On March 1, 2017, PANORAMA TOWER CONDOMINIUM UNIT OWNERS' ASSOCIATION filed its Answer and Counter-Claim, alleging the following claims:

1. Breach of NRS 116.4113 and 116.4114 Express and Implied Warranties; as well as those of Habitability, Fitness, Quality and Workmanship;

2. Negligence and Negligence *Per Se*;

3. Products Liability (against the manufacturers);

4. Breach of (Sales) Contract;

5. Intentional/Negligent Disclosure; and

6. Duty of Good Faith and Fair Dealing; Violation of NRS 116.1113.

3. This Court previously dismissed the constructional defect claims within the mechanical room as being time-barred by virtue of the "catch-all" statute of limitations of four (4) years set forth in NRS 11.220.² With respect to challenges to the sufficiency and validity of the NRS 40.645 notice, this Court stayed the matter to allow PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION to amend it with more specificity. This Court ultimately determined the amended NRS 40.645 notice served upon the Builders on April 15, 2018 was valid only with respect to the windows' constructional defects.³

4. On April 23, 2019, this Court heard two motions filed by the parties, to wit: (1) the Contractors' Motion for Summary Judgment Pursuant to NRS 11.202(1) filed February 11, 2019 and (2) the Association's Conditional Counter-Motion for Relief Pursuant to NRS 40.695(2) filed March 1, 2019. After hearing the parties' arguments, this Court took the matter under advisement, and on

²See Findings of Fact, Conclusions of Law and Order filed September 15, 2017.

³See Findings of Fact, Conclusions of Law and Order filed November 30, 2018.

1 May 23, 2019, issued its third Findings of Fact, Conclusions of Law and Order which granted the
2 Builders' motion, and denied the Association's Conditional Counter-Motion. As pertinent here, this
3 Court concluded the Owners' Association's remaining constructional defect claims lodged against
4 the Builders were time-barred by the six-year statute of repose set forth in NRS 11.202(1).

5 4. On June 3, 2019, the Association filed its Motion for Reconsideration and/or Stay of
6 the Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting Plaintiffs'
7 Motion for Summary Judgment or alternatively, a Motion to Stay the Court's Order.⁴ Ten days
8 later, on June 13, 2019, the Association filed a second Motion for Reconsideration and/or to Alter or
9 Amend the Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting
10 Plaintiffs' Motion for Summary Judgment. These two motions essentially were the same except the
11 second alerted the Court the Nevada Legislature passed AB 421 on June 1, 2019, and such was
12 signed by the Governor and formally enacted on June 3, 2019. As pertinent here, AB 421 amends
13 NRS 11.202 by extending the statute of repose period from six (6) to ten (10) years and it is to be
14 applied retroactively to actions in which the substantial completion of the improvement to real
15 property occurred before October 1, 2019, the date in which the amendment takes effect.

16 The Builders opposed the two motions on several grounds. First, they noted this Court
17 entered a final order on May 23, 2019, the Notice of Entry of Order was filed May 28, 2019, and
18 thus, by the time the Motion for Reconsideration and/or Stay was filed June 3, 2019, there was no
19 pending matter to stay. Second, while AB 421 was enacted and will apply retroactively, it does not
20 become effective until October 1, 2019, meaning, currently, there is no change in the law. That is,
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25 ⁴The Association moved this Court to stay the Order upon the basis the Nevada Legislature had passed
26 Assembly Bill (referred to as "AB" herein) 421 on June 1, 2019, which "immediately and retroactively extends the
27 statute of repose to 10 years." See Motion for Reconsideration of the Court's May 23, 2019 Findings of Fact,
28 Conclusions of Law and Order Granting Plaintiffs' Motion for Summary Judgment or alternatively, a Motion to Stay the
Court's Order filed June 3, 2019, p. 4. The Association urged this Court to stay the Order until such time as AB 241 was
enacted or rejected by the Governor. As set forth *infra*, the Governor signed the bill on June 3, 2019 which was to take
effect October 1, 2019.

1 as the law stands, the period for the statute of repose is six (6) years as enacted February 24, 2015,
2 and not ten (10). Third, as the Association's claims have already been adjudicated, AB 421 cannot
3 be interpreted to revive those causes of action.

4 This Court denied the Association's first Motion for Reconsideration and/or Stay filed June
5 3, 2019 at the July 16, 2019 hearing; it took the June 13, 2019 motion under advisement, and
6 ultimately, it was denied via Order filed August 9, 2019. In summary, this Court concluded the
7 newly-amended NRS 11.202 becomes effective October 1, 2019, whereby the current state of the
8 law is such the statute of repose is six (6) years, and not ten (10). If the Nevada Legislature had
9 intended AB 421's retroactive effect to be applied now, it would have said so just as it had in
10 enacting AB 125 in February 2015.

12 5. The Contractors have moved this Court to certify the May 23, 2019 Findings of Fact,
13 Conclusions of Law and Order as final under Rule 54(b) of the Nevada Rules of Civil Procedure
14 (NRCP). They argue the Order is final in that it granted summary judgment with respect to the
15 Association's claims in their entirety, and there is no just reason for delaying the entry of final
16 judgment. The Owners' Association opposes upon the bases (1) the May 23, 2019 Order is "silent
17 as to which of the Association's legal claims were resolved in this action,"⁵ and "[t] repeated
18 references to 'construction defect claims' are too vague and insufficient to make the [] Order final
19 and appealable;"⁶ (2) the Order "could not have resolved the Association's contract-based claims;"⁷
20 and (3) the Builders will not face hardship or injustice by waiting for the issue to be appealed after
21 all parties' claims are resolved.
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26 ⁵See Defendant's (1) Opposition to Plaintiffs'/Counter-Defendants' Motion to Certify Judgment as Final Under
27 Rule 54(b) and (2) Response to Plaintiffs'/Counter-Defendants' Opposition to Defendant's/Counter-Claimant's July 16,
28 2019 Oral Motion to Postpone the Court's Ruling on the Motion for Reconsideration of and/or to Alter or Amend the
Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order filed August 1, 2019, p. 11.

⁶*Id.*, p. 12.

⁷*Id.*, p. 14.

CONCLUSIONS OF LAW

1
2 1. NRCP 54 was recently amended to reflect virtually the identical wording of Rule 54
3 of the Federal Rules of Civil Procedure (FRCP). NRCP 54(b) provides:

4 (b) *Judgment on Multiple Claims or Involving Multiple Parties.* When an action presents
5 more than one claim for relief—whether as a claim, counterclaim, crossclaim, or third-party
6 claim—or when multiple parties are involved, the court may direct entry of a final judgment
7 as to one or more, but fewer than all, claims or parties only if the court expressly determines
8 that there is no just reason for delay. Otherwise, any order or other decision, however
9 designated, that adjudicates fewer than all claims or the rights and liabilities of fewer than all
the parties does not end the action as to any of the claims or parties and may be revised at
any time before the entry of a judgment adjudicating all the claims and all the parties' rights
and liabilities.

10 Clearly, NRCP 54(b) permits district courts to authorize immediate appeal of dispositive rulings on
11 separate claims in a civil action raising multiple claims. This rule “was adopted...specifically to
12 avoid the possible injustice of delay[ing] judgment o[n] a *distinctly separate* claim [pending]
13 adjudication of the entire case....The Rule thus aimed to augment, not diminish, appeal
14 opportunity.” See Jewel v. National Security Agency, 810 F.3d 622, 628 (9th Cir. 2015), *quoting*
15 Gelboim v. Bank of America Corp., ____ U.S. ____ 135 S.Ct. 897, 902-903, 190 L.Ed.2d 789 (2015)
16 (interpreting FRCP 54).
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18 2. Over sixty (60) years ago, the United States Supreme Court outlined steps to be
19 followed in making determinations under FRCP 54(b), of which NRCP 54(b) is now the same. See
20 Sears, Roebuck & Company v. Mackey, 351 U.S. 427, 76 S.Ct. 895, 100 L.Ed. 1297 (1956), *cited by*
21 Curtiss-Wright Corporation v. General Electric Company, 446 U.S. 1, 7, 100 S.Ct. 1460, 1464, 64
22 L.Ed.2d 1 (1980). The district court first must determine it is dealing with a “final judgment.” It
23 must be a “judgment” in the sense it is a decision upon a cognizable claim for relief, and it must be
24 “final” or an “an ultimate disposition of an individual claim entered in the course of a multiple
25 claims action.” *Id.*, *quoting* Sears, Roebuck & Company, 351 U.S. at 436, 76 S.Ct. at 900.
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1 3. Once it finds “finality,” the district court must determine whether there is any just
2 reason for delay. Not all final judgments on individual claims should be immediately appealable
3 even if they are separable from the remaining unresolved claims. It is left to the sound judicial
4 discretion of the district court to determine the appropriate time when each final decision in a
5 multiple claims action is ready for appeal. Curtiss-Wright Corporation, 446 U.S. at 8, 100 S.Ct. at
6 1464-1465, *citing* Sears, Roebuck & Company, 351 U.S. at 437, 76 S.Ct. at 899, 900. Thus, in
7 deciding whether there is no just reason to delay the appeal of the May 23, 2019 Findings of Fact,
8 Conclusions of Law and Order, which granted the Builders’ February 11, 2019 Motion for Summary
9 Judgment, this Court must take into account the judicial administrative interests as well as the
10 equities involved. Consideration of the former is necessary to assure application of NRCP 54(b) will
11 not result in the appellate courts deciding the same issues more than once on separate appeals.
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13 4. Here, the Owners’ Association argues against NRCP 54(b) certification upon the
14 bases the May 23, 2019 Order is not final as it is “silent as to which of the Association’s legal claims
15 were resolved in this action”⁸ and further, the Order “could not have resolved the Association’s
16 contract-based claims.”⁹ This Court disagrees with both of the Association’s positions. The May
17 23, 2019 16-page Order specifically details this Court’s reasoning and conclusion the Owners’
18 Association’s constructional defect claims are time-barred by the six-year statute of repose.
19 Notably, this Court specifically set forth on page 13 of the Order “[t]he Association’s counter-claims
20 of negligence, intentional/negligent disclosure, breach of sales contract, products liability, breach of
21 express and implied warranties under and violations of NRS Chapter 116, and breach of duty of
22 good faith and fair dealing are for monetary damages as a result of constructional defects to its
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26 ⁸See Defendant’s (1) Opposition to Plaintiffs’/Counter-Defendants’ Motion to Certify Judgment as Final Under
27 Rule 54(b) and (2) Response to Plaintiffs’/Counter-Defendants’ Opposition to Defendant’s/Counter-Claimant’s July 16,
28 2019 Oral Motion to Postpone the Court’s Ruling on the Motion for Reconsideration of and/or to Alter or Amend the
Court’s May 23, 2019 Findings of Fact, Conclusions of Law and Order filed August 1, 2019, p. 11.

⁹*Id.*, p. 14.

1 windows in the two towers.” In short, the May 23, 2019 Order was not silent as to which of the
2 Association’s counter-claims were resolved; the Order specifically enumerated and decided all the
3 claims.

4 Further, while the Association argues the Order “could not have resolved the Association’s
5 contract-based claims.”¹⁰ a review of the Association’s Fourth Cause of Action entitled “Breach of
6 Contract” within the Counter-Claim indicates it is an action seeking monetary damages as a result of
7 constructional defects. It states, *inter alia*, the Developers entered into written contracts¹¹
8 representing the individual units were constructed in a professional and workmanlike manner and in
9 accordance with all applicable standards of care in the building industry. The Developers breached
10 the Sales Contracts “by selling units containing the Defects described above, *and as a direct result*
11 *of said breaches, The (sic) Association and its individual members have suffered the losses and*
12 *damages described above.*”¹² (Emphasis added) Clearly, the “Breach of Contract” action, seeking
13 monetary damages as a result of constructional defects, was addressed and analyzed within this
14 Court’s May 23, 2019 Order as time-barred by virtue of the six-year statute of repose. This Court
15 concludes its May 23, 2019 Findings of Fact, Conclusions of Law and Order is final as it was an
16 ultimate disposition of all the Association’s causes of action set forth within the Counter-Claim.
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19 5. The next issue that must be determined is whether there is any just reason for delay.
20 In this regard, this Court considers whether the May 23, 2019 Findings of Fact, Conclusions of Law
21 and Order dealt with matters distinctly separable from the remaining unresolved claims. This Court,
22 therefore, turns to the claims for relief set forth in the Builders’ Complaint to determine which of
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26 ¹⁰*Id.*, p. 14.

27 ¹¹Notably, the Fourth Cause of Action does not state with whom the Developers entered into the Sales
28 Contracts. Presumably, the contracts were between the Developers and the members of the Association, and not with the
Association itself. The homeowners are not Counter-Claimants in this case.

¹²See Defendant Panorama Tower Condominium Unit Owners’ Association’s Answer to Complaint and
Counterclaim filed March 1, 2017, p. 32, Paragraph 71.

1 them remain unresolved, and if they are separate from the Association's causes of action contained
2 in the Counter-Claim.

3 The First Claim for Relief sought declaratory relief regarding the application of Assembly
4 Bill (AB) 125 enacted and effective as of February 24, 2015. In its various Findings of Fact,
5 Conclusions of Law and Orders issued in this case, this Court determined AB 125 reflects the state
6 of the law between February 24, 2015 to September 30, 2019' and was applied in this Court's
7 analyses whereby this cause of action is resolved. The Second Claim for Relief seeks a declaration
8 from this Court the Association's claims are precluded, as in this Builders' view, the rights and
9 obligations of the parties in this matter were resolved by way of Settlement Agreement reached in a
10 prior litigation. This Second Claim for Relief is distinctly different from the causes adjudged in the
11 May 23, 2019 Order, and thus, it is not yet resolved. The Third Claim for Relief accuses the
12 Association of failure to comply with the pre-litigation process set forth in NRS 40.600 through
13 40.695. This Court dealt with the issues presented in the Third Claim for Relief within its
14 September 15, 2017 and November 30, 2018 Findings of Fact, Conclusions of Law and Orders;
15 ultimately, it found the Association failed to provide an adequate NRS 40.645 notice with respect to
16 the constructional defects allegedly found in the Towers' sewer system¹³ and fire walls. It
17 determined the notice was adequate concerning the constructional defects found in the Towers'
18 windows. The Third Claim for Relief is resolved.

19 The Fourth Claim for Relief is entitled "suppression of evidence/spoliation," and essentially
20 the Contractors seek sanctions against the Association for its alleged failure to retain the parts and
21 mechanisms removed or replaced during the sewer repair, and prior to sending the Builders the NRS
22 40.645 notice. Assuming there were no other suppression of evidence or spoliation issues with
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28 ¹³The sewer system had been repaired prior to the Association sending the NRS 40.645 notice meaning the
Builders were not accorded their right to repair under NRS Chapter 40.

1 respect to constructional defects in the windows, fire walls or mechanical room, the Fourth Claim
2 for Relief also is resolved as this Court concluded, in its November 30, 2018 Order, the NRS 40.645
3 notice was insufficient with respect to the sewer deficiencies and the Builders were not notified of
4 the constructional defects prior to repair. If there are remaining suppression of evidence or
5 spoliation issues, such deal with whether this Court should issue sanctions upon the Association for
6 its failure to preserve. In this Court's view, such matters are moot given its prior conclusions claims
7 relating to the mechanical room are barred by the four-year statute of limitations, the NRS 40.645
8 notice was insufficient with respect to constructional defects allegedly within the fire walls, and
9 lastly, the window deficiencies are time-barred by the six-year statute of repose. In other words,
10 whether there remain spoliation issues, this Court concludes the Fourth Claim for Relief is moot.

12 The Fifth Claim for Relief for breach of the Settlement Agreement made in resolving party
13 differences in the prior litigation remains undecided for the same reason this Court concluded the
14 "claim preclusion" issues identified in the Second Claim for Relief were not determined. Likewise,
15 the Sixth and Seventh Claims for Relief, seeking declaratory relief given the Association's duty to
16 defend and indemnify under the Settlement Agreement, have not been decided. In short, the
17 remaining causes are the Second, Fifth, Sixth and Seventh Claims for Relief set forth in the
18 Contractors' Complaint and they are distinctly separate from the Associations' constructional defect
19 claims decided in the Findings of Fact, Conclusions of Law and Orders filed September 15, 2017,
20 November 30, 2018 and May 23, 2019.

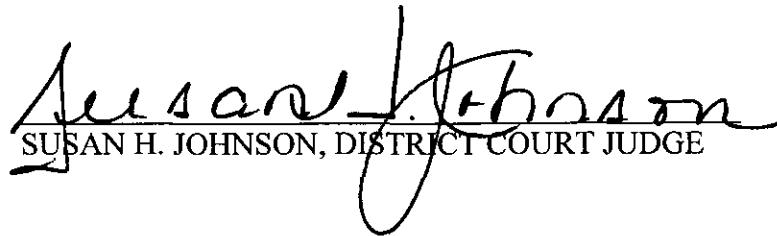
23 6. In summary, the May 23, 2019 Findings of Fact, Conclusions of Law and Order
24 resulted in a culmination of a final adjudication, wholly resolving the causes set forth within the
25 Association's Counter-Claim. The claims remaining are those are made by the Builders and deal
26 specifically with the adherence of the parties' concessions set forth within the prior litigation's
27 Settlement Agreement. These causes are distinctly different from the constructional defect claims
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1 alleged in the Counter-Claim. In this Court's view, entry of a separate judgment now would not
2 require any appellate court to decide the same issues more than once on separate appeals.

3 Accordingly, based upon the foregoing Findings of Fact and Conclusions of Law,

4 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** the Motion to Certify
5 Judgment as Final Under NRCP 54(b) filed by Plaintiffs/Counter-Defendants LAURENT
6 HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J.
7 DEAN CONSTRUCTION, INC. on July 22, 2019 is granted.
8

9 DATED this 12th day of August 2019.

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12 SUSAN H. JOHNSON, DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify, on the 12th day of August 2019, I electronically served (E-served), placed within the attorneys' folders located on the first floor of the Regional Justice Center or mailed a true and correct copy of the foregoing ORDER RE: MOTION TO CERTIFY JUDGMENT AS FINAL UNDER NRCP 54(b) to the following counsel of record, and that first-class postage was fully prepaid thereon:

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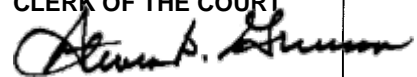
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15 *I Mezz, LLC; and M.J. Dean Construction, Inc.*

16 DISTRICT COURT
CLARK COUNTY, NEVADA

17 LAURENT HALLIER, an individual;
18 PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
19 TOWERS I MEZZ, LLC, a Nevada
limited liability company; and M.J.
20 DEAN CONSTRUCTION, INC., a Nevada
Corporation,

21 Plaintiffs,

22 vs.

23 PANORAMA TOWERS CONDOMINIUM
24 UNIT OWNERS' ASSOCIATION, a
Nevada non-profit corporation,

25 Defendant.

26
27 And related counterclaims.
28

Case No. A-16-744146-D

Dept. No. 22

**NOTICE OF ENTRY OF ORDER RE:
MOTION TO CERTIFY JUDGMENT AS
FINAL UNDER NRCP 54(b)**

1 Please take notice that an "Order re: Motion to Certify Judgment as Final
2 under NRCP 54(b)" was entered on August 12, 2019. A true and correct copy is
3 attached hereto and made part hereof.

4 Dated this 13th day of August, 2019.

5 LEWIS ROCA ROTHGERBER CHRISTIE LLP

6 By: /s/Abraham G. Smith

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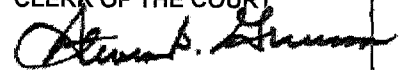
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DISTRICT COURT
CLARK COUNTY, NEVADA

Case No. A-16-744146-D

Dept. No. XXII

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
corporation,

Plaintiffs,

Vs.

PANORAMA TOWERS
CONDOMINIUM UNIT OWNERS'
ASSOCIATION, a Nevada non-profit
corporation.

Defendant.

ORDER RE: MOTION TO
CERTIFY JUDGMENT AS
FINAL UNDER NRCP 54(b)

PANORAMA TOWERS
CONDOMINIUM UNIT OWNERS'
ASSOCIATION, a Nevada non-profit
corporation,

Counter-Claimant,

Vs.

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
Corporation,

Counter-Defendants.

1 PANORAMA TOWERS
2 CONDOMINIUM UNIT OWNERS'
3 ASSOCIATION, a Nevada non-profit
4 corporation,

5
6 Third-Party Plaintiff,

7 Vs.

8 SIERRA GLASS & MIRROR, INC.; F.
9 ROGERS CORPORATION; DEAN
10 ROOFING COMPANY; FORD
11 CONSTRUCTING, INC.; INSULPRO,
12 INC.; XTREME EXCAVATION;
13 SOUTHERN NEVADA PAVING, INC.;
14 FLIPPINS TRENCHING, INC.;
15 BOMBARD MECHANICAL, LLC; R.
16 RODGERS CORPORATION; FIVE
17 STAR PLUMBING & HEATING, LLC
18 dba SILVER STAR PLUMBING; and
19 ROES 1 through 1000, inclusive,

20 Third-Party Defendants.¹

21 **ORDER RE: MOTION TO CERTIFY JUDGMENT AS FINAL UNDER NRCP 54(b)**

22 This matter concerning the Motion to Certify Judgment as Final Under NRCP 54(b) filed by
23 Plaintiffs/Counter-Defendants LAURENT HALLIER, PANORAMA TOWERS I, LLC,
24 PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN CONSTRUCTION, INC. on July 22, 2019
25 was heard, on Order Shortening Time, on the 6th day of August 2019 at the hour of 8:30 a.m. before
26 Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada, with
27 JUDGE SUSAN H. JOHNSON presiding; Plaintiffs/Counter-Defendants LAURENT HALLIER,
28 PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN
CONSTRUCTION, INC. appeared by and through its attorneys, DANIEL F. POLSENBERG, ESQ.
of the law firm, LEWIS ROCA ROTHGERBER CHRISTIE, and PETER C. BROWN, ESQ. and

¹As the subcontractors are not listed as "plaintiffs" in the primary action, the matter against them is better characterized as a "third-party" claim, as opposed to "counter-claim."

1 CYRUS S. WHITTAKER, ESQ. of the law firm, BREMER WHYTE BROWN & O'MEARA; and
2 Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM
3 UNIT OWNERS' ASSOCIATION appeared by and through its attorneys, MICHAEL J. GAYAN,
4 ESQ. and WILLIAM L. COULTHARD, ESQ. of the law firm, KEMP JONES & COULTHARD.
5 Having reviewed the papers and pleadings on file, heard oral arguments of the lawyers and taken
6 this matter under advisement, this Court makes the following Findings of Fact and Conclusions of
7 Law:
8

9 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

10 1. This case arises as a result of alleged constructional defects within both the common
11 areas and the 616 residential condominium units located within two tower structures of the
12 PANORAMA TOWERS located at 4525 and 4575 Dean Martin Drive in Las Vegas, Nevada. On
13 February 24, 2016, Defendant/Counter-Claimant PANORAMA TOWERS CONDOMINIUM UNIT
14 OWNERS' ASSOCIATION served its original NRS 40.645 Notice of Constructional Defects upon
15 Plaintiffs/Counter-Defendants (also identified herein as the "Contractors" or "Builders"), alleging
16 deficiencies within its residential tower windows, fire blocking, mechanical room piping and sewer.
17 Subsequently, after the parties engaged in the pre-litigation process ending with an unsuccessful
18 NRS 40.680 mediation held September 26, 2016, the Contractors filed their Complaint on
19 September 28, 2016 against the Owners' Association, asserting the following claims that, for the
20 most part, deal with their belief the NRS 40.645 notice was deficient:
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- 23 1. Declaratory Relief—Application of AB 125;
- 24 2. Declaratory Relief—Claim Preclusion;
- 25 3. Failure to Comply with NRS 40.600, *et seq.*;
- 26 4. Suppression of Evidence/Spoliation;
- 27 5. Breach of Contract (Settlement Agreement in Prior Litigation);
- 28

6. Declaratory Relief—Duty to Defend; and

7. Declaratory Relief—Duty to Indemnify.

2. On March 1, 2017, PANORAMA TOWER CONDOMINIUM UNIT OWNERS' ASSOCIATION filed its Answer and Counter-Claim, alleging the following claims:

1. Breach of NRS 116.4113 and 116.4114 Express and Implied Warranties; as well as those of Habitability, Fitness, Quality and Workmanship;

2. Negligence and Negligence *Per Se*;

3. Products Liability (against the manufacturers);

4. Breach of (Sales) Contract;

5. Intentional/Negligent Disclosure; and

6. Duty of Good Faith and Fair Dealing; Violation of NRS 116.1113.

3. This Court previously dismissed the constructional defect claims within the mechanical room as being time-barred by virtue of the "catch-all" statute of limitations of four (4) years set forth in NRS 11.220.² With respect to challenges to the sufficiency and validity of the NRS 40.645 notice, this Court stayed the matter to allow PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION to amend it with more specificity. This Court ultimately determined the amended NRS 40.645 notice served upon the Builders on April 15, 2018 was valid only with respect to the windows' constructional defects.³

4. On April 23, 2019, this Court heard two motions filed by the parties, to wit: (1) the Contractors' Motion for Summary Judgment Pursuant to NRS 11.202(1) filed February 11, 2019 and (2) the Association's Conditional Counter-Motion for Relief Pursuant to NRS 40.695(2) filed March 1, 2019. After hearing the parties' arguments, this Court took the matter under advisement, and on

²See Findings of Fact, Conclusions of Law and Order filed September 15, 2017.

³See Findings of Fact, Conclusions of Law and Order filed November 30, 2018.

1 May 23, 2019, issued its third Findings of Fact, Conclusions of Law and Order which granted the
2 Builders' motion, and denied the Association's Conditional Counter-Motion. As pertinent here, this
3 Court concluded the Owners' Association's remaining constructional defect claims lodged against
4 the Builders were time-barred by the six-year statute of repose set forth in NRS 11.202(1).

5 4. On June 3, 2019, the Association filed its Motion for Reconsideration and/or Stay of
6 the Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting Plaintiffs'
7 Motion for Summary Judgment or alternatively, a Motion to Stay the Court's Order.⁴ Ten days
8 later, on June 13, 2019, the Association filed a second Motion for Reconsideration and/or to Alter or
9 Amend the Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting
10 Plaintiffs' Motion for Summary Judgment. These two motions essentially were the same except the
11 second alerted the Court the Nevada Legislature passed AB 421 on June 1, 2019, and such was
12 signed by the Governor and formally enacted on June 3, 2019. As pertinent here, AB 421 amends
13 NRS 11.202 by extending the statute of repose period from six (6) to ten (10) years and it is to be
14 applied retroactively to actions in which the substantial completion of the improvement to real
15 property occurred before October 1, 2019, the date in which the amendment takes effect.

16 The Builders opposed the two motions on several grounds. First, they noted this Court
17 entered a final order on May 23, 2019, the Notice of Entry of Order was filed May 28, 2019, and
18 thus, by the time the Motion for Reconsideration and/or Stay was filed June 3, 2019, there was no
19 pending matter to stay. Second, while AB 421 was enacted and will apply retroactively, it does not
20 become effective until October 1, 2019, meaning, currently, there is no change in the law. That is,
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25 ⁴The Association moved this Court to stay the Order upon the basis the Nevada Legislature had passed
26 Assembly Bill (referred to as "AB" herein) 421 on June 1, 2019, which "immediately and retroactively extends the
27 statute of repose to 10 years." See Motion for Reconsideration of the Court's May 23, 2019 Findings of Fact,
28 Conclusions of Law and Order Granting Plaintiffs' Motion for Summary Judgment or alternatively, a Motion to Stay the
Court's Order filed June 3, 2019, p. 4. The Association urged this Court to stay the Order until such time as AB 241 was
enacted or rejected by the Governor. As set forth *infra*, the Governor signed the bill on June 3, 2019 which was to take
effect October 1, 2019.

1 as the law stands, the period for the statute of repose is six (6) years as enacted February 24, 2015,
2 and not ten (10). Third, as the Association's claims have already been adjudicated, AB 421 cannot
3 be interpreted to revive those causes of action.

4 This Court denied the Association's first Motion for Reconsideration and/or Stay filed June
5 3, 2019 at the July 16, 2019 hearing; it took the June 13, 2019 motion under advisement, and
6 ultimately, it was denied via Order filed August 9, 2019. In summary, this Court concluded the
7 newly-amended NRS 11.202 becomes effective October 1, 2019, whereby the current state of the
8 law is such the statute of repose is six (6) years, and not ten (10). If the Nevada Legislature had
9 intended AB 421's retroactive effect to be applied now, it would have said so just as it had in
10 enacting AB 125 in February 2015.

12 5. The Contractors have moved this Court to certify the May 23, 2019 Findings of Fact,
13 Conclusions of Law and Order as final under Rule 54(b) of the Nevada Rules of Civil Procedure
14 (NRCP). They argue the Order is final in that it granted summary judgment with respect to the
15 Association's claims in their entirety, and there is no just reason for delaying the entry of final
16 judgment. The Owners' Association opposes upon the bases (1) the May 23, 2019 Order is "silent
17 as to which of the Association's legal claims were resolved in this action,"⁵ and "[t] repeated
18 references to 'construction defect claims' are too vague and insufficient to make the [] Order final
19 and appealable;"⁶ (2) the Order "could not have resolved the Association's contract-based claims;"⁷
20 and (3) the Builders will not face hardship or injustice by waiting for the issue to be appealed after
21 all parties' claims are resolved.

24 ...

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26 ⁵See Defendant's (1) Opposition to Plaintiffs'/Counter-Defendants' Motion to Certify Judgment as Final Under
27 Rule 54(b) and (2) Response to Plaintiffs'/Counter-Defendants' Opposition to Defendant's/Counter-Claimant's July 16,
28 Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order filed August 1, 2019, p. 11.

⁶*Id.*, p. 12.

⁷*Id.*, p. 14.

CONCLUSIONS OF LAW

1
2 1. NRCP 54 was recently amended to reflect virtually the identical wording of Rule 54
3 of the Federal Rules of Civil Procedure (FRCP). NRCP 54(b) provides:

4 (b) *Judgment on Multiple Claims or Involving Multiple Parties.* When an action presents
5 more than one claim for relief—whether as a claim, counterclaim, crossclaim, or third-party
6 claim—or when multiple parties are involved, the court may direct entry of a final judgment
7 as to one or more, but fewer than all, claims or parties only if the court expressly determines
8 that there is no just reason for delay. Otherwise, any order or other decision, however
9 designated, that adjudicates fewer than all claims or the rights and liabilities of fewer than all
the parties does not end the action as to any of the claims or parties and may be revised at
any time before the entry of a judgment adjudicating all the claims and all the parties' rights
and liabilities.

10 Clearly, NRCP 54(b) permits district courts to authorize immediate appeal of dispositive rulings on
11 separate claims in a civil action raising multiple claims. This rule “was adopted...specifically to
12 avoid the possible injustice of delay[ing] judgment o[n] a *distinctly separate* claim [pending]
13 adjudication of the entire case....The Rule thus aimed to augment, not diminish, appeal
14 opportunity.” See Jewel v. National Security Agency, 810 F.3d 622, 628 (9th Cir. 2015), *quoting*
15 Gelboim v. Bank of America Corp., ____ U.S. ____ 135 S.Ct. 897, 902-903, 190 L.Ed.2d 789 (2015)
16 (interpreting FRCP 54).
17

18 2. Over sixty (60) years ago, the United States Supreme Court outlined steps to be
19 followed in making determinations under FRCP 54(b), of which NRCP 54(b) is now the same. See
20 Sears, Roebuck & Company v. Mackey, 351 U.S. 427, 76 S.Ct. 895, 100 L.Ed. 1297 (1956), *cited by*
21 Curtiss-Wright Corporation v. General Electric Company, 446 U.S. 1, 7, 100 S.Ct. 1460, 1464, 64
22 L.Ed.2d 1 (1980). The district court first must determine it is dealing with a “final judgment.” It
23 must be a “judgment” in the sense it is a decision upon a cognizable claim for relief, and it must be
24 “final” or an “an ultimate disposition of an individual claim entered in the course of a multiple
25 claims action.” *Id.*, *quoting* Sears, Roebuck & Company, 351 U.S. at 436, 76 S.Ct. at 900.
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27 ...
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1 3. Once it finds “finality,” the district court must determine whether there is any just
2 reason for delay. Not all final judgments on individual claims should be immediately appealable
3 even if they are separable from the remaining unresolved claims. It is left to the sound judicial
4 discretion of the district court to determine the appropriate time when each final decision in a
5 multiple claims action is ready for appeal. Curtiss-Wright Corporation, 446 U.S. at 8, 100 S.Ct. at
6 1464-1465, *citing* Sears, Roebuck & Company, 351 U.S. at 437, 76 S.Ct. at 899, 900. Thus, in
7 deciding whether there is no just reason to delay the appeal of the May 23, 2019 Findings of Fact,
8 Conclusions of Law and Order, which granted the Builders’ February 11, 2019 Motion for Summary
9 Judgment, this Court must take into account the judicial administrative interests as well as the
10 equities involved. Consideration of the former is necessary to assure application of NRCP 54(b) will
11 not result in the appellate courts deciding the same issues more than once on separate appeals.
12

13 4. Here, the Owners’ Association argues against NRCP 54(b) certification upon the
14 bases the May 23, 2019 Order is not final as it is “silent as to which of the Association’s legal claims
15 were resolved in this action”⁸ and further, the Order “could not have resolved the Association’s
16 contract-based claims.”⁹ This Court disagrees with both of the Association’s positions. The May
17 23, 2019 16-page Order specifically details this Court’s reasoning and conclusion the Owners’
18 Association’s constructional defect claims are time-barred by the six-year statute of repose.
19 Notably, this Court specifically set forth on page 13 of the Order “[t]he Association’s counter-claims
20 of negligence, intentional/negligent disclosure, breach of sales contract, products liability, breach of
21 express and implied warranties under and violations of NRS Chapter 116, and breach of duty of
22 good faith and fair dealing are for monetary damages as a result of constructional defects to its
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26 ⁸See Defendant’s (1) Opposition to Plaintiffs’/Counter-Defendants’ Motion to Certify Judgment as Final Under
27 Rule 54(b) and (2) Response to Plaintiffs’/Counter-Defendants’ Opposition to Defendant’s/Counter-Claimant’s July 16,
28 Court’s May 23, 2019 Findings of Fact, Conclusions of Law and Order filed August 1, 2019, p. 11.

⁹*Id.*, p. 14.

1 windows in the two towers.” In short, the May 23, 2019 Order was not silent as to which of the
2 Association’s counter-claims were resolved; the Order specifically enumerated and decided all the
3 claims.

4 Further, while the Association argues the Order “could not have resolved the Association’s
5 contract-based claims.”¹⁰ a review of the Association’s Fourth Cause of Action entitled “Breach of
6 Contract” within the Counter-Claim indicates it is an action seeking monetary damages as a result of
7 constructional defects. It states, *inter alia*, the Developers entered into written contracts¹¹
8 representing the individual units were constructed in a professional and workmanlike manner and in
9 accordance with all applicable standards of care in the building industry. The Developers breached
10 the Sales Contracts “by selling units containing the Defects described above, *and as a direct result*
11 *of said breaches, The (sic) Association and its individual members have suffered the losses and*
12 *damages described above.*”¹² (Emphasis added) Clearly, the “Breach of Contract” action, seeking
13 monetary damages as a result of constructional defects, was addressed and analyzed within this
14 Court’s May 23, 2019 Order as time-barred by virtue of the six-year statute of repose. This Court
15 concludes its May 23, 2019 Findings of Fact, Conclusions of Law and Order is final as it was an
16 ultimate disposition of all the Association’s causes of action set forth within the Counter-Claim.
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19 5. The next issue that must be determined is whether there is any just reason for delay.
20 In this regard, this Court considers whether the May 23, 2019 Findings of Fact, Conclusions of Law
21 and Order dealt with matters distinctly separable from the remaining unresolved claims. This Court,
22 therefore, turns to the claims for relief set forth in the Builders’ Complaint to determine which of
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26 ¹⁰*Id.*, p. 14.

27 ¹¹Notably, the Fourth Cause of Action does not state with whom the Developers entered into the Sales
28 Contracts. Presumably, the contracts were between the Developers and the members of the Association, and not with the
Association itself. The homeowners are not Counter-Claimants in this case.

¹²See Defendant Panorama Tower Condominium Unit Owners’ Association’s Answer to Complaint and
Counterclaim filed March 1, 2017, p. 32, Paragraph 71.

1 them remain unresolved, and if they are separate from the Association's causes of action contained
2 in the Counter-Claim.

3 The First Claim for Relief sought declaratory relief regarding the application of Assembly
4 Bill (AB) 125 enacted and effective as of February 24, 2015. In its various Findings of Fact,
5 Conclusions of Law and Orders issued in this case, this Court determined AB 125 reflects the state
6 of the law between February 24, 2015 to September 30, 2019' and was applied in this Court's
7 analyses whereby this cause of action is resolved. The Second Claim for Relief seeks a declaration
8 from this Court the Association's claims are precluded, as in this Builders' view, the rights and
9 obligations of the parties in this matter were resolved by way of Settlement Agreement reached in a
10 prior litigation. This Second Claim for Relief is distinctly different from the causes adjudged in the
11 May 23, 2019 Order, and thus, it is not yet resolved. The Third Claim for Relief accuses the
12 Association of failure to comply with the pre-litigation process set forth in NRS 40.600 through
13 40.695. This Court dealt with the issues presented in the Third Claim for Relief within its
14 September 15, 2017 and November 30, 2018 Findings of Fact, Conclusions of Law and Orders;
15 ultimately, it found the Association failed to provide an adequate NRS 40.645 notice with respect to
16 the constructional defects allegedly found in the Towers' sewer system¹³ and fire walls. It
17 determined the notice was adequate concerning the constructional defects found in the Towers'
18 windows. The Third Claim for Relief is resolved.
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22 The Fourth Claim for Relief is entitled "suppression of evidence/spoliation," and essentially
23 the Contractors seek sanctions against the Association for its alleged failure to retain the parts and
24 mechanisms removed or replaced during the sewer repair, and prior to sending the Builders the NRS
25 40.645 notice. Assuming there were no other suppression of evidence or spoliation issues with
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27
28 ¹³The sewer system had been repaired prior to the Association sending the NRS 40.645 notice meaning the
Builders were not accorded their right to repair under NRS Chapter 40.

1 respect to constructional defects in the windows, fire walls or mechanical room, the Fourth Claim
2 for Relief also is resolved as this Court concluded, in its November 30, 2018 Order, the NRS 40.645
3 notice was insufficient with respect to the sewer deficiencies and the Builders were not notified of
4 the constructional defects prior to repair. If there are remaining suppression of evidence or
5 spoliation issues, such deal with whether this Court should issue sanctions upon the Association for
6 its failure to preserve. In this Court's view, such matters are moot given its prior conclusions claims
7 relating to the mechanical room are barred by the four-year statute of limitations, the NRS 40.645
8 notice was insufficient with respect to constructional defects allegedly within the fire walls, and
9 lastly, the window deficiencies are time-barred by the six-year statute of repose. In other words,
10 whether there remain spoliation issues, this Court concludes the Fourth Claim for Relief is moot.
11

12 The Fifth Claim for Relief for breach of the Settlement Agreement made in resolving party
13 differences in the prior litigation remains undecided for the same reason this Court concluded the
14 "claim preclusion" issues identified in the Second Claim for Relief were not determined. Likewise,
15 the Sixth and Seventh Claims for Relief, seeking declaratory relief given the Association's duty to
16 defend and indemnify under the Settlement Agreement, have not been decided. In short, the
17 remaining causes are the Second, Fifth, Sixth and Seventh Claims for Relief set forth in the
18 Contractors' Complaint and they are distinctly separate from the Associations' constructional defect
19 claims decided in the Findings of Fact, Conclusions of Law and Orders filed September 15, 2017,
20 November 30, 2018 and May 23, 2019.
21

22 6. In summary, the May 23, 2019 Findings of Fact, Conclusions of Law and Order
23 resulted in a culmination of a final adjudication, wholly resolving the causes set forth within the
24 Association's Counter-Claim. The claims remaining are those are made by the Builders and deal
25 specifically with the adherence of the parties' concessions set forth within the prior litigation's
26 Settlement Agreement. These causes are distinctly different from the constructional defect claims
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1 alleged in the Counter-Claim. In this Court's view, entry of a separate judgment now would not
2 require any appellate court to decide the same issues more than once on separate appeals.

3 Accordingly, based upon the foregoing Findings of Fact and Conclusions of Law,

4 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** the Motion to Certify
5 Judgment as Final Under NRCP 54(b) filed by Plaintiffs/Counter-Defendants LAURENT
6 HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J.
7 DEAN CONSTRUCTION, INC. on July 22, 2019 is granted.
8

9 DATED this 12th day of August 2019.

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12 SUSAN H. JOHNSON, DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify, on the 12th day of August 2019, I electronically served (E-served), placed within the attorneys' folders located on the first floor of the Regional Justice Center or mailed a true and correct copy of the foregoing ORDER RE: MOTION TO CERTIFY JUDGMENT AS FINAL UNDER NRCP 54(b) to the following counsel of record, and that first-class postage was fully prepaid thereon:

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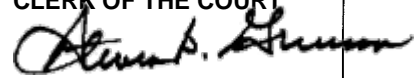
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14 *Attorneys for Plaintiffs Laurent Hallier;*
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15 *I Mezz, LLC; and M.J. Dean Construction, Inc.*

16 DISTRICT COURT
CLARK COUNTY, NEVADA

17 LAURENT HALLIER, an individual;
18 PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
19 TOWERS I MEZZ, LLC, a Nevada
limited liability company; and M.J.
20 DEAN CONSTRUCTION, INC., a Nevada
Corporation,

21 Plaintiffs,

22 vs.

23 PANORAMA TOWERS CONDOMINIUM
24 UNIT OWNERS' ASSOCIATION, a
Nevada non-profit corporation,

25 Defendant.

26
27 And related counterclaims.
28

Case No. A-16-744146-D

Dept. No. 22

**NOTICE OF ENTRY OF ORDER RE:
MOTION TO CERTIFY JUDGMENT AS
FINAL UNDER NRCP 54(b)**

1 Please take notice that an "Order re: Motion to Certify Judgment as Final
2 under NRCP 54(b)" was entered on August 12, 2019. A true and correct copy is
3 attached hereto and made part hereof.

4 Dated this 13th day of August, 2019.

5 LEWIS ROCA ROTHGERBER CHRISTIE LLP

6 By: /s/Abraham G. Smith

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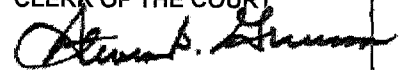
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DISTRICT COURT
CLARK COUNTY, NEVADA

Case No. A-16-744146-D

Dept. No. XXII

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
corporation,

Plaintiffs,

Vs.

PANORAMA TOWERS
CONDOMINIUM UNIT OWNERS'
ASSOCIATION, a Nevada non-profit
corporation.

Defendant.

ORDER RE: MOTION TO
CERTIFY JUDGMENT AS
FINAL UNDER NRCP 54(b)

PANORAMA TOWERS
CONDOMINIUM UNIT OWNERS'
ASSOCIATION, a Nevada non-profit
corporation,

Counter-Claimant,

Vs.

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
Corporation,

Counter-Defendants.

1 PANORAMA TOWERS
2 CONDOMINIUM UNIT OWNERS'
3 ASSOCIATION, a Nevada non-profit
4 corporation,

5
6 Third-Party Plaintiff,

7 Vs.

8 SIERRA GLASS & MIRROR, INC.; F.
9 ROGERS CORPORATION; DEAN
10 ROOFING COMPANY; FORD
11 CONSTRUCTING, INC.; INSULPRO,
12 INC.; XTREME EXCAVATION;
13 SOUTHERN NEVADA PAVING, INC.;
14 FLIPPINS TRENCHING, INC.;
15 BOMBARD MECHANICAL, LLC; R.
16 RODGERS CORPORATION; FIVE
17 STAR PLUMBING & HEATING, LLC
18 dba SILVER STAR PLUMBING; and
19 ROES 1 through 1000, inclusive,

20 Third-Party Defendants.¹

21 **ORDER RE: MOTION TO CERTIFY JUDGMENT AS FINAL UNDER NRCP 54(b)**

22 This matter concerning the Motion to Certify Judgment as Final Under NRCP 54(b) filed by
23 Plaintiffs/Counter-Defendants LAURENT HALLIER, PANORAMA TOWERS I, LLC,
24 PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN CONSTRUCTION, INC. on July 22, 2019
25 was heard, on Order Shortening Time, on the 6th day of August 2019 at the hour of 8:30 a.m. before
26 Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada, with
27 JUDGE SUSAN H. JOHNSON presiding; Plaintiffs/Counter-Defendants LAURENT HALLIER,
28 PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN
CONSTRUCTION, INC. appeared by and through its attorneys, DANIEL F. POLSENBERG, ESQ.
of the law firm, LEWIS ROCA ROTHGERBER CHRISTIE, and PETER C. BROWN, ESQ. and

¹As the subcontractors are not listed as "plaintiffs" in the primary action, the matter against them is better characterized as a "third-party" claim, as opposed to "counter-claim."

1 CYRUS S. WHITTAKER, ESQ. of the law firm, BREMER WHYTE BROWN & O'MEARA; and
2 Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM
3 UNIT OWNERS' ASSOCIATION appeared by and through its attorneys, MICHAEL J. GAYAN,
4 ESQ. and WILLIAM L. COULTHARD, ESQ. of the law firm, KEMP JONES & COULTHARD.
5 Having reviewed the papers and pleadings on file, heard oral arguments of the lawyers and taken
6 this matter under advisement, this Court makes the following Findings of Fact and Conclusions of
7 Law:
8

9 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

10 1. This case arises as a result of alleged constructional defects within both the common
11 areas and the 616 residential condominium units located within two tower structures of the
12 PANORAMA TOWERS located at 4525 and 4575 Dean Martin Drive in Las Vegas, Nevada. On
13 February 24, 2016, Defendant/Counter-Claimant PANORAMA TOWERS CONDOMINIUM UNIT
14 OWNERS' ASSOCIATION served its original NRS 40.645 Notice of Constructional Defects upon
15 Plaintiffs/Counter-Defendants (also identified herein as the "Contractors" or "Builders"), alleging
16 deficiencies within its residential tower windows, fire blocking, mechanical room piping and sewer.
17 Subsequently, after the parties engaged in the pre-litigation process ending with an unsuccessful
18 NRS 40.680 mediation held September 26, 2016, the Contractors filed their Complaint on
19 September 28, 2016 against the Owners' Association, asserting the following claims that, for the
20 most part, deal with their belief the NRS 40.645 notice was deficient:
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- 23 1. Declaratory Relief—Application of AB 125;
- 24 2. Declaratory Relief—Claim Preclusion;
- 25 3. Failure to Comply with NRS 40.600, *et seq.*;
- 26 4. Suppression of Evidence/Spoliation;
- 27 5. Breach of Contract (Settlement Agreement in Prior Litigation);
- 28

6. Declaratory Relief—Duty to Defend; and

7. Declaratory Relief—Duty to Indemnify.

2. On March 1, 2017, PANORAMA TOWER CONDOMINIUM UNIT OWNERS' ASSOCIATION filed its Answer and Counter-Claim, alleging the following claims:

1. Breach of NRS 116.4113 and 116.4114 Express and Implied Warranties; as well as those of Habitability, Fitness, Quality and Workmanship;

2. Negligence and Negligence *Per Se*;

3. Products Liability (against the manufacturers);

4. Breach of (Sales) Contract;

5. Intentional/Negligent Disclosure; and

6. Duty of Good Faith and Fair Dealing; Violation of NRS 116.1113.

3. This Court previously dismissed the constructional defect claims within the mechanical room as being time-barred by virtue of the "catch-all" statute of limitations of four (4) years set forth in NRS 11.220.² With respect to challenges to the sufficiency and validity of the NRS 40.645 notice, this Court stayed the matter to allow PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION to amend it with more specificity. This Court ultimately determined the amended NRS 40.645 notice served upon the Builders on April 15, 2018 was valid only with respect to the windows' constructional defects.³

4. On April 23, 2019, this Court heard two motions filed by the parties, to wit: (1) the Contractors' Motion for Summary Judgment Pursuant to NRS 11.202(1) filed February 11, 2019 and (2) the Association's Conditional Counter-Motion for Relief Pursuant to NRS 40.695(2) filed March 1, 2019. After hearing the parties' arguments, this Court took the matter under advisement, and on

²See Findings of Fact, Conclusions of Law and Order filed September 15, 2017.

³See Findings of Fact, Conclusions of Law and Order filed November 30, 2018.

1 May 23, 2019, issued its third Findings of Fact, Conclusions of Law and Order which granted the
2 Builders' motion, and denied the Association's Conditional Counter-Motion. As pertinent here, this
3 Court concluded the Owners' Association's remaining constructional defect claims lodged against
4 the Builders were time-barred by the six-year statute of repose set forth in NRS 11.202(1).

5 4. On June 3, 2019, the Association filed its Motion for Reconsideration and/or Stay of
6 the Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting Plaintiffs'
7 Motion for Summary Judgment or alternatively, a Motion to Stay the Court's Order.⁴ Ten days
8 later, on June 13, 2019, the Association filed a second Motion for Reconsideration and/or to Alter or
9 Amend the Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting
10 Plaintiffs' Motion for Summary Judgment. These two motions essentially were the same except the
11 second alerted the Court the Nevada Legislature passed AB 421 on June 1, 2019, and such was
12 signed by the Governor and formally enacted on June 3, 2019. As pertinent here, AB 421 amends
13 NRS 11.202 by extending the statute of repose period from six (6) to ten (10) years and it is to be
14 applied retroactively to actions in which the substantial completion of the improvement to real
15 property occurred before October 1, 2019, the date in which the amendment takes effect.

16 The Builders opposed the two motions on several grounds. First, they noted this Court
17 entered a final order on May 23, 2019, the Notice of Entry of Order was filed May 28, 2019, and
18 thus, by the time the Motion for Reconsideration and/or Stay was filed June 3, 2019, there was no
19 pending matter to stay. Second, while AB 421 was enacted and will apply retroactively, it does not
20 become effective until October 1, 2019, meaning, currently, there is no change in the law. That is,
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25 ⁴The Association moved this Court to stay the Order upon the basis the Nevada Legislature had passed
26 Assembly Bill (referred to as "AB" herein) 421 on June 1, 2019, which "immediately and retroactively extends the
27 statute of repose to 10 years." See Motion for Reconsideration of the Court's May 23, 2019 Findings of Fact,
28 Conclusions of Law and Order Granting Plaintiffs' Motion for Summary Judgment or alternatively, a Motion to Stay the
Court's Order filed June 3, 2019, p. 4. The Association urged this Court to stay the Order until such time as AB 241 was
enacted or rejected by the Governor. As set forth *infra*, the Governor signed the bill on June 3, 2019 which was to take
effect October 1, 2019.

1 as the law stands, the period for the statute of repose is six (6) years as enacted February 24, 2015,
2 and not ten (10). Third, as the Association's claims have already been adjudicated, AB 421 cannot
3 be interpreted to revive those causes of action.

4 This Court denied the Association's first Motion for Reconsideration and/or Stay filed June
5 3, 2019 at the July 16, 2019 hearing; it took the June 13, 2019 motion under advisement, and
6 ultimately, it was denied via Order filed August 9, 2019. In summary, this Court concluded the
7 newly-amended NRS 11.202 becomes effective October 1, 2019, whereby the current state of the
8 law is such the statute of repose is six (6) years, and not ten (10). If the Nevada Legislature had
9 intended AB 421's retroactive effect to be applied now, it would have said so just as it had in
10 enacting AB 125 in February 2015.

12 5. The Contractors have moved this Court to certify the May 23, 2019 Findings of Fact,
13 Conclusions of Law and Order as final under Rule 54(b) of the Nevada Rules of Civil Procedure
14 (NRCP). They argue the Order is final in that it granted summary judgment with respect to the
15 Association's claims in their entirety, and there is no just reason for delaying the entry of final
16 judgment. The Owners' Association opposes upon the bases (1) the May 23, 2019 Order is "silent
17 as to which of the Association's legal claims were resolved in this action,"⁵ and "[t] repeated
18 references to 'construction defect claims' are too vague and insufficient to make the [] Order final
19 and appealable;"⁶ (2) the Order "could not have resolved the Association's contract-based claims;"⁷
20 and (3) the Builders will not face hardship or injustice by waiting for the issue to be appealed after
21 all parties' claims are resolved.

24 ...

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26 ⁵See Defendant's (1) Opposition to Plaintiffs'/Counter-Defendants' Motion to Certify Judgment as Final Under
27 Rule 54(b) and (2) Response to Plaintiffs'/Counter-Defendants' Opposition to Defendant's/Counter-Claimant's July 16,
28 Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order filed August 1, 2019, p. 11.

⁶*Id.*, p. 12.

⁷*Id.*, p. 14.

CONCLUSIONS OF LAW

1
2 1. NRCP 54 was recently amended to reflect virtually the identical wording of Rule 54
3 of the Federal Rules of Civil Procedure (FRCP). NRCP 54(b) provides:

4 (b) *Judgment on Multiple Claims or Involving Multiple Parties.* When an action presents
5 more than one claim for relief—whether as a claim, counterclaim, crossclaim, or third-party
6 claim—or when multiple parties are involved, the court may direct entry of a final judgment
7 as to one or more, but fewer than all, claims or parties only if the court expressly determines
8 that there is no just reason for delay. Otherwise, any order or other decision, however
9 designated, that adjudicates fewer than all claims or the rights and liabilities of fewer than all
the parties does not end the action as to any of the claims or parties and may be revised at
any time before the entry of a judgment adjudicating all the claims and all the parties' rights
and liabilities.

10 Clearly, NRCP 54(b) permits district courts to authorize immediate appeal of dispositive rulings on
11 separate claims in a civil action raising multiple claims. This rule “was adopted...specifically to
12 avoid the possible injustice of delay[ing] judgment o[n] a *distinctly separate* claim [pending]
13 adjudication of the entire case....The Rule thus aimed to augment, not diminish, appeal
14 opportunity.” See Jewel v. National Security Agency, 810 F.3d 622, 628 (9th Cir. 2015), *quoting*
15 Gelboim v. Bank of America Corp., ____ U.S. ____ 135 S.Ct. 897, 902-903, 190 L.Ed.2d 789 (2015)
16 (interpreting FRCP 54).
17

18 2. Over sixty (60) years ago, the United States Supreme Court outlined steps to be
19 followed in making determinations under FRCP 54(b), of which NRCP 54(b) is now the same. See
20 Sears, Roebuck & Company v. Mackey, 351 U.S. 427, 76 S.Ct. 895, 100 L.Ed. 1297 (1956), *cited by*
21 Curtiss-Wright Corporation v. General Electric Company, 446 U.S. 1, 7, 100 S.Ct. 1460, 1464, 64
22 L.Ed.2d 1 (1980). The district court first must determine it is dealing with a “final judgment.” It
23 must be a “judgment” in the sense it is a decision upon a cognizable claim for relief, and it must be
24 “final” or an “an ultimate disposition of an individual claim entered in the course of a multiple
25 claims action.” *Id.*, *quoting* Sears, Roebuck & Company, 351 U.S. at 436, 76 S.Ct. at 900.
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1 3. Once it finds “finality,” the district court must determine whether there is any just
2 reason for delay. Not all final judgments on individual claims should be immediately appealable
3 even if they are separable from the remaining unresolved claims. It is left to the sound judicial
4 discretion of the district court to determine the appropriate time when each final decision in a
5 multiple claims action is ready for appeal. Curtiss-Wright Corporation, 446 U.S. at 8, 100 S.Ct. at
6 1464-1465, *citing* Sears, Roebuck & Company, 351 U.S. at 437, 76 S.Ct. at 899, 900. Thus, in
7 deciding whether there is no just reason to delay the appeal of the May 23, 2019 Findings of Fact,
8 Conclusions of Law and Order, which granted the Builders’ February 11, 2019 Motion for Summary
9 Judgment, this Court must take into account the judicial administrative interests as well as the
10 equities involved. Consideration of the former is necessary to assure application of NRCP 54(b) will
11 not result in the appellate courts deciding the same issues more than once on separate appeals.
12

13 4. Here, the Owners’ Association argues against NRCP 54(b) certification upon the
14 bases the May 23, 2019 Order is not final as it is “silent as to which of the Association’s legal claims
15 were resolved in this action”⁸ and further, the Order “could not have resolved the Association’s
16 contract-based claims.”⁹ This Court disagrees with both of the Association’s positions. The May
17 23, 2019 16-page Order specifically details this Court’s reasoning and conclusion the Owners’
18 Association’s constructional defect claims are time-barred by the six-year statute of repose.
19 Notably, this Court specifically set forth on page 13 of the Order “[t]he Association’s counter-claims
20 of negligence, intentional/negligent disclosure, breach of sales contract, products liability, breach of
21 express and implied warranties under and violations of NRS Chapter 116, and breach of duty of
22 good faith and fair dealing are for monetary damages as a result of constructional defects to its
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26 ⁸See Defendant’s (1) Opposition to Plaintiffs’/Counter-Defendants’ Motion to Certify Judgment as Final Under
27 Rule 54(b) and (2) Response to Plaintiffs’/Counter-Defendants’ Opposition to Defendant’s/Counter-Claimant’s July 16,
28 Court’s May 23, 2019 Findings of Fact, Conclusions of Law and Order filed August 1, 2019, p. 11.

⁹*Id.*, p. 14.

1 windows in the two towers.” In short, the May 23, 2019 Order was not silent as to which of the
2 Association’s counter-claims were resolved; the Order specifically enumerated and decided all the
3 claims.

4 Further, while the Association argues the Order “could not have resolved the Association’s
5 contract-based claims.”¹⁰ a review of the Association’s Fourth Cause of Action entitled “Breach of
6 Contract” within the Counter-Claim indicates it is an action seeking monetary damages as a result of
7 constructional defects. It states, *inter alia*, the Developers entered into written contracts¹¹
8 representing the individual units were constructed in a professional and workmanlike manner and in
9 accordance with all applicable standards of care in the building industry. The Developers breached
10 the Sales Contracts “by selling units containing the Defects described above, *and as a direct result*
11 *of said breaches, The (sic) Association and its individual members have suffered the losses and*
12 *damages described above.*”¹² (Emphasis added) Clearly, the “Breach of Contract” action, seeking
13 monetary damages as a result of constructional defects, was addressed and analyzed within this
14 Court’s May 23, 2019 Order as time-barred by virtue of the six-year statute of repose. This Court
15 concludes its May 23, 2019 Findings of Fact, Conclusions of Law and Order is final as it was an
16 ultimate disposition of all the Association’s causes of action set forth within the Counter-Claim.
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19 5. The next issue that must be determined is whether there is any just reason for delay.
20 In this regard, this Court considers whether the May 23, 2019 Findings of Fact, Conclusions of Law
21 and Order dealt with matters distinctly separable from the remaining unresolved claims. This Court,
22 therefore, turns to the claims for relief set forth in the Builders’ Complaint to determine which of
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26 ¹⁰*Id.*, p. 14.

27 ¹¹Notably, the Fourth Cause of Action does not state with whom the Developers entered into the Sales
28 Contracts. Presumably, the contracts were between the Developers and the members of the Association, and not with the
Association itself. The homeowners are not Counter-Claimants in this case.

¹²See Defendant Panorama Tower Condominium Unit Owners’ Association’s Answer to Complaint and
Counterclaim filed March 1, 2017, p. 32, Paragraph 71.

1 them remain unresolved, and if they are separate from the Association's causes of action contained
2 in the Counter-Claim.

3 The First Claim for Relief sought declaratory relief regarding the application of Assembly
4 Bill (AB) 125 enacted and effective as of February 24, 2015. In its various Findings of Fact,
5 Conclusions of Law and Orders issued in this case, this Court determined AB 125 reflects the state
6 of the law between February 24, 2015 to September 30, 2019' and was applied in this Court's
7 analyses whereby this cause of action is resolved. The Second Claim for Relief seeks a declaration
8 from this Court the Association's claims are precluded, as in this Builders' view, the rights and
9 obligations of the parties in this matter were resolved by way of Settlement Agreement reached in a
10 prior litigation. This Second Claim for Relief is distinctly different from the causes adjudged in the
11 May 23, 2019 Order, and thus, it is not yet resolved. The Third Claim for Relief accuses the
12 Association of failure to comply with the pre-litigation process set forth in NRS 40.600 through
13 40.695. This Court dealt with the issues presented in the Third Claim for Relief within its
14 September 15, 2017 and November 30, 2018 Findings of Fact, Conclusions of Law and Orders;
15 ultimately, it found the Association failed to provide an adequate NRS 40.645 notice with respect to
16 the constructional defects allegedly found in the Towers' sewer system¹³ and fire walls. It
17 determined the notice was adequate concerning the constructional defects found in the Towers'
18 windows. The Third Claim for Relief is resolved.
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22 The Fourth Claim for Relief is entitled "suppression of evidence/spoliation," and essentially
23 the Contractors seek sanctions against the Association for its alleged failure to retain the parts and
24 mechanisms removed or replaced during the sewer repair, and prior to sending the Builders the NRS
25 40.645 notice. Assuming there were no other suppression of evidence or spoliation issues with
26

27 ¹³The sewer system had been repaired prior to the Association sending the NRS 40.645 notice meaning the
28 Builders were not accorded their right to repair under NRS Chapter 40.

1 respect to constructional defects in the windows, fire walls or mechanical room, the Fourth Claim
2 for Relief also is resolved as this Court concluded, in its November 30, 2018 Order, the NRS 40.645
3 notice was insufficient with respect to the sewer deficiencies and the Builders were not notified of
4 the constructional defects prior to repair. If there are remaining suppression of evidence or
5 spoliation issues, such deal with whether this Court should issue sanctions upon the Association for
6 its failure to preserve. In this Court's view, such matters are moot given its prior conclusions claims
7 relating to the mechanical room are barred by the four-year statute of limitations, the NRS 40.645
8 notice was insufficient with respect to constructional defects allegedly within the fire walls, and
9 lastly, the window deficiencies are time-barred by the six-year statute of repose. In other words,
10 whether there remain spoliation issues, this Court concludes the Fourth Claim for Relief is moot.
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12 The Fifth Claim for Relief for breach of the Settlement Agreement made in resolving party
13 differences in the prior litigation remains undecided for the same reason this Court concluded the
14 "claim preclusion" issues identified in the Second Claim for Relief were not determined. Likewise,
15 the Sixth and Seventh Claims for Relief, seeking declaratory relief given the Association's duty to
16 defend and indemnify under the Settlement Agreement, have not been decided. In short, the
17 remaining causes are the Second, Fifth, Sixth and Seventh Claims for Relief set forth in the
18 Contractors' Complaint and they are distinctly separate from the Associations' constructional defect
19 claims decided in the Findings of Fact, Conclusions of Law and Orders filed September 15, 2017,
20 November 30, 2018 and May 23, 2019.
21

22 6. In summary, the May 23, 2019 Findings of Fact, Conclusions of Law and Order
23 resulted in a culmination of a final adjudication, wholly resolving the causes set forth within the
24 Association's Counter-Claim. The claims remaining are those are made by the Builders and deal
25 specifically with the adherence of the parties' concessions set forth within the prior litigation's
26 Settlement Agreement. These causes are distinctly different from the constructional defect claims
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1 alleged in the Counter-Claim. In this Court's view, entry of a separate judgment now would not
2 require any appellate court to decide the same issues more than once on separate appeals.

3 Accordingly, based upon the foregoing Findings of Fact and Conclusions of Law,

4 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** the Motion to Certify
5 Judgment as Final Under NRCP 54(b) filed by Plaintiffs/Counter-Defendants LAURENT
6 HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J.
7 DEAN CONSTRUCTION, INC. on July 22, 2019 is granted.
8

9 DATED this 12th day of August 2019.

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12 SUSAN H. JOHNSON, DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify, on the 12th day of August 2019, I electronically served (E-served), placed within the attorneys' folders located on the first floor of the Regional Justice Center or mailed a true and correct copy of the foregoing ORDER RE: MOTION TO CERTIFY JUDGMENT AS FINAL UNDER NRCP 54(b) to the following counsel of record, and that first-class postage was fully prepaid thereon:

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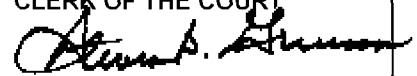
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FFCO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
corporation,**

Plaintiffs,

Vs.

**PANORAMA TOWERS
CONDOMINIUM UNIT OWNERS'
ASSOCIATION, a Nevada non-profit
corporation.**

Defendant.

**PANORAMA TOWERS
CONDOMINIUM UNIT OWNERS'
ASSOCIATION, a Nevada non-profit
corporation,**

Counter-Claimant,

Vs.

**LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
Corporation,**

Counter-Defendants.

Case No. A-16-744146-D

Dept. No. XXII

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER**

1 PANORAMA TOWERS
2 CONDOMINIUM UNIT OWNERS'
3 ASSOCIATION, a Nevada non-profit
4 corporation,

5 Third-Party Plaintiff,

6 Vs.

7 SIERRA GLASS & MIRROR, INC.; F.
8 ROGERS CORPORATION; DEAN
9 ROOFING COMPANY; FORD
10 CONSTRUCTING, INC.; INSULPRO,
11 INC.; XTREME EXCAVATION;
12 SOUTHERN NEVADA PAVING, INC.;
13 FLIPPINS TRENCHING, INC.;
14 BOMBARD MECHANICAL, LLC; R.
15 RODGERS CORPORATION; FIVE
16 STAR PLUMBING & HEATING, LLC
17 dba SILVER STAR PLUMBING; and
18 ROES 1 through 1000, inclusive,

19 Third-Party Defendants.¹

20 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

21 These matters concerning:

- 22 1. Plaintiffs'/Counter-Defendants' Motion for Summary Judgment Pursuant to NRS
23 11.202(1) filed February 11, 2019; and
- 24 2. Defendant's/Counter-Claimant's Conditional Counter-Motion for Relief Pursuant to
25 NRS 40.695(2) filed March 1, 2019,
26 both came on for hearing on the 23rd day of April 2019 at the hour of 8:30 a.m. before Department
27 XXII of the Eighth Judicial District Court, in and for Clark County, Nevada, with JUDGE SUSAN
28 H. JOHNSON presiding; Plaintiffs/Counter-Defendants LAURENT HALLIER, PANORAMA
TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN CONSTRUCTION,

¹As the subcontractors are not listed as "plaintiffs" in the primary action, the matter against them is better characterized as a "third-party" claim, as opposed to "counter-claim."

1 INC. appeared by and through their attorneys, JEFFREY W. SAAB, ESQ. and DEVIN R.
2 GIFFORD, ESQ. of the law firm, BREMER WHYTE BROWN & O'MEARA; and
3 Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM
4 UNIT OWNERS' ASSOCIATION appeared by and through their attorneys, MICHAEL J. GAYAN,
5 ESQ. of the law firm, KEMP JONES & COULTHARD.² Having reviewed the papers and pleadings
6 on file herein, heard oral arguments of the lawyers and taken this matter under advisement, this
7 Court makes the following Findings of Fact and Conclusions of Law:

8
9 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

10 1. This case arises as a result of alleged constructional defects within both the common
11 areas and the 616 residential condominium units located within two tower structures of the
12 PANORAMA TOWERS located at 4525 and 4575 Dean Martin Drive in Las Vegas, Nevada. On
13 February 24, 2016, Defendant/Counter-Claimant PANORAMA TOWERS CONDOMINIUM UNIT
14 OWNERS' ASSOCIATION served its original NRS 40.645 Notice of Constructional Defects upon
15 Plaintiffs/Counter-Defendants (also identified herein as the "Contractors" or "Builders"), identifying
16 deficiencies within the residential tower windows, fire blocking, mechanical room piping and sewer.
17 Subsequently, after the parties engaged in the pre-litigation process with the NRS 40.680 mediation
18 held September 26, 2016 with no success, the Contractors filed their Complaint on September 28,
19 2016 against the Owners' Association, asserting the following claims that, for the most part, deal
20 with their belief the NRS 40.645 notice was deficient:
21

- 22
23 1. Declaratory Relief—Application of AB 125;
24 2. Declaratory Relief—Claim Preclusion;
25

26 ²SCOTT A. WILLIAMS, ESQ. of the law firm, WILLIAMS & GUMBINER, also appeared telephonically on
27 behalf of PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION. Via Minute Order filed
28 January 13, 2017, this Court granted the Motion to Associate Counsel filed January 3, 2017 given non-opposition by
Plaintiffs/Counter-Defendants. However, no formal proposed Order granting the motion was ever submitted to the Court
for signature.

3. Failure to Comply with NRS 40.600, *et seq.*;
4. Suppression of Evidence/Spoliation;
5. Breach of Contract (Settlement Agreement in Prior Litigation);
6. Declaratory Relief—Duty to Defend; and
7. Declaratory Relief—Duty to Indemnify.

2. On March 1, 2017, PANORAMA TOWER CONDOMINIUM UNIT OWNERS' ASSOCIATION filed its Answer and Counter-Claim, alleging the following claims:

1. Breach of NRS 116.4113 and 116.4114 Express and Implied Warranties; as well as those of Habitability, Fitness, Quality and Workmanship;
2. Negligence and Negligence *Per Se*;
3. Products Liability (against the manufacturers);
4. Breach of (Sales) Contract;
5. Intentional/Negligent Disclosure; and
6. Duty of Good Faith and Fair Dealing; Violation of NRS 116.1113.

3. This Court previously dismissed the constructional defect claims within the mechanical room as being time-barred by virtue of the “catch-all” statute of limitations of four (4) years set forth in NRS 11.220.³ With respect to challenges to the sufficiency and validity of the NRS 40.645 notice, this Court stayed the matter to allow PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION to amend it with more specificity. This Court ultimately determined the amended NRS 40.645 notice served upon the Builders on April 15, 2018 was valid with respect to the windows' constructional defects only.⁴

...

³See Findings of Fact, Conclusions of Law and Order filed September 15, 2017.

⁴See Findings of Fact, Conclusions of Law and Order filed November 30, 2018.

1 4. The Builders or Contractors now move this Court for summary judgment upon the
2 basis the Association's claims are time-barred by the six-year statute of repose set forth in NRS
3 11.202(1), as amended by Assembly Bill (AB) 125 in 2015, in that its two residential towers were
4 substantially completed on January 16, 2008 (Tower I) and March 26, 2008 (Tower II), respectively,
5 and claims were not brought until February 24, 2016 when the NRS 40.645 Notice was sent; further,
6 the Association did not file its Counter-Claim until March 1, 2017.

7
8 5. PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION
9 opposes, arguing, first, the Builders do not provide this Court all facts necessary to decide the
10 motion which, therefore, requires its denial. Specifically, NRS 11.2055, the statute identifying the
11 date of substantial completion, defines such as being the latest of *three* events: (1) date the final
12 building inspection of the improvement is conducted; (2) date the notice of completion is issued for
13 the improvement; or (3) date the certificate of occupancy is issued. Here, the Association argues the
14 Builders provided only the dates the Certificates of Occupancy were issued for the two towers.⁵
15 Second, the NRS 40.645 notice was served within the year of "safe harbor" which tolled any
16 limiting statutes, and the primary action was filed within two days of NRS Chapter 40's mediation.
17 In the Owners' Association's view, its Counter-Claim filed March 1, 2017 was compulsory to the
18 initial Complaint filed by the Builders, meaning its claims relate back to September 28, 2016, and
19 thus, is timely. Further, the Association notes it learned of the potential window-related claims in
20 August 2013, less than three years before it served its notice, meaning their construction defect
21 action is not barred by the statute of limitations. The Association also counter-moves this Court for
22 relief under NRS 40.695(2) as, in its view, good cause exists for this Court to extend the tolling
23 period to avoid time-barring its constructional defect claims.
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27 ⁵As noted *infra*, the Certificates of Occupancy also identify the date of the final building inspection as being
28 March 16, 2007 (Tower I) and July 16, 2007 (Tower II). That is, the Builders identified two of the three events, and not
just one.

CONCLUSIONS OF LAW

1
2 1. Summary judgment is appropriate and “shall be rendered forthwith” when the
3 pleadings and other evidence on file demonstrates no “genuine issue as to any material fact
4 [remains] and that the moving party is entitled to a judgment as a matter of law.” *See* NRCP 56(c);
5 Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026 (2005). The substantive law controls
6 which factual disputes are material and will preclude summary judgment; other factual disputes are
7 irrelevant. *Id.*, 121 Nev. at 731. A factual dispute is genuine when the evidence is such that a
8 rational trier of fact could return a verdict for the non-moving party. *Id.*

9
10 2. While the pleadings and other proof must be construed in a light most favorable to
11 the non-moving party, that party bears the burden “to do more than simply show that there is some
12 metaphysical doubt” as to the operative facts in order to avoid summary judgment being entered in
13 the moving party’s favor. Matsushita Electric Industrial Co. v. Zenith Radio, 475, 574, 586 (1986),
14 *cited by* Wood, 121 Nev. at 732. The non-moving party “must, by affidavit or otherwise, set forth
15 specific facts demonstrating the evidence of a genuine issue for trial or have summary judgment
16 entered against him.” Bulbman, Inc. v. Nevada Bell, 108 Nev. 105, 110, 825 P.2d 588, 591 (1992),
17 *cited by* Wood, 121 Nev. at 732. The non-moving party “is not entitled to build a case on the
18 gossamer threads of whimsy, speculation, and conjecture.” Bulbman, 108 Nev. at 110, 825 P.2d
19 591, *quoting* Collins v. Union Fed. Savings & Loan, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983).
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22 3. Four of Builders’ causes of action seek declaratory relief under NRS Chapter 30.
23 NRS 30.040(1) provides:

24 Any person interested under a deed, written contract or other writings constituting a contract,
25 or whose rights, status or other legal relations are affected by a statute, municipal ordinance,
26 contract or franchise, may have determined any question of construction or validly arising
27 under the instrument, statute, ordinance, contract or franchise and obtain a declaration of
28 rights, status or other legal relations thereunder.

...

1 Actions for declaratory relief are governed by the same liberal pleading standards applied in other
2 civil actions, but they must raise a present justiciable issue. Cox v. Glenbrook Co., 78 Nev. 254,
3 267-268, 371 P.2d 647, 766 (1962). Here, a present justiciable issue exists as PANORAMA
4 TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION served the Builders with a notice
5 of constructional defects pursuant to NRS 40.645 on February 24, 2016, and later demonstrated its
6 intention to purchase the claims through this litigation. As noted above, the Contractors propose the
7 remaining claim for constructional defects within the windows is time-barred by virtue of the six-
8 year statute of repose enacted retroactively by the 2015 Nevada Legislature through AB 125. As set
9 forth in their First Cause of Action, the Builders seek a declaration from this Court as to the rights,
10 responsibilities and obligations of the parties as they pertain to the association's claim. As the
11 parties have raised arguments concerning the application of both statutes of repose and limitation,
12 this Court begins its analysis with a review of them.

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15 4. The statutes of repose and limitation are distinguishable and distinct from each other.
16 "Statutes of repose" bar causes of action after a certain period of time, regardless of whether
17 damage or an injury has been discovered. In contrast, "statutes of limitation" foreclose suits after a
18 fixed period time following occurrence or discovery of an injury." Alenz v. Twin Lakes Village,
19 108 Nev. 1117, 1120, 843 P.2d 834, 836 (1993), citing Allstate Insurance Company v. Furgerson,
20 104 Nev. 772, 775 n.2, 766 P.2d 904, 906 n.2 (1988). Of the two, the statute of repose sets an
21 outside time limit, generally running from the date of substantial completion of the project and with
22 no regard to the date of injury, after which cause of action for personal injury or property damage
23 allegedly caused by the deficiencies in the improvements to real property may not be brought. G
24 and H Associates v. Ernest W. Hahn, Inc., 113 Nev. 265, 271, 934 P.2d 229, 233 (1977), citing
25 Lamb v. Wedgewood South Corp., 308 N.C. 419302 S.E.2d 868, 873 (1983). While there are
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1 instances where both the statutes of repose and limitations may result to time-bar a particular claim,
2 there also are situations where one statute obstructs the cause of action, but the other does not.

3 5. NRS Chapter 11 does not set forth a specific statute of limitations dealing with the
4 discovery of constructional defects located within a residence. However, the Nevada Supreme Court
5 has held these types of claims are subject to the “catch all” statute, NRS 11.220. *See Hartford*
6 *Insurance Group v. Statewide Appliances, Inc.*, 87 Nev. 195, 198, 484 P.2d 569, 571 (1971).⁶ This
7 statute specifically provides “[a]n action for relief, not hereinbefore provided for, must be
8 commenced within 4 years after the cause of action shall have accrued.”
9

10 6. The four-year limitations period identified in NRS 11.220 begins to run at the time
11 the plaintiff learns, or in the exercise of reasonable diligence should have learned of the harm to the
12 property caused by the constructional defect. *Tahoe Village Homeowners Association v. Douglas*
13 *County*, 106 Nev. 660, 662-664, 799 P.2d 556, 558 (1990), *citing Oak Grove Investment v. Bell &*
14 *Gossett Co.*, 99 Nev. 616621-623, 669 P.2d 1075, 1078-1079 (1983); *also see G and H Associates,*
15 *113 Nev. at 272, 934 P.2d at 233, citing Nevada State Bank v. Jamison Partnership*, 106 Nev. 792,
16 800, 801 P.2d 1377, 1383 (1990) (statutes of limitations are procedural bars to a plaintiff’s action;
17 the time limits do not commence and the cause of action does not accrue until the aggrieved party
18 knew or reasonably should have known of the facts giving rise to the damage or injury); *Beazer*
19 *Homes Nevada, Inc. v. District Court*, 120 Nev. 575, 587, 97 P.3d 1132, 1139 (2004) (“For
20 constructional defect cases, the statute of limitations does not begin to run until ‘the time the
21 plaintiff learns, or in the exercise of reasonable diligence should have learned, of the harm to the
22 property.’”).
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26 ⁶In *Hartford Insurance Group*, an action was brought for damages to a home caused by an explosion of a heater
27 made for use with natural as opposed to propane gas. The State’s high court held such matter was not an “action for
28 waste or trespass to real property” subject to a three-year statute of limitation nor was it an “action upon a contract...not
founded upon an instrument in writing” even though plaintiff sued under a theory of breach of express and implied
warranties. *See* NRS 11.190. This action fell into the “catch all” section, NRS 11.220, the statute of limitations of
which is four (4) years.

1 7. Prior to February 25, 2015, when AB 125 was enacted into law, the statutes of repose
2 were contained in NRS 11.203 through 11.205, and they barred actions for deficient construction
3 after a certain number of years from the date the construction was substantially completed. *See*
4 Alenz, 108 Nev. at 1120, 843 P.2d at 836. NRS 11.203(1) provided an action based on a known
5 deficiency may not be brought “more than 10 years after the substantial completion of such an
6 improvement.” NRS 11.204(1) set forth an action based on a latent deficiency may not be
7 commenced “more than 8 years after the substantial completion of such an improvement....” NRS
8 11.205(1) stated an action based upon a patent deficiency may not be commenced “more than 6
9 years after the substantial completion of such an improvement....” Further, and notwithstanding the
10 aforementioned, if the injury occurred in the sixth, eighth or tenth year after the substantial
11 completion of such an improvement, depending upon which statute of repose was applied, an action
12 for damages for injury to property or person could be commenced within two (2) years after the date
13 of injury. *See* NRS 11.203(2), 11.204(2) and 11.205(2) as effective prior to February 24, 2015.

16 8. In addition, prior to the enactment of AB 125, NRS 11.202 identified an exception to
17 the application of the statute of repose. This exception was the action could be commenced against
18 the owner, occupier or any person performing or furnishing the design, planning, supervision or
19 observation of construction, or the construction of an improvement to real property *at any time* after
20 the substantial completion where the deficiency was the result of willful misconduct or fraudulent
21 misconduct. For the NRS 11.202 exception to apply, it was the plaintiff, not the defendant, who had
22 the burden to demonstrate defendant’s behavior was based upon willful misconduct. *See Acosta v.*
23 Glenfed Development Corp., 128 Cal.App.4th 1278, 1292, 28 Cal.Rptr.3d 92, 102 (2005).

24 9. AB 125 made sweeping revisions to statutes addressing residential construction
25 defect claims. One of those changes included revising the statutes of repose from the previous six
26 (6), eight (8) and ten (10) years to no “more than 6 years after the substantial completion of such an
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1 improvement..." See NRS 11.202 (as revised in 2015). As set forth in Section 17 of AB 125, NRS
2 11.202 was revised to state in pertinent part as follows:

3 1. No action may be commenced against the owner, occupier or any person performing or
4 furnishing the design, planning, supervision or observation of construction, or the
5 construction of an improvement to real property *more than 6 years* after the substantial
6 completion of such an improvement for the recovery of damages for:

7 (a) Any deficiency in the design, planning, supervision or observation of
8 construction or the construction of such an improvement;

9 (b) Injury to real or personal property caused by any such deficiency; or

10 (c) Injury to or the wrongful death of a person caused by any such deficiency.

11 (Emphasis added)

12 In addition, the enactment of AB 125 resulted in a deletion of the exception to the application of the
13 statute of repose based upon the developer's willful misconduct or fraudulent concealment.

14 **10.** Section 21(5) of AB 125 provides the period of limitations on actions set forth NRS
15 11.202 is to be applied *retroactively* to actions in which the substantial completion of the
16 improvement to the real property occurred before the effective date of the act. However, Section
17 21(6) also incorporated a "safe harbor" or grace period, meaning actions that accrued before the
18 effective date of the act are not limited if they are commenced within one (1) year of AB 125's
19 enactment, or no later than February 24, 2016.

20 **11.** NRS 11.2055 identifies the date the statute of repose begins to run in constructional
21 defect cases, to wit: the date of substantial completion of improvement to real property. NRS
22 11.2055(1) provides:

23 1. Except as otherwise provided in subsection 2, for the purposes of this section and
24 NRS 11.202, the date of substantial completion of an improvement to real property shall be
25 deemed to be the date on which:

26 (a) The final building inspection of the improvement is conducted;

27 (b) A notice of completion is issued for the improvement; or

28 (c) A certificate of occupancy is issued for the improvement, whichever
occurs later.

...

1 NRS 11.2055(2) states “[i]f none of the events described in subsection 1 occurs, the date of
2 substantial completion of an improvement to real property must be determined by the rules of the
3 common law.”

4 **12.** While the statute of repose’s time period was shortened, NRS 40.600 to 40.695’s
5 tolling provisions were not retroactively changed. That is, statutes of limitation or repose applicable
6 to a claim based upon a constructional defect governed by NRS 40.600 to 40.695 *still* toll deficiency
7 causes of action from the time the NRS 40.645 notice is given until the earlier of one (1) year after
8 notice of the claim or thirty (30) days after the NRS 40.680 mediation is concluded or waived in
9 writing. *See* NRS 40.695(1). Further, statutes of limitation and repose may be tolled under NRS
10 40.695(2) for a period longer than one (1) year after notice of the claim is given but only if, in an
11 action for a constructional defect brought by a claimant after the applicable statute of limitation or
12 repose has expired, the claimant demonstrates to the satisfaction of the court good cause exists to toll
13 the statutes of limitation and repose for a longer period.
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16 **13.** In this case, the Owners’ Association argues the Builders have not provided sufficient
17 information to determine when the statute of repose started to accrue, and without it, this Court
18 cannot decide the motion for summary judgment. Specifically, PANORAMA TOWERS
19 CONDOMINIUM UNIT OWNERS’ ASSOCIATION proposes the Builders have identified only
20 one date addressed within NRS 11.2055(1), and to establish the date of accrual, this Court needs all
21 three as the defining date is the one which occurs last. This Court disagrees with the Association’s
22 assessment the date of substantial completion has not been established for at least a couple of
23 reasons. *First*, the Builders did not provide just one date; they identified two events addressed in
24 NRS 11.2055, i.e. the date of the final building inspection and when the Certificate of Occupancy
25 was issued as identified in Exhibits C and D of their motion. Those dates are March 16, 2007 and
26 January 16, 2008, respectively, for Tower I, and July 16, 2007 and March 26, 2008, respectively, for
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1 Tower II. *Second*, this Court does not consider the Builders' inability or failure to provide the date
2 of the third event, i.e. when the notice of completion was issued, as fatal to the motion, especially
3 given the common-law "catch-all" provision expressed in NRS 11.2055(2) that applies if none of the
4 events described in NRS 11.2055(1) occurs. This Court concludes the dates of substantial
5 completion are January 16, 2008 (Tower I) and March 16, 2008 (Tower II), respectively, as these
6 dates are the latest occurrences. Given this Court's decision, the dates of substantial completion
7 obviously accrued before the enactment of AB 125. Applying the aforementioned analysis to the
8 facts here, this Court concludes the statute of repose applicable to the Association's constructional
9 defects claim is six (6) years, but, as it accrued prior to the effective date of AB 125 or February 24,
10 2015, the action is not limited if it was commenced within one (1) year after, or by February 24,
11 2016.
12

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14 **14.** In this case, the Association served its NRS 40.645 constructional defect notice on
15 February 24, 2016, or the date the one-year "safe harbor" was to expire. The service of the NRS
16 40.645 notice operated to toll the applicable statute of repose until the earlier of one (1) year after
17 notice of the claim or thirty (30) days after the NRS 40.680 mediation is concluded or waived in
18 writing. *See* NRS 40.695(1). The NRS 40.680 mediation took place and was concluded on
19 September 26, 2016. Applying the earlier of the two expiration dates set forth in NRS 40.695, the
20 statute of repose in this case was tolled thirty (30) days after the mediation or until October 26, 2016,
21 which is earlier than the one (1) year after the notice was served. PANORAMA TOWERS
22 CONDOMINIUM UNIT OWNERS' ASSOCIATION had up to and including October 26, 2016 to
23 institute litigation or its claims would be time-barred.
24

25 **15.** PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION filed
26 its Counter-Claim against the Builders on March 1, 2017, over four (4) months after October 26,
27 2016. As noted above, in the Builders' view, the constructional defect claims relating to the
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1 windows, therefore, are time-barred. The Association disagrees, arguing its Counter-Claim was
2 compulsory, and it relates back to the date of the Complaint's filing, September 28, 2016.

3 Alternatively, the Association counter-moves this Court for relief, and to find good cause exists to
4 toll the statute of repose for a longer period given its diligence in prosecuting the constructional
5 defect claims against the Builders. The Court analyzes both of the Association's points below.

6 **16.** NRCP 13 defines both compulsory and permissive counter-claims. A counter-claim
7 is compulsory if it arises out of the transaction or occurrence that is the subject matter of the
8 opposing party's claim and does not require for its adjudication the presence of third parties of
9 whom the court cannot acquire jurisdiction. *See* NRCP 13(a). The purpose of NRCP 13(a) is to
10 make an "actor" of the defendant so circuity of action is discouraged and the speedy settlement of all
11 controversies between the parties can be accomplished in one action. *See Great W. Land & Cattle*
12 *Corp. v. District Court*, 86 Nev. 282, 285, 467 P.2d 1019, 1021 (1970). In this regard, the
13 compulsory counter-claimant is forced to plead his claim or lose it. *Id.* A counter-claim is
14 permissive if it does not arise out of the transaction or occurrence that is the subject matter of the
15 opposing party's claim. *See* NRCP 13(b).

16 **17.** Here, PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'
17 ASSOCIATION proposes its counter-claims are compulsory as they arise out of the same
18 transaction or occurrence that is the subject matter of the Builders' claims. This Court disagrees.
19 The Builders' claims are for breach of the prior settlement agreement and declaratory relief
20 regarding the sufficiency of the NRS 40.645 notice and application of AB 125. The Association's
21 counter-claims of negligence, intentional/negligent disclosure, breach of sales contract, products
22 liability, breach of express and implied warranties under and violations of NRS Chapter 116, and
23 breach of duty of good faith and fair dealing are for monetary damages as a result of constructional
24 defects to its windows in the two towers. If this Court ruled against the Builders on their Complaint,
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1 the Association would not have lost their claims if they had not pled them as counter-claims in the
2 instant lawsuit. In this Court's view, the Association had two options: it could make a counter-claim
3 which is permissive or assert its constructional defect claims in a separate Complaint. Here, it
4 elected to make the permissive counter-claim. The counter-claim does not relate back to the filing
5 of the Complaint, September 28, 2016.

6
7 18. However, even if this Court were to decide the counter-claim was compulsory,
8 meaning the Association was forced to plead its claims in the instant case or lose them, the pleading
9 still would not relate back to the date of the Complaint's filing. As noted in Nevada State Bank v.
10 Jamison Family Partnership, 106 Nev. 792, 798, 801 P.2d 1377, 1381 (1990), statutes of limitation
11 and repose were enacted to "'promote repose by giving security and stability to human
12 affairs....They stimulate to activity and punish negligence.'" *Citing* Wood v. Carpenter, 101 U.S.
13 135, 139, 25 L.Ed.2d 807 (1879). Indeed, the key purpose of a repose statute is to eliminate
14 uncertainties under the related statute of limitations or repose and to create a final deadline for filing
15 suit that is not subject to any exceptions except perhaps those clearly specified by the state's
16 legislature. Without a statute of repose, professionals, contractors and other actors would face
17 never-ending uncertainty as to liability for their work. As stated by the Supreme Court in Texas in
18 Methodist Healthcare System of San Antonio, Ltd., LLP v. Rankin, 53 Tex.Sup.Ct.J. 455, 307
19 S.W.3d 283, 287 (2010), "'while statutes of limitations operate procedurally to bar the enforcement
20 of a right, a statute of repose takes away the right altogether, creating a substantive right to be free of
21 liability after a specified time.'" *Quoting* Galbraith Engineering Consultants, Inc. v. Pochucha, 290
22 S.W.3d 863, 866 (Tex. 2009). For the reasons articulated above, the Nevada Supreme Court held
23 the lower court did not err by finding a plaintiff, by instituting an action before the expiration of a
24 statute of limitation, does not toll the running of that statute against compulsory counter-claims filed
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1 by a defendant after the statute has expired. In short, whether the Association's counter-claims are
2 compulsory or permissive, the filing of the Builders' Complaint did not toll the statute of repose.

3 19. The next question is whether good cause exists for this Court to toll the statute of
4 repose for a longer period as so authorized in NRS 40.695(2). The Association proposes there is
5 good cause given their diligence in prosecuting their constructional defect claims, and, as they are
6 seeking tolling of only five (5) days after the one (1) year anniversary of the original NRS 40.645
7 notice, the Builders' ability to defend the deficiency causes of action has not been adversely
8 impacted. In making this argument, the Association seems to assume the tolling under NRS 40.695
9 ended February 24, 2017, or one (1) year after it served the NRS 40.645 notice when, in actuality,
10 the tolling ended October 26, 2016, or thirty (30) days after the NRS 40.680 mediation. *See*
11 40.695(1). The Association does not show this Court good cause exists for its failure to institute
12 litigation before October 26, 2016. Whether the Builders' ability to defend the Association's claim
13 is not adversely affected is, therefore, not relevant to the issue of good cause. Accordingly, this
14 Court declines tolling the statute of repose for a period longer than one (1) year after the NRS
15 40.645 notice was made. The Builders' Motion for Summary Judgment is granted, and the
16 Association's Conditional Counter-Motion for Relief is denied.

17 20. As this Court decides the six-year statute of repose bars the Association's
18 constructional defect claims, it does not analyze the statute of limitations issue presented.

19 Therefore, based upon the foregoing Findings of Fact and Conclusions of Law,

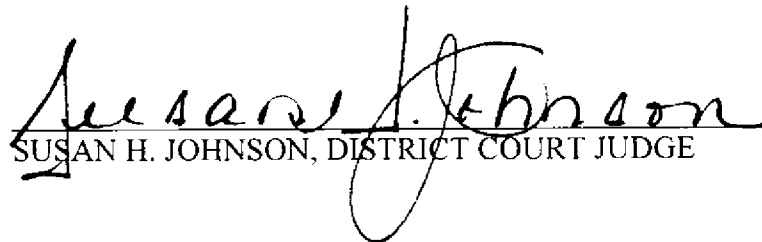
20 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** Plaintiffs'/Counter-
21 Defendants' Motion for Summary Judgment Pursuant to NRS 11.202(1) filed February 11, 2019 is
22 granted; and

23 ...

24 ...

1 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** Defendant's/Counter-
2 Claimant's Conditional Counter-Motion for Relief Pursuant to NRS 40.695(2) filed March 1, 2019
3 is denied.

4 DATED this 23rd day of May 2019.

5
6 
7 _____
8 SUSAN H. JOHNSON, DISTRICT COURT JUDGE
9
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CERTIFICATE OF SERVICE

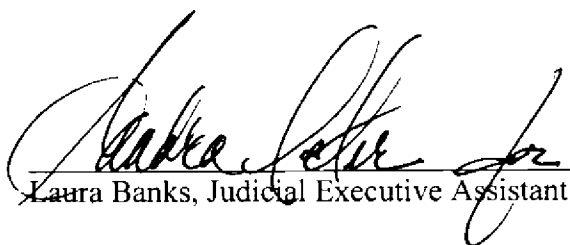
I hereby certify, on the 23rd day of May 2019, I electronically served (E-served), placed within the attorneys' folders located on the first floor of the Regional Justice Center or mailed a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER to the following counsel of record, and that first-class postage was fully prepaid thereon:

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Laura Banks, Judicial Executive Assistant

File Into Existing Case

Service Contacts: A-16-744146-D

Case Number	Location	Name	Description	Case Type	Email
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A-16-744146-D	Department 22		Laurent Hallier, Plaintiff(s)...	Chapter 40	
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▶ **Party: Laurent Hallier - Plaintiff**

1

20 items per page

1 - 1 of 1 items

▼ **Party: Panorama Towers Condominium Unit Owners Association - Defendant**

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▶ **Party: Laurent Hallier - Counter Defendant**▶ **Party: Panorama Towers I LLC - Plaintiff**▶ **Party: Panorama Towers I LLC - Counter Defendant**▶ **Party: Panorama Towers I Mezz LLC - Plaintiff**▶ **Party: Panorama Towers I Mezz LLC - Counter Defendant**▶ **Party: MJ Dean Construction Inc - Plaintiff**▶ **Party: MJ Dean Construction Inc - Counter Defendant**▶ **Party: Panorama Towers Condominium Unit Owners Association - Counter Claimant**

1

2

3

10

items per page

File Into Existing Case

Service Contacts: A-16-744146-D

Case Number	Location	Name	Description	Case Type	Email
A-16-744146-D	Department 22	Laurent Hallier, Plaintiff(s)		Chapter 40	
		▶ Party: Southern Nevada Paving Inc - Counter Defendant			
1	20	items per page			
		1 - 1 of 1 items			

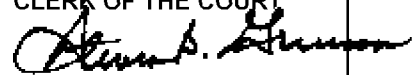
▶ Party: Insulpro Inc - Counter Defendant

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1 2 3 10 items per page



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14 Attorneys for Plaintiffs,
15 LAURÉNT HALLIER; PANORAMA TOWERS I, LLC;
16 PANORAMA TOWERS I MEZZ, LLC; and M.J. DEAN
17 CONSTRUCTION, INC.

18 **DISTRICT COURT**
19 **CLARK COUNTY, NEVADA**

20 LAURENT HALLIER, an individual;
21 PANORAMA TOWERS I, LLC, a Nevada
22 limited liability company; PANORAMA
23 TOWERS I MEZZ, LLC, a Nevada limited
24 liability company; and M.J. DEAN
25 CONSTRUCTION, INC., a Nevada Corporation,

26 Plaintiffs,

27 vs.

28 PANORAMA TOWERS CONDOMINIUM
UNIT OWNERS' ASSOCIATION, a Nevada
non-profit corporation,

Defendant.

) Case No. A-16-744146-D
) Dept. XXII

) **NOTICE OF ENTRY OF ORDER AS TO**
) **PLAINTIFF'S COUNTER-**
) **DEFENDANTS' MOTION FOR**
) **SUMMARY JUDGMENT PURSUANT**
) **TO NRS 11.202(L) FILED FEBRUARY**
) **11, 2019 AND DEFENDANT'S**
) **COUNTER-CLAIMANT'S**
) **CONDITIONAL COUNTER-MOTION**
) **FOR RELIEF PURSUANT TO NRS**
) **40.695(2) FILED MARCH 1, 2019**

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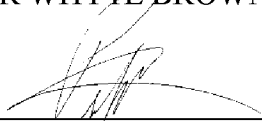
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1 PLEASE TAKE NOTICE that an Order was entered in reference to the above-captioned
2 matter on May 23, 2019 a copy of which is attached hereto.

3 Dated: May 28, 2019

BREMER WHYTE BROWN & O'MEARA LLP

4
5 By:  _____

Peter C. Brown, Esq.

Nevada State Bar No. 5887

Jeffrey W. Sab, Esq.

Nevada State Bar No. 11261

Attorneys for Plaintiffs,

LAURENT HALLIER; PANORAMA TOWERS I,

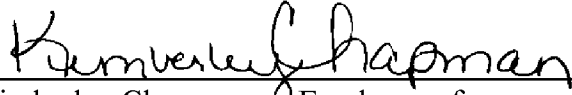
LLC; PANORAMA

TOWERS I MEZZ, LLC; and M.J.

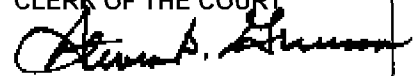
DEAN CONSTRUCTION, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of May 2019, a true and correct copy of the foregone document was electronically delivered to Odyssey for filing and service upon all electronic service list recipients.



Kimberley Chapman, an Employee of
BREMER, WHYTE, BROWN & O'MEARA, LLP



FFCO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
corporation,**

Plaintiffs,

Vs.

**PANORAMA TOWERS
CONDOMINIUM UNIT OWNERS'
ASSOCIATION, a Nevada non-profit
corporation.**

Defendant.

**PANORAMA TOWERS
CONDOMINIUM UNIT OWNERS'
ASSOCIATION, a Nevada non-profit
corporation,**

Counter-Claimant,

Vs.

**LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
Corporation,**

Counter-Defendants.

Case No. A-16-744146-D

Dept. No. XXII

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER**

1 PANORAMA TOWERS
2 CONDOMINIUM UNIT OWNERS'
3 ASSOCIATION, a Nevada non-profit
4 corporation,

5 Third-Party Plaintiff,

6 Vs.

7 SIERRA GLASS & MIRROR, INC.; F.
8 ROGERS CORPORATION; DEAN
9 ROOFING COMPANY; FORD
10 CONSTRUCTING, INC.; INSULPRO,
11 INC.; XTREME EXCAVATION;
12 SOUTHERN NEVADA PAVING, INC.;
13 FLIPPINS TRENCHING, INC.;
14 BOMBARD MECHANICAL, LLC; R.
15 RODGERS CORPORATION; FIVE
16 STAR PLUMBING & HEATING, LLC
17 dba SILVER STAR PLUMBING; and
18 ROES 1 through 1000, inclusive,

19 Third-Party Defendants.¹

20 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

21 These matters concerning:

- 22 1. Plaintiffs'/Counter-Defendants' Motion for Summary Judgment Pursuant to NRS
23 11.202(1) filed February 11, 2019; and
- 24 2. Defendant's/Counter-Claimant's Conditional Counter-Motion for Relief Pursuant to
25 NRS 40.695(2) filed March 1, 2019,
26 both came on for hearing on the 23rd day of April 2019 at the hour of 8:30 a.m. before Department
27 XXII of the Eighth Judicial District Court, in and for Clark County, Nevada, with JUDGE SUSAN
28 H. JOHNSON presiding; Plaintiffs/Counter-Defendants LAURENT HALLIER, PANORAMA
TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN CONSTRUCTION,

¹As the subcontractors are not listed as "plaintiffs" in the primary action, the matter against them is better characterized as a "third-party" claim, as opposed to "counter-claim."

1 INC. appeared by and through their attorneys, JEFFREY W. SAAB, ESQ. and DEVIN R.
2 GIFFORD, ESQ. of the law firm, BREMER WHYTE BROWN & O'MEARA; and
3 Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM
4 UNIT OWNERS' ASSOCIATION appeared by and through their attorneys, MICHAEL J. GAYAN,
5 ESQ. of the law firm, KEMP JONES & COULTHARD.² Having reviewed the papers and pleadings
6 on file herein, heard oral arguments of the lawyers and taken this matter under advisement, this
7 Court makes the following Findings of Fact and Conclusions of Law:

8
9 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

10 1. This case arises as a result of alleged constructional defects within both the common
11 areas and the 616 residential condominium units located within two tower structures of the
12 PANORAMA TOWERS located at 4525 and 4575 Dean Martin Drive in Las Vegas, Nevada. On
13 February 24, 2016, Defendant/Counter-Claimant PANORAMA TOWERS CONDOMINIUM UNIT
14 OWNERS' ASSOCIATION served its original NRS 40.645 Notice of Constructional Defects upon
15 Plaintiffs/Counter-Defendants (also identified herein as the "Contractors" or "Builders"), identifying
16 deficiencies within the residential tower windows, fire blocking, mechanical room piping and sewer.
17 Subsequently, after the parties engaged in the pre-litigation process with the NRS 40.680 mediation
18 held September 26, 2016 with no success, the Contractors filed their Complaint on September 28,
19 2016 against the Owners' Association, asserting the following claims that, for the most part, deal
20 with their belief the NRS 40.645 notice was deficient:
21

- 22
23 1. Declaratory Relief—Application of AB 125;
24 2. Declaratory Relief—Claim Preclusion;
25

26 ²SCOTT A. WILLIAMS, ESQ. of the law firm, WILLIAMS & GUMBINER, also appeared telephonically on
27 behalf of PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION. Via Minute Order filed
28 January 13, 2017, this Court granted the Motion to Associate Counsel filed January 3, 2017 given non-opposition by
Plaintiffs/Counter-Defendants. However, no formal proposed Order granting the motion was ever submitted to the Court
for signature.

3. Failure to Comply with NRS 40.600, *et seq.*;
4. Suppression of Evidence/Spoliation;
5. Breach of Contract (Settlement Agreement in Prior Litigation);
6. Declaratory Relief—Duty to Defend; and
7. Declaratory Relief—Duty to Indemnify.

2. On March 1, 2017, PANORAMA TOWER CONDOMINIUM UNIT OWNERS' ASSOCIATION filed its Answer and Counter-Claim, alleging the following claims:

1. Breach of NRS 116.4113 and 116.4114 Express and Implied Warranties; as well as those of Habitability, Fitness, Quality and Workmanship;
2. Negligence and Negligence *Per Se*;
3. Products Liability (against the manufacturers);
4. Breach of (Sales) Contract;
5. Intentional/Negligent Disclosure; and
6. Duty of Good Faith and Fair Dealing; Violation of NRS 116.1113.

3. This Court previously dismissed the constructional defect claims within the mechanical room as being time-barred by virtue of the “catch-all” statute of limitations of four (4) years set forth in NRS 11.220.³ With respect to challenges to the sufficiency and validity of the NRS 40.645 notice, this Court stayed the matter to allow PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION to amend it with more specificity. This Court ultimately determined the amended NRS 40.645 notice served upon the Builders on April 15, 2018 was valid with respect to the windows' constructional defects only.⁴

³See Findings of Fact, Conclusions of Law and Order filed September 15, 2017.

⁴See Findings of Fact, Conclusions of Law and Order filed November 30, 2018.

1 4. The Builders or Contractors now move this Court for summary judgment upon the
2 basis the Association's claims are time-barred by the six-year statute of repose set forth in NRS
3 11.202(1), as amended by Assembly Bill (AB) 125 in 2015, in that its two residential towers were
4 substantially completed on January 16, 2008 (Tower I) and March 26, 2008 (Tower II), respectively,
5 and claims were not brought until February 24, 2016 when the NRS 40.645 Notice was sent; further,
6 the Association did not file its Counter-Claim until March 1, 2017.

7
8 5. PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION
9 opposes, arguing, first, the Builders do not provide this Court all facts necessary to decide the
10 motion which, therefore, requires its denial. Specifically, NRS 11.2055, the statute identifying the
11 date of substantial completion, defines such as being the latest of *three* events: (1) date the final
12 building inspection of the improvement is conducted; (2) date the notice of completion is issued for
13 the improvement; or (3) date the certificate of occupancy is issued. Here, the Association argues the
14 Builders provided only the dates the Certificates of Occupancy were issued for the two towers.⁵
15 Second, the NRS 40.645 notice was served within the year of "safe harbor" which tolled any
16 limiting statutes, and the primary action was filed within two days of NRS Chapter 40's mediation.
17 In the Owners' Association's view, its Counter-Claim filed March 1, 2017 was compulsory to the
18 initial Complaint filed by the Builders, meaning its claims relate back to September 28, 2016, and
19 thus, is timely. Further, the Association notes it learned of the potential window-related claims in
20 August 2013, less than three years before it served its notice, meaning their construction defect
21 action is not barred by the statute of limitations. The Association also counter-moves this Court for
22 relief under NRS 40.695(2) as, in its view, good cause exists for this Court to extend the tolling
23 period to avoid time-barring its constructional defect claims.
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27 ⁵As noted *infra*, the Certificates of Occupancy also identify the date of the final building inspection as being
28 March 16, 2007 (Tower I) and July 16, 2007 (Tower II). That is, the Builders identified two of the three events, and not
just one.

CONCLUSIONS OF LAW

1
2 1. Summary judgment is appropriate and “shall be rendered forthwith” when the
3 pleadings and other evidence on file demonstrates no “genuine issue as to any material fact
4 [remains] and that the moving party is entitled to a judgment as a matter of law.” *See* NRCP 56(c);
5 Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026 (2005). The substantive law controls
6 which factual disputes are material and will preclude summary judgment; other factual disputes are
7 irrelevant. *Id.*, 121 Nev. at 731. A factual dispute is genuine when the evidence is such that a
8 rational trier of fact could return a verdict for the non-moving party. *Id.*

9
10 2. While the pleadings and other proof must be construed in a light most favorable to
11 the non-moving party, that party bears the burden “to do more than simply show that there is some
12 metaphysical doubt” as to the operative facts in order to avoid summary judgment being entered in
13 the moving party’s favor. Matsushita Electric Industrial Co. v. Zenith Radio, 475, 574, 586 (1986),
14 *cited by* Wood, 121 Nev. at 732. The non-moving party “must, by affidavit or otherwise, set forth
15 specific facts demonstrating the evidence of a genuine issue for trial or have summary judgment
16 entered against him.” Bulbman, Inc. v. Nevada Bell, 108 Nev. 105, 110, 825 P.2d 588, 591 (1992),
17 *cited by* Wood, 121 Nev. at 732. The non-moving party “is not entitled to build a case on the
18 gossamer threads of whimsy, speculation, and conjecture.” Bulbman, 108 Nev. at 110, 825 P.2d
19 591, *quoting* Collins v. Union Fed. Savings & Loan, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983).
20
21

22 3. Four of Builders’ causes of action seek declaratory relief under NRS Chapter 30.
23 NRS 30.040(1) provides:

24 Any person interested under a deed, written contract or other writings constituting a contract,
25 or whose rights, status or other legal relations are affected by a statute, municipal ordinance,
26 contract or franchise, may have determined any question of construction or validly arising
27 under the instrument, statute, ordinance, contract or franchise and obtain a declaration of
28 rights, status or other legal relations thereunder.

...

1 Actions for declaratory relief are governed by the same liberal pleading standards applied in other
2 civil actions, but they must raise a present justiciable issue. Cox v. Glenbrook Co., 78 Nev. 254,
3 267-268, 371 P.2d 647, 766 (1962). Here, a present justiciable issue exists as PANORAMA
4 TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION served the Builders with a notice
5 of constructional defects pursuant to NRS 40.645 on February 24, 2016, and later demonstrated its
6 intention to purchase the claims through this litigation. As noted above, the Contractors propose the
7 remaining claim for constructional defects within the windows is time-barred by virtue of the six-
8 year statute of repose enacted retroactively by the 2015 Nevada Legislature through AB 125. As set
9 forth in their First Cause of Action, the Builders seek a declaration from this Court as to the rights,
10 responsibilities and obligations of the parties as they pertain to the association's claim. As the
11 parties have raised arguments concerning the application of both statutes of repose and limitation,
12 this Court begins its analysis with a review of them.

13
14
15 4. The statutes of repose and limitation are distinguishable and distinct from each other.
16 "Statutes of repose" bar causes of action after a certain period of time, regardless of whether
17 damage or an injury has been discovered. In contrast, "statutes of limitation" foreclose suits after a
18 fixed period time following occurrence or discovery of an injury." Alenz v. Twin Lakes Village,
19 108 Nev. 1117, 1120, 843 P.2d 834, 836 (1993), citing Allstate Insurance Company v. Furgerson,
20 104 Nev. 772, 775 n.2, 766 P.2d 904, 906 n.2 (1988). Of the two, the statute of repose sets an
21 outside time limit, generally running from the date of substantial completion of the project and with
22 no regard to the date of injury, after which cause of action for personal injury or property damage
23 allegedly caused by the deficiencies in the improvements to real property may not be brought. G
24 and H Associates v. Ernest W. Hahn, Inc., 113 Nev. 265, 271, 934 P.2d 229, 233 (1977), citing
25 Lamb v. Wedgewood South Corp., 308 N.C. 419302 S.E.2d 868, 873 (1983). While there are
26
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1 instances where both the statutes of repose and limitations may result to time-bar a particular claim,
2 there also are situations where one statute obstructs the cause of action, but the other does not.

3 5. NRS Chapter 11 does not set forth a specific statute of limitations dealing with the
4 discovery of constructional defects located within a residence. However, the Nevada Supreme Court
5 has held these types of claims are subject to the “catch all” statute, NRS 11.220. *See Hartford*
6 *Insurance Group v. Statewide Appliances, Inc.*, 87 Nev. 195, 198, 484 P.2d 569, 571 (1971).⁶ This
7 statute specifically provides “[a]n action for relief, not hereinbefore provided for, must be
8 commenced within 4 years after the cause of action shall have accrued.”
9

10 6. The four-year limitations period identified in NRS 11.220 begins to run at the time
11 the plaintiff learns, or in the exercise of reasonable diligence should have learned of the harm to the
12 property caused by the constructional defect. *Tahoe Village Homeowners Association v. Douglas*
13 *County*, 106 Nev. 660, 662-664, 799 P.2d 556, 558 (1990), *citing Oak Grove Investment v. Bell &*
14 *Gossett Co.*, 99 Nev. 616621-623, 669 P.2d 1075, 1078-1079 (1983); *also see G and H Associates,*
15 *113 Nev. at 272, 934 P.2d at 233, citing Nevada State Bank v. Jamison Partnership*, 106 Nev. 792,
16 800, 801 P.2d 1377, 1383 (1990) (statutes of limitations are procedural bars to a plaintiff’s action;
17 the time limits do not commence and the cause of action does not accrue until the aggrieved party
18 knew or reasonably should have known of the facts giving rise to the damage or injury); *Beazer*
19 *Homes Nevada, Inc. v. District Court*, 120 Nev. 575, 587, 97 P.3d 1132, 1139 (2004) (“For
20 constructional defect cases, the statute of limitations does not begin to run until ‘the time the
21 plaintiff learns, or in the exercise of reasonable diligence should have learned, of the harm to the
22 property.’”).
23
24

25
26 ⁶In *Hartford Insurance Group*, an action was brought for damages to a home caused by an explosion of a heater
27 made for use with natural as opposed to propane gas. The State’s high court held such matter was not an “action for
28 waste or trespass to real property” subject to a three-year statute of limitation nor was it an “action upon a contract...not
founded upon an instrument in writing” even though plaintiff sued under a theory of breach of express and implied
warranties. *See* NRS 11.190. This action fell into the “catch all” section, NRS 11.220, the statute of limitations of
which is four (4) years.

1 7. Prior to February 25, 2015, when AB 125 was enacted into law, the statutes of repose
2 were contained in NRS 11.203 through 11.205, and they barred actions for deficient construction
3 after a certain number of years from the date the construction was substantially completed. *See*
4 Alenz, 108 Nev. at 1120, 843 P.2d at 836. NRS 11.203(1) provided an action based on a known
5 deficiency may not be brought “more than 10 years after the substantial completion of such an
6 improvement.” NRS 11.204(1) set forth an action based on a latent deficiency may not be
7 commenced “more than 8 years after the substantial completion of such an improvement....” NRS
8 11.205(1) stated an action based upon a patent deficiency may not be commenced “more than 6
9 years after the substantial completion of such an improvement....” Further, and notwithstanding the
10 aforementioned, if the injury occurred in the sixth, eighth or tenth year after the substantial
11 completion of such an improvement, depending upon which statute of repose was applied, an action
12 for damages for injury to property or person could be commenced within two (2) years after the date
13 of injury. *See* NRS 11.203(2), 11.204(2) and 11.205(2) as effective prior to February 24, 2015.

16 8. In addition, prior to the enactment of AB 125, NRS 11.202 identified an exception to
17 the application of the statute of repose. This exception was the action could be commenced against
18 the owner, occupier or any person performing or furnishing the design, planning, supervision or
19 observation of construction, or the construction of an improvement to real property *at any time* after
20 the substantial completion where the deficiency was the result of willful misconduct or fraudulent
21 misconduct. For the NRS 11.202 exception to apply, it was the plaintiff, not the defendant, who had
22 the burden to demonstrate defendant’s behavior was based upon willful misconduct. *See Acosta v.*
23 Glenfed Development Corp., 128 Cal.App.4th 1278, 1292, 28 Cal.Rptr.3d 92, 102 (2005).

24 9. AB 125 made sweeping revisions to statutes addressing residential construction
25 defect claims. One of those changes included revising the statutes of repose from the previous six
26 (6), eight (8) and ten (10) years to no “more than 6 years after the substantial completion of such an
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1 improvement..." See NRS 11.202 (as revised in 2015). As set forth in Section 17 of AB 125, NRS
2 11.202 was revised to state in pertinent part as follows:

3 1. No action may be commenced against the owner, occupier or any person performing or
4 furnishing the design, planning, supervision or observation of construction, or the
5 construction of an improvement to real property *more than 6 years* after the substantial
completion of such an improvement for the recovery of damages for:

6 (a) Any deficiency in the design, planning, supervision or observation of
construction or the construction of such an improvement;

7 (b) Injury to real or personal property caused by any such deficiency; or

8 (c) Injury to or the wrongful death of a person caused by any such deficiency.

(Emphasis added)

9 In addition, the enactment of AB 125 resulted in a deletion of the exception to the application of the
10 statute of repose based upon the developer's willful misconduct or fraudulent concealment.

11
12 **10.** Section 21(5) of AB 125 provides the period of limitations on actions set forth NRS
13 11.202 is to be applied *retroactively* to actions in which the substantial completion of the
14 improvement to the real property occurred before the effective date of the act. However, Section
15 21(6) also incorporated a "safe harbor" or grace period, meaning actions that accrued before the
16 effective date of the act are not limited if they are commenced within one (1) year of AB 125's
17 enactment, or no later than February 24, 2016.

18
19 **11.** NRS 11.2055 identifies the date the statute of repose begins to run in constructional
20 defect cases, to wit: the date of substantial completion of improvement to real property. NRS
21 11.2055(1) provides:

22 1. Except as otherwise provided in subsection 2, for the purposes of this section and
23 NRS 11.202, the date of substantial completion of an improvement to real property shall be
deemed to be the date on which:

24 (a) The final building inspection of the improvement is conducted;

25 (b) A notice of completion is issued for the improvement; or

26 (c) A certificate of occupancy is issued for the improvement, whichever
occurs later.

27 ...
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1 NRS 11.2055(2) states “[i]f none of the events described in subsection 1 occurs, the date of
2 substantial completion of an improvement to real property must be determined by the rules of the
3 common law.”

4 **12.** While the statute of repose’s time period was shortened, NRS 40.600 to 40.695’s
5 tolling provisions were not retroactively changed. That is, statutes of limitation or repose applicable
6 to a claim based upon a constructional defect governed by NRS 40.600 to 40.695 *still* toll deficiency
7 causes of action from the time the NRS 40.645 notice is given until the earlier of one (1) year after
8 notice of the claim or thirty (30) days after the NRS 40.680 mediation is concluded or waived in
9 writing. *See* NRS 40.695(1). Further, statutes of limitation and repose may be tolled under NRS
10 40.695(2) for a period longer than one (1) year after notice of the claim is given but only if, in an
11 action for a constructional defect brought by a claimant after the applicable statute of limitation or
12 repose has expired, the claimant demonstrates to the satisfaction of the court good cause exists to toll
13 the statutes of limitation and repose for a longer period.
14

15
16 **13.** In this case, the Owners’ Association argues the Builders have not provided sufficient
17 information to determine when the statute of repose started to accrue, and without it, this Court
18 cannot decide the motion for summary judgment. Specifically, PANORAMA TOWERS
19 CONDOMINIUM UNIT OWNERS’ ASSOCIATION proposes the Builders have identified only
20 one date addressed within NRS 11.2055(1), and to establish the date of accrual, this Court needs all
21 three as the defining date is the one which occurs last. This Court disagrees with the Association’s
22 assessment the date of substantial completion has not been established for at least a couple of
23 reasons. *First*, the Builders did not provide just one date; they identified two events addressed in
24 NRS 11.2055, i.e. the date of the final building inspection and when the Certificate of Occupancy
25 was issued as identified in Exhibits C and D of their motion. Those dates are March 16, 2007 and
26 January 16, 2008, respectively, for Tower I, and July 16, 2007 and March 26, 2008, respectively, for
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1 Tower II. *Second*, this Court does not consider the Builders' inability or failure to provide the date
2 of the third event, i.e. when the notice of completion was issued, as fatal to the motion, especially
3 given the common-law "catch-all" provision expressed in NRS 11.2055(2) that applies if none of the
4 events described in NRS 11.2055(1) occurs. This Court concludes the dates of substantial
5 completion are January 16, 2008 (Tower I) and March 16, 2008 (Tower II), respectively, as these
6 dates are the latest occurrences. Given this Court's decision, the dates of substantial completion
7 obviously accrued before the enactment of AB 125. Applying the aforementioned analysis to the
8 facts here, this Court concludes the statute of repose applicable to the Association's constructional
9 defects claim is six (6) years, but, as it accrued prior to the effective date of AB 125 or February 24,
10 2015, the action is not limited if it was commenced within one (1) year after, or by February 24,
11 2016.
12

13
14 **14.** In this case, the Association served its NRS 40.645 constructional defect notice on
15 February 24, 2016, or the date the one-year "safe harbor" was to expire. The service of the NRS
16 40.645 notice operated to toll the applicable statute of repose until the earlier of one (1) year after
17 notice of the claim or thirty (30) days after the NRS 40.680 mediation is concluded or waived in
18 writing. *See* NRS 40.695(1). The NRS 40.680 mediation took place and was concluded on
19 September 26, 2016. Applying the earlier of the two expiration dates set forth in NRS 40.695, the
20 statute of repose in this case was tolled thirty (30) days after the mediation or until October 26, 2016,
21 which is earlier than the one (1) year after the notice was served. PANORAMA TOWERS
22 CONDOMINIUM UNIT OWNERS' ASSOCIATION had up to and including October 26, 2016 to
23 institute litigation or its claims would be time-barred.
24

25 **15.** PANORAMA TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION filed
26 its Counter-Claim against the Builders on March 1, 2017, over four (4) months after October 26,
27 2016. As noted above, in the Builders' view, the constructional defect claims relating to the
28

1 windows, therefore, are time-barred. The Association disagrees, arguing its Counter-Claim was
2 compulsory, and it relates back to the date of the Complaint's filing, September 28, 2016.

3 Alternatively, the Association counter-moves this Court for relief, and to find good cause exists to
4 toll the statute of repose for a longer period given its diligence in prosecuting the constructional
5 defect claims against the Builders. The Court analyzes both of the Association's points below.

6 **16.** NRCPP 13 defines both compulsory and permissive counter-claims. A counter-claim
7 is compulsory if it arises out of the transaction or occurrence that is the subject matter of the
8 opposing party's claim and does not require for its adjudication the presence of third parties of
9 whom the court cannot acquire jurisdiction. *See* NRCPP 13(a). The purpose of NRCPP 13(a) is to
10 make an "actor" of the defendant so circuity of action is discouraged and the speedy settlement of all
11 controversies between the parties can be accomplished in one action. *See Great W. Land & Cattle*
12 *Corp. v. District Court*, 86 Nev. 282, 285, 467 P.2d 1019, 1021 (1970). In this regard, the
13 compulsory counter-claimant is forced to plead his claim or lose it. *Id.* A counter-claim is
14 permissive if it does not arise out of the transaction or occurrence that is the subject matter of the
15 opposing party's claim. *See* NRCPP 13(b).

16 **17.** Here, PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'
17 ASSOCIATION proposes its counter-claims are compulsory as they arise out of the same
18 transaction or occurrence that is the subject matter of the Builders' claims. This Court disagrees.
19 The Builders' claims are for breach of the prior settlement agreement and declaratory relief
20 regarding the sufficiency of the NRS 40.645 notice and application of AB 125. The Association's
21 counter-claims of negligence, intentional/negligent disclosure, breach of sales contract, products
22 liability, breach of express and implied warranties under and violations of NRS Chapter 116, and
23 breach of duty of good faith and fair dealing are for monetary damages as a result of constructional
24 defects to its windows in the two towers. If this Court ruled against the Builders on their Complaint,
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1 the Association would not have lost their claims if they had not pled them as counter-claims in the
2 instant lawsuit. In this Court's view, the Association had two options: it could make a counter-claim
3 which is permissive or assert its constructional defect claims in a separate Complaint. Here, it
4 elected to make the permissive counter-claim. The counter-claim does not relate back to the filing
5 of the Complaint, September 28, 2016.

6 18. However, even if this Court were to decide the counter-claim was compulsory,
7 meaning the Association was forced to plead its claims in the instant case or lose them, the pleading
8 still would not relate back to the date of the Complaint's filing. As noted in Nevada State Bank v.
9 Jamison Family Partnership, 106 Nev. 792, 798, 801 P.2d 1377, 1381 (1990), statutes of limitation
10 and repose were enacted to "'promote repose by giving security and stability to human
11 affairs....They stimulate to activity and punish negligence.'" *Citing* Wood v. Carpenter, 101 U.S.
12 135, 139, 25 L.Ed.2d 807 (1879). Indeed, the key purpose of a repose statute is to eliminate
13 uncertainties under the related statute of limitations or repose and to create a final deadline for filing
14 suit that is not subject to any exceptions except perhaps those clearly specified by the state's
15 legislature. Without a statute of repose, professionals, contractors and other actors would face
16 never-ending uncertainty as to liability for their work. As stated by the Supreme Court in Texas in
17 Methodist Healthcare System of San Antonio, Ltd., LLP v. Rankin, 53 Tex.Sup.Ct.J. 455, 307
18 S.W.3d 283, 287 (2010), "'while statutes of limitations operate procedurally to bar the enforcement
19 of a right, a statute of repose takes away the right altogether, creating a substantive right to be free of
20 liability after a specified time.'" *Quoting* Galbraith Engineering Consultants, Inc. v. Pochucha, 290
21 S.W.3d 863, 866 (Tex. 2009). For the reasons articulated above, the Nevada Supreme Court held
22 the lower court did not err by finding a plaintiff, by instituting an action before the expiration of a
23 statute of limitation, does not toll the running of that statute against compulsory counter-claims filed
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1 by a defendant after the statute has expired. In short, whether the Association's counter-claims are
2 compulsory or permissive, the filing of the Builders' Complaint did not toll the statute of repose.

3 19. The next question is whether good cause exists for this Court to toll the statute of
4 repose for a longer period as so authorized in NRS 40.695(2). The Association proposes there is
5 good cause given their diligence in prosecuting their constructional defect claims, and, as they are
6 seeking tolling of only five (5) days after the one (1) year anniversary of the original NRS 40.645
7 notice, the Builders' ability to defend the deficiency causes of action has not been adversely
8 impacted. In making this argument, the Association seems to assume the tolling under NRS 40.695
9 ended February 24, 2017, or one (1) year after it served the NRS 40.645 notice when, in actuality,
10 the tolling ended October 26, 2016, or thirty (30) days after the NRS 40.680 mediation. *See*
11 40.695(1). The Association does not show this Court good cause exists for its failure to institute
12 litigation before October 26, 2016. Whether the Builders' ability to defend the Association's claim
13 is not adversely affected is, therefore, not relevant to the issue of good cause. Accordingly, this
14 Court declines tolling the statute of repose for a period longer than one (1) year after the NRS
15 40.645 notice was made. The Builders' Motion for Summary Judgment is granted, and the
16 Association's Conditional Counter-Motion for Relief is denied.

17 20. As this Court decides the six-year statute of repose bars the Association's
18 constructional defect claims, it does not analyze the statute of limitations issue presented.

19 Therefore, based upon the foregoing Findings of Fact and Conclusions of Law,

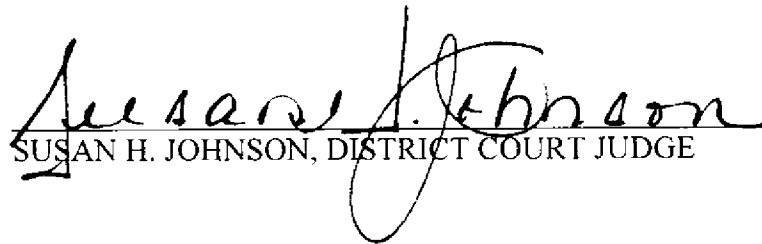
20 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** Plaintiffs'/Counter-
21 Defendants' Motion for Summary Judgment Pursuant to NRS 11.202(1) filed February 11, 2019 is
22 granted; and
23

24 ...

25 ...

1 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** Defendant's/Counter-
2 Claimant's Conditional Counter-Motion for Relief Pursuant to NRS 40.695(2) filed March 1, 2019
3 is denied.

4 DATED this 23rd day of May 2019.

5
6 
7 _____
8 SUSAN H. JOHNSON, DISTRICT COURT JUDGE
9
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CERTIFICATE OF SERVICE

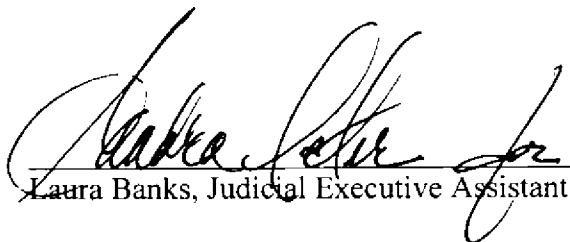
I hereby certify, on the 23rd day of May 2019, I electronically served (E-served), placed within the attorneys' folders located on the first floor of the Regional Justice Center or mailed a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER to the following counsel of record, and that first-class postage was fully prepaid thereon:

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Laura Banks, Judicial Executive Assistant

File Into Existing Case

Service Contacts: A-16-744146-D

Case Number	Location	Name	Description	Case Type	Email
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A-16-744146-D	Department 22		Laurent Hallier, Plaintiff(s)...	Chapter 40	
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▶ **Party: Laurent Hallier - Plaintiff**

1

20 items per page

1 - 1 of 1 items

▼ **Party: Panorama Towers Condominium Unit Owners Association - Defendant**

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▶ **Party: Laurent Hallier - Counter Defendant**▶ **Party: Panorama Towers I LLC - Plaintiff**▶ **Party: Panorama Towers I LLC - Counter Defendant**▶ **Party: Panorama Towers I Mezz LLC - Plaintiff**▶ **Party: Panorama Towers I Mezz LLC - Counter Defendant**▶ **Party: MJ Dean Construction Inc - Plaintiff**▶ **Party: MJ Dean Construction Inc - Counter Defendant**▶ **Party: Panorama Towers Condominium Unit Owners Association - Counter Claimant**

1

2

3

10

items per page

File Into Existing Case

Service Contacts: A-16-744146-D

Case Number	Location	Name	Description	Case Type	Email
A-16-744146-D	Department 22	Laurent Hallier, Plaintiff(s)		Chapter 40	
		▶ Party: Southern Nevada Paving Inc - Counter Defendant			
1	20	items per page			
		1 - 1 of 1 items			

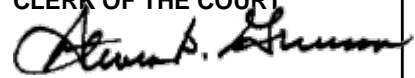
▶ Party: Insulpro Inc - Counter Defendant

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1 2 3 10 items per page



1 **ORDR**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 **LAURENT HALLIER, an individual;**
7 **PANORAMA TOWERS I, LLC, a Nevada**
8 **limited liability company; PANORAMA**
9 **TOWERS I MEZZ, LLC, a Nevada limited**
10 **liability company; and M.J. DEAN**
11 **CONSTRUCTION, INC., a Nevada**
12 **corporation,**

13 **Plaintiffs,**

14 **Vs.**

15 **PANORAMA TOWERS**
16 **CONDOMINIUM UNIT OWNERS'**
17 **ASSOCIATION, a Nevada non-profit**
18 **corporation.**

19 **Defendant.**

20 **PANORAMA TOWERS**
21 **CONDOMINIUM UNIT OWNERS'**
22 **ASSOCIATION, a Nevada non-profit**
23 **corporation,**

24 **Counter-Claimant,**

25 **Vs.**

26 **LAURENT HALLIER, an individual;**
27 **PANORAMA TOWERS I, LLC, a Nevada**
28 **limited liability company; PANORAMA**
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
Corporation,

Counter-Defendants.

Case No. A-16-744146-D

Dept. No. XXII

ORDER RE: DEFENDANT'S
MOTION TO ALTER OR
AMEND COURT'S FINDINGS
OF FACT, CONCLUSIONS OF
LAW AND ORDER ENTERED
MAY 23, 2019

1 PANORAMA TOWERS
2 CONDOMINIUM UNIT OWNERS'
3 ASSOCIATION, a Nevada non-profit
4 corporation,

5
6 Third-Party Plaintiff,

7 Vs.

8 SIERRA GLASS & MIRROR, INC.; F.
9 ROGERS CORPORATION; DEAN
10 ROOFING COMPANY; FORD
11 CONSTRUCTING, INC.; INSULPRO,
12 INC.; XTREME EXCAVATION;
13 SOUTHERN NEVADA PAVING, INC.;
14 FLIPPINS TRENCHING, INC.;
15 BOMBARD MECHANICAL, LLC; R.
16 RODGERS CORPORATION; FIVE
17 STAR PLUMBING & HEATING, LLC
18 dba SILVER STAR PLUMBING; and
19 ROES 1 through 1000, inclusive,

20 Third-Party Defendants.¹

21 **ORDER RE: DEFENDANT'S MOTION TO ALTER OR AMEND COURT'S FINDINGS OF**
22 **FACT, CONCLUSIONS OF LAW AND ORDER ENTERED MAY 23, 2019**

23 This matter concerning Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA
24 TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION'S Motion to Alter or Amend
25 Court's Findings of Fact, Conclusions of Law and Order Entered May 23, 2019 which was filed
26 September 9, 2019, came on for hearing on the 17th day of October 2019 at the hour of 9:00 a.m.
27 before Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada with
28 JUDGE SUSAN H. JOHNSON presiding; Plaintiffs/Counter-Defendants LAURENT HALLIER,
PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN
CONSTRUCTION, INC. appeared by and through their attorneys, DANIEL F. POLSENBERG,

¹As the subcontractors are not listed as "plaintiffs" in the primary action, the matter against them is better characterized as a "third-party" claim, as opposed to "counter-claim."

1 ESQ. of the law firm, LEWIS ROCA ROTHGERBER CHRISTIE, and PETER C. BROWN, ESQ.
2 and DEVIN R. GIFFORD, ESQ. of the law firm, BREMER WHYTE BROWN & O'MEARA; and
3 Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM
4 UNIT OWNERS' ASSOCIATION appeared by and through its attorneys, FRANCIS I. LYNCH,
5 ESQ. of the law firm, LYNCH & ASSOCIATES, and WILLIAM L. COUTHARD, ESQ. and
6 MICHAEL J. GAYAN, ESQ. of the law firm, KEMP JONES COULTHARD. Having reviewed the
7 papers and pleadings on file herein, heard oral arguments of the lawyers and taken this matter under
8 advisement, this Court makes the following Findings of Fact and Conclusions of Law.

10 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

11 1. The facts and procedural history have been set forth several times within this Court's
12 various orders filed in this case with the most updated and recent information being written in the
13 August 9, 2019 Order Re: Defendant's Motion for Reconsideration and/or to Alter or Amend the
14 Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting Plaintiffs' Motion
15 for Summary Judgment Pursuant to NRS 11.202(1). This Court adopts its Findings of Fact and
16 Procedural History as set forth within the August 9, 2019 Order, and incorporates them as though
17 fully set forth herein.

19 2. Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS
20 CONDOMINIUM UNIT OWNERS' ASSOCIATION filed its most recent motion on September 9,
21 2019, arguing, by the time this matter is heard, it will be after October 1, 2019 when Assembly Bill
22 (referred to as "AB" herein) 421 becomes effective, and the retroactive application of the new ten-
23 year Statute of Repose is to be applied. In the view of the Owners' Association, the now-controlling
24 law no longer supports dismissal of its claims as time-barred by the six-year Statute of Repose in
25 effect prior to October 1, 2019. PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'

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1 ASSOCIATION, therefore, seeks an order altering or amending this Court's May 23, 2019 Order
2 with the finding its claims were timely filed.

3 3. Plaintiffs LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA
4 TOWERS I MEZZ, LLC and M.J. DEAN CONSTRUCTION, INC. oppose upon the bases AB 421
5 does not resurrect claims previously adjudicated as time-barred under 2015 Legislature's AB 125's
6 six (6) year Statute of Repose. Further, if AB 421 were to be applied to revive the association's
7 constructional defect claims, such would result in a "clear constitutional infringement" ²on the
8 builders' vested due process rights.
9

10 CONCLUSIONS OF LAW

11 1. As alluded to above, PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'
12 ASSOCIATION moves this Court to amend or alter its May 23, 2019 decision pursuant to Rule 59
13 of the Nevada Rules of Civil Procedure (NRCP). NRCP 59 accords litigants the opportunity to
14 move the Court to alter or amend a judgment or seek a new trial for any of the following causes or
15 grounds materially affecting the substantial rights of the moving party:
16

17 A. Irregularity in the proceedings of the court, jury, master or adverse party or in
18 any order of the court or master, or any abuse of discretion by which either party was
19 prevented from having a fair trial;

20 B. Misconduct of the jury or prevailing party;

21 C. Accident or surprise that ordinary prudence could not have guarded against;

22 D. Newly discovered evidence material for the party making the motion that the
23 party could not, with reasonable diligence, have discovered and produced at the trial;

24 E. Manifest disregard by the jury of the instructions of the Court;
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28 ²See Plaintiffs'/Counter-Defendants' Opposition to Defendants'/Counter-Claimants' Motion to Alter or Amend
the Court's Findings of Fact, Conclusions of Law, and Order Entered on May 23, 2019 filed September 26, 2019, p.4.

1 F. Excessive damages appearing to have been given under the influence of
2 passion or prejudice; or

3 G. Error in law occurring at the trial and objected to by the party making the
4 motion.

5 Case law interpreting NRCP 59 provides the motion to amend or alter must state the grounds with
6 particularity and the relief sought. *See United Pacific Insurance Co. v. St. Denis*, 81 Nev. 103, 399
7 P.3d 135 (1965). Further, the motion to alter or amend a judgment must be filed no later than 28
8 days after service of written notice of entry of judgment. *See* NRCP 59(e). In this case, there was
9 no argument presented to suggest PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'
10 ASSOCIATION'S motion was untimely.³

11
12 3. The basis for the Owners' Association's position this Court should amend or alter its
13 May 23, 2019 decision stems from the enactment of AB 421 which, as stated above, became
14 effective October 1, 2019. AB 421 extends the statute of repose addressed in NRS 11.202 from six
15 (6) to ten (10) years. AB 421, Section 7, states in part:

17 NRS 11.202 is hereby amended to read as follows:

18 11.202 1. No action may be commenced against the owner, occupier or any person
19 performing or furnishing the design, planning, supervision or observation of construction, or
20 the construction of an improvement to real property more than **10** years after the substantial
completion of such an improvement. ... (Emphasis in original)

21 AB 421, Section 11, Subsection 4 also provides "[t]he period of limitations on actions set forth in
22 NRS 11.202, as amended by section 7 of this act, apply *retroactively* to actions in which the
23 substantial completion of the improvement to real property occurred before October 1, 2019."
24 (Emphasis added). This Court now considers whether AB 421 should be applied retroactively to
25

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27 ³On September 9, 2019, the Owners' Association moved this Court to amend or alter its decision expressed
28 within its Findings of Fact, Conclusions of Law and Order filed May 23, 2019. The May 23, 2019 Order became final
and appealable on August 12, 2019 when this Court granted Plaintiffs' Motion to Certify Judgment as Final and
Appealable under NRCP 54(b), whereby the motion is timely under NRCP 59(e).

1 resurrect the Owners' Association's constructional defect claims under the new ten-year Statute of
2 Repose when they previously had expired under the prior six-year period as set forth within this
3 Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order.

4 4. It has long been established in American jurisprudence a court is to apply the law in
5 effect at the time it renders its decision unless doing so would result in manifest injustice or there is
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7 Richmond, 416 U.S. 696, 710, 94 S.Ct. 2006, 2016, 40 L.Ed.2d 476 (1974). The origin and
8 justification for this rule are found in the words of Mr. Chief Justice Marshall in United States v.
9 Schooner Peggy, 1 Cranch 103, 110, 2 L.Ed. 49 (1801):
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11 It is in the general true that the province of an appellate court is only to enquire whether a
12 judgment when rendered was erroneous or not. But if subsequent to the judgment and before
13 the decision of the appellate court, a law intervenes and positively changes the rule which
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19 aside a judgment, rightful when rendered, but which cannot be affirmed but in violation of
20 law, the judgment must be set aside.

21 5. In keeping with the dictates set forth by the United States Supreme Court, this Court
22 considers whether its application of NRS 11.202 (2015)'s six-year statute of repose within its May
23 23, 2019 Order would not be affirmed or result in manifest injustice, as, unfortunately, there appears
24 to be no statutory directive or legislative history to the contrary.

25 6. "[O]nce a statute of limitations has expired, the defendant has a vested right to invoke
26 the bar of the limitations period as a defense to a cause of action. That right cannot be taken away
27 by the legislature without offending...due process protections...." Doe A. v. Diocese of Dallas, 234
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1 time-barred after the repose period was abolished by the legislature.” M.E.H., 177 Ill.2d at 215, 685
2 N.E.2d 335.

3 7. It is clear when the bar of a statute of limitations has become complete by the running
4 of the full statutory period, the right to plead the statute as a defense is a vested right, which cannot
5 be destroyed by legislation, since it is protected therefrom by Section 1 of the Fourteenth
6 Amendment to the United States Constitution, as well as the Nevada Constitution.⁴ Thus, while the
7 Nevada Legislature most certainly has the authority to enact or change NRS 11.202 to reflect a
8 longer Statute of Repose period with retroactive effect, it lacks the power to reach back and breathe
9 life into a time-barred claim.
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11 8. Suffice it to say, in its view, this Court’s application of NRS 11.202 (2015) at the
12 time it rendered its May 23, 2019 Findings of Fact and Conclusions of Law was, and still is correct.
13 Arguably, manifest injustice would result if this Court were to amend or alter its prior ruling to
14 reverse itself and revive PANORAMA TOWERS CONDOMINIUM UNIT OWNERS’
15 ASSOCIATION’S time-barred claims. Notwithstanding the aforementioned, this Court notes none
16 of the factors set forth by NRCP 59 for amending or altering its May 23, 2019 decision are present
17 here. Indeed, there were no irregularities in the proceedings. There was no misconduct by any
18 party. There were no accidents or surprises, or errors in law. For these reasons, this Court denies
19 Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM
20 UNIT OWNERS’ ASSOCIATION’S Motion to Alter or Amend Court’s Findings of Fact,
21 Conclusions of Law and Order Entered May 23, 2019 which was filed September 9, 2019.
22

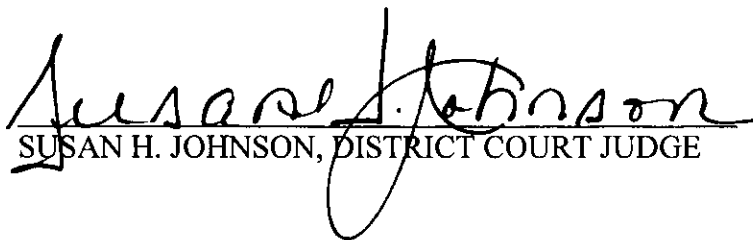
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26 ⁴Section 1 of the Fourteenth Amendment to the United States Constitution provides “[a]ll persons born or
27 naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State
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1 Based upon the foregoing Findings of Fact and Conclusions of Law,

2 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** Defendant/Counter-
3 Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'
4 ASSOCIATION'S Motion to Alter or Amend Court's Findings of Fact, Conclusions of Law and
5 Order Entered May 23, 2019 which was filed September 9, 2019, is denied.

6 DATED this 14th day of January 2020.

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9 SUSAN H. JOHNSON, DISTRICT COURT JUDGE
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify, on the 14th day of January 2020, I electronically served (E-served), placed
3 within the attorneys' folders located on the first floor of the Regional Justice Center or mailed a true
4 and correct copy of the foregoing ORDER RE: DEFENDANT'S MOTION TO ALTER OR
5 AMEND COURT'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ENTERED
6 MAY 23, 2019 to the following counsel of record, and that first-class postage was fully prepaid
7 thereon:
8


9 PETER C. BROWN, ESQ.
10 DEVIN R. GIFFORD, ESQ.
11 BREMER WHYTE BROWN & O'MEARA, LLP
12 1160 North Town Center Drive, Suite 250
13 Las Vegas, Nevada 89144
14 pbrown@bremerwhyte.com

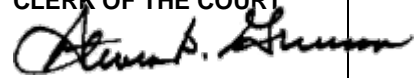
15 DANIEL F. POLSENBERG, ESQ.
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18 Las Vegas, Nevada 89169
19 DPolsenberg@LRRC.com

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23 Las Vegas, Nevada 89102

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Laura Banks, Judicial Executive Assistant



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Attorneys for Plaintiffs,
LAURENT HALLIER; PANORAMA TOWERS I, LLC;
PANORAMA TOWERS I MEZZ, LLC; and M.J. DEAN
CONSTRUCTION, INC.

DISTRICT COURT
CLARK COUNTY, NEVADA

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada Corporation,

Plaintiffs,

vs.

PANORAMA TOWERS CONDOMINIUM
UNIT OWNERS' ASSOCIATION, a Nevada
non-profit corporation,

Defendant.

PANORAMA TOWERS CONDOMINIUM
UNIT OWNERS' ASSOCIATION, a Nevada
non-profit corporation,

Counter-Claimant,

vs.

LAURENT HALLIER, an individual;
PANORAMA TOWERS I, LLC, a Nevada
limited liability company; PANORAMA

) Case No. A-16-744146-D

) Dept. XXII

) **NOTICE OF ENTRY OF ORDER RE:**
) **DEFENDANT'S MOTION TO ALTER**
) **OR AMEND COURT'S FINDINGS OF**
) **FACTS, CONCLUSIONS OF LAW AND**
) **ORDER ENTERED MAY 23, 2019**

1 TOWERS I MEZZ, LLC, a Nevada limited)
liability company; and M.J. DEAN)
2 CONSTRUCTION, INC., a Nevada Corporation;)
SIERRA GLASS & MIRROR, INC.; F.)
3 ROGERS CORPORATION; DEAN ROOFING)
COMPANY; FORD CONTRACTING, INC.;)
4 INSULPRO, INC.; XTREME EXCAVATION;)
SOUTHERN NEVADA PAVING, INC.;)
5 FLIPPINS TRENCHING, INC.; BOMBARD)
MECHANICAL, LLC; R. RODGERS)
6 CORPORATION; FIVE STAR PLUMBING &)
HEATING, LLC, dba SILVER STAR)
7 PLUMBING; and ROES 1 through , inclusive,)
Counter-Defendants.)
8)
9)

10
11 PLEASE TAKE NOTICE that an Order Re: Defendant's Motion to Alter or Amend Court's
12 Findings of Facts, Conclusions Of Law and Order Entered May 23, 2019 was entered on the 14th day
13 of January 2020. A true copy is attached hereto and made part hereof.
14

15 Dated: January 16, 2020

BREMER WHYTE BROWN & O'MEARA LLP


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17
18 By: 

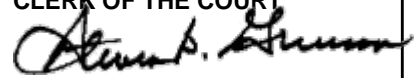
Peter C. Brown, Esq.
Nevada State Bar No. 5887
Jeffrey W. Saab, Esq.
Nevada State Bar No. 11261
Devin R. Gifford, Esq.
Nevada State Bar No. 14055
Attorneys for Plaintiffs/Counter-Defendants
LAURENT HALLIER, PANORAMA
TOWERS I, LLC, PANORAMA
TOWERS I MEZZ, LLC, and M.J. DEAN
CONSTRUCTION, INC.

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of January 2020, a true and correct copy of the foregoing document was electronically served through Odyssey upon all parties on the master e-file and serve list.


Kimberley Chapman, and employee of
Bremer Whyte Brown & O'Meara



1 **ORDR**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 **LAURENT HALLIER, an individual;**
7 **PANORAMA TOWERS I, LLC, a Nevada**
8 **limited liability company; PANORAMA**
9 **TOWERS I MEZZ, LLC, a Nevada limited**
10 **liability company; and M.J. DEAN**
11 **CONSTRUCTION, INC., a Nevada**
12 **corporation,**

13 **Plaintiffs,**

14 **Vs.**

15 **PANORAMA TOWERS**
16 **CONDOMINIUM UNIT OWNERS'**
17 **ASSOCIATION, a Nevada non-profit**
18 **corporation.**

19 **Defendant.**

20 **PANORAMA TOWERS**
21 **CONDOMINIUM UNIT OWNERS'**
22 **ASSOCIATION, a Nevada non-profit**
23 **corporation,**

24 **Counter-Claimant,**

25 **Vs.**

26 **LAURENT HALLIER, an individual;**
27 **PANORAMA TOWERS I, LLC, a Nevada**
28 **limited liability company; PANORAMA**
TOWERS I MEZZ, LLC, a Nevada limited
liability company; and M.J. DEAN
CONSTRUCTION, INC., a Nevada
Corporation,

Counter-Defendants.

Case No. A-16-744146-D

Dept. No. XXII

ORDER RE: DEFENDANT'S
MOTION TO ALTER OR
AMEND COURT'S FINDINGS
OF FACT, CONCLUSIONS OF
LAW AND ORDER ENTERED
MAY 23, 2019

1 **PANORAMA TOWERS**
2 **CONDOMINIUM UNIT OWNERS'**
3 **ASSOCIATION, a Nevada non-profit**
4 **corporation,**

5 **Third-Party Plaintiff,**

6 **Vs.**

7 **SIERRA GLASS & MIRROR, INC.; F.**
8 **ROGERS CORPORATION; DEAN**
9 **ROOFING COMPANY; FORD**
10 **CONSTRUCTING, INC.; INSULPRO,**
11 **INC.; XTREME EXCAVATION;**
12 **SOUTHERN NEVADA PAVING, INC.;**
13 **FLIPPINS TRENCHING, INC.;**
14 **BOMBARD MECHANICAL, LLC; R.**
15 **RODGERS CORPORATION; FIVE**
16 **STAR PLUMBING & HEATING, LLC**
17 **dba SILVER STAR PLUMBING; and**
18 **ROES 1 through 1000, inclusive,**

19 **Third-Party Defendants.¹**

20 **ORDER RE: DEFENDANT'S MOTION TO ALTER OR AMEND COURT'S FINDINGS OF**
21 **FACT, CONCLUSIONS OF LAW AND ORDER ENTERED MAY 23, 2019**

22 This matter concerning Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA
23 TOWERS CONDOMINIUM UNIT OWNERS' ASSOCIATION'S Motion to Alter or Amend
24 Court's Findings of Fact, Conclusions of Law and Order Entered May 23, 2019 which was filed
25 September 9, 2019, came on for hearing on the 17th day of October 2019 at the hour of 9:00 a.m.
26 before Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada with
27 JUDGE SUSAN H. JOHNSON presiding; Plaintiffs/Counter-Defendants LAURENT HALLIER,
28 PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC and M.J. DEAN
CONSTRUCTION, INC. appeared by and through their attorneys, DANIEL F. POLSENBERG,

¹As the subcontractors are not listed as "plaintiffs" in the primary action, the matter against them is better characterized as a "third-party" claim, as opposed to "counter-claim."

1 ESQ. of the law firm, LEWIS ROCA ROTHGERBER CHRISTIE, and PETER C. BROWN, ESQ.
2 and DEVIN R. GIFFORD, ESQ. of the law firm, BREMER WHYTE BROWN & O'MEARA; and
3 Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM
4 UNIT OWNERS' ASSOCIATION appeared by and through its attorneys, FRANCIS I. LYNCH,
5 ESQ. of the law firm, LYNCH & ASSOCIATES, and WILLIAM L. COUTHARD, ESQ. and
6 MICHAEL J. GAYAN, ESQ. of the law firm, KEMP JONES COULTHARD. Having reviewed the
7 papers and pleadings on file herein, heard oral arguments of the lawyers and taken this matter under
8 advisement, this Court makes the following Findings of Fact and Conclusions of Law.

10 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

11 1. The facts and procedural history have been set forth several times within this Court's
12 various orders filed in this case with the most updated and recent information being written in the
13 August 9, 2019 Order Re: Defendant's Motion for Reconsideration and/or to Alter or Amend the
14 Court's May 23, 2019 Findings of Fact, Conclusions of Law and Order Granting Plaintiffs' Motion
15 for Summary Judgment Pursuant to NRS 11.202(1). This Court adopts its Findings of Fact and
16 Procedural History as set forth within the August 9, 2019 Order, and incorporates them as though
17 fully set forth herein.

19 2. Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS
20 CONDOMINIUM UNIT OWNERS' ASSOCIATION filed its most recent motion on September 9,
21 2019, arguing, by the time this matter is heard, it will be after October 1, 2019 when Assembly Bill
22 (referred to as "AB" herein) 421 becomes effective, and the retroactive application of the new ten-
23 year Statute of Repose is to be applied. In the view of the Owners' Association, the now-controlling
24 law no longer supports dismissal of its claims as time-barred by the six-year Statute of Repose in
25 effect prior to October 1, 2019. PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'
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1 ASSOCIATION, therefore, seeks an order altering or amending this Court's May 23, 2019 Order
2 with the finding its claims were timely filed.

3 3. Plaintiffs LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA
4 TOWERS I MEZZ, LLC and M.J. DEAN CONSTRUCTION, INC. oppose upon the bases AB 421
5 does not resurrect claims previously adjudicated as time-barred under 2015 Legislature's AB 125's
6 six (6) year Statute of Repose. Further, if AB 421 were to be applied to revive the association's
7 constructional defect claims, such would result in a "clear constitutional infringement" ²on the
8 builders' vested due process rights.
9

10 CONCLUSIONS OF LAW

11 1. As alluded to above, PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'
12 ASSOCIATION moves this Court to amend or alter its May 23, 2019 decision pursuant to Rule 59
13 of the Nevada Rules of Civil Procedure (NRCP). NRCP 59 accords litigants the opportunity to
14 move the Court to alter or amend a judgment or seek a new trial for any of the following causes or
15 grounds materially affecting the substantial rights of the moving party:
16

17 A. Irregularity in the proceedings of the court, jury, master or adverse party or in
18 any order of the court or master, or any abuse of discretion by which either party was
19 prevented from having a fair trial;

20 B. Misconduct of the jury or prevailing party;

21 C. Accident or surprise that ordinary prudence could not have guarded against;

22 D. Newly discovered evidence material for the party making the motion that the
23 party could not, with reasonable diligence, have discovered and produced at the trial;

24 E. Manifest disregard by the jury of the instructions of the Court;
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28 ²See Plaintiffs'/Counter-Defendants' Opposition to Defendants'/Counter-Claimants' Motion to Alter or Amend
the Court's Findings of Fact, Conclusions of Law, and Order Entered on May 23, 2019 filed September 26, 2019, p.4.

1 F. Excessive damages appearing to have been given under the influence of
2 passion or prejudice; or

3 G. Error in law occurring at the trial and objected to by the party making the
4 motion.

5 Case law interpreting NRCP 59 provides the motion to amend or alter must state the grounds with
6 particularity and the relief sought. *See United Pacific Insurance Co. v. St. Denis*, 81 Nev. 103, 399
7 P.3d 135 (1965). Further, the motion to alter or amend a judgment must be filed no later than 28
8 days after service of written notice of entry of judgment. *See* NRCP 59(e). In this case, there was
9 no argument presented to suggest PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'
10 ASSOCIATION'S motion was untimely.³

11
12 3. The basis for the Owners' Association's position this Court should amend or alter its
13 May 23, 2019 decision stems from the enactment of AB 421 which, as stated above, became
14 effective October 1, 2019. AB 421 extends the statute of repose addressed in NRS 11.202 from six
15 (6) to ten (10) years. AB 421, Section 7, states in part:

17 NRS 11.202 is hereby amended to read as follows:

18 11.202 1. No action may be commenced against the owner, occupier or any person
19 performing or furnishing the design, planning, supervision or observation of construction, or
20 the construction of an improvement to real property more than **10** years after the substantial
completion of such an improvement. ... (Emphasis in original)

21 AB 421, Section 11, Subsection 4 also provides "[t]he period of limitations on actions set forth in
22 NRS 11.202, as amended by section 7 of this act, apply *retroactively* to actions in which the
23 substantial completion of the improvement to real property occurred before October 1, 2019."
24 (Emphasis added). This Court now considers whether AB 421 should be applied retroactively to
25

26
27 ³On September 9, 2019, the Owners' Association moved this Court to amend or alter its decision expressed
28 within its Findings of Fact, Conclusions of Law and Order filed May 23, 2019. The May 23, 2019 Order became final
and appealable on August 12, 2019 when this Court granted Plaintiffs' Motion to Certify Judgment as Final and
Appealable under NRCP 54(b), whereby the motion is timely under NRCP 59(e).

1 resurrect the Owners' Association's constructional defect claims under the new ten-year Statute of
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4 4. It has long been established in American jurisprudence a court is to apply the law in
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11 It is in the general true that the province of an appellate court is only to enquire whether a
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20 law, the judgment must be set aside.

21 5. In keeping with the dictates set forth by the United States Supreme Court, this Court
22 considers whether its application of NRS 11.202 (2015)'s six-year statute of repose within its May
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24 to be no statutory directive or legislative history to the contrary.

25 6. "[O]nce a statute of limitations has expired, the defendant has a vested right to invoke
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2 N.E.2d 335.

3 7. It is clear when the bar of a statute of limitations has become complete by the running
4 of the full statutory period, the right to plead the statute as a defense is a vested right, which cannot
5 be destroyed by legislation, since it is protected therefrom by Section 1 of the Fourteenth
6 Amendment to the United States Constitution, as well as the Nevada Constitution.⁴ Thus, while the
7 Nevada Legislature most certainly has the authority to enact or change NRS 11.202 to reflect a
8 longer Statute of Repose period with retroactive effect, it lacks the power to reach back and breathe
9 life into a time-barred claim.
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11 8. Suffice it to say, in its view, this Court’s application of NRS 11.202 (2015) at the
12 time it rendered its May 23, 2019 Findings of Fact and Conclusions of Law was, and still is correct.
13 Arguably, manifest injustice would result if this Court were to amend or alter its prior ruling to
14 reverse itself and revive PANORAMA TOWERS CONDOMINIUM UNIT OWNERS’
15 ASSOCIATION’S time-barred claims. Notwithstanding the aforementioned, this Court notes none
16 of the factors set forth by NRCP 59 for amending or altering its May 23, 2019 decision are present
17 here. Indeed, there were no irregularities in the proceedings. There was no misconduct by any
18 party. There were no accidents or surprises, or errors in law. For these reasons, this Court denies
19 Defendant/Counter-Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM
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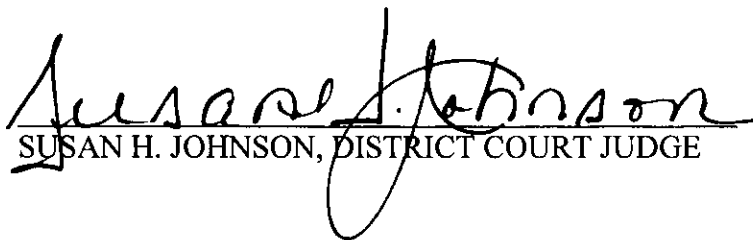
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1 Based upon the foregoing Findings of Fact and Conclusions of Law,

2 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** Defendant/Counter-
3 Claimant/Third-Party Plaintiff PANORAMA TOWERS CONDOMINIUM UNIT OWNERS'
4 ASSOCIATION'S Motion to Alter or Amend Court's Findings of Fact, Conclusions of Law and
5 Order Entered May 23, 2019 which was filed September 9, 2019, is denied.

6 DATED this 14th day of January 2020.

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8 
9 SUSAN H. JOHNSON, DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify, on the 14th day of January 2020, I electronically served (E-served), placed within the attorneys' folders located on the first floor of the Regional Justice Center or mailed a true and correct copy of the foregoing ORDER RE: DEFENDANT'S MOTION TO ALTER OR AMEND COURT'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ENTERED MAY 23, 2019 to the following counsel of record, and that first-class postage was fully prepaid thereon:


PETER C. BROWN, ESQ.
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Laura Banks, Judicial Executive Assistant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

January 13, 2017

A-16-744146-D	Laurent Hallier, Plaintiff(s) vs. Panorama Towers Condominium Unit Owners Association, Defendant(s)
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January 13, 2017 3:00 AM Minute Order

HEARD BY: Johnson, Susan **COURTROOM:** Chambers

COURT CLERK: Keri Cromer

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Having examined Defendant s Motion to Associate Counsel filed January 3, 2017, noted the motion was electronically served upon the parties, a Non-Opposition was filed thereto on January 5, 2017, and there is good cause therefore, COURT ORDERS Defendant s Motion to Associate Counsel filed January 3, 2017 is GRANTED pursuant to SCR 42 and EDCR 2.20(e).

Accordingly, the matter scheduled to be heard Tuesday, February 7, 2017 at 10:30 a.m. is VACATED pursuant to EDCR 2.23. Counsel is to prepare and submit a proposed Order to the Court within ten (10) days of this Minute Order or no later than Monday, January 30, 2017 pursuant to EDCR 7.21.

CLERK'S NOTE: The above minute order has been distributed to counsel by the Judicial Executive Assistant, via electronic service, facsimile and/or mail. kc/1-13-17

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

January 24, 2017

A-16-744146-D Laurent Hallier, Plaintiff(s)
vs.
Panorama Towers Condominium Unit Owners Association, Defendant(s)

January 24, 2017 10:30 AM Motion to Dismiss

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT: Brown, Peter C. Attorney

JOURNAL ENTRIES

- Dee Harper, Esq., Frances Lynch, Esq., and Scott Williams, Esq. present for Defendant. Arguments by Mr. Brown and Mr. Williams regarding whether or not the claims for declaratory relief were based upon hypothetical complaints that had not yet been filed, Chapter 40 notice, AB125, and fees incurred by Plaintiffs'. Court stated its findings and ORDERED, Motion DENIED. Mr. Brown to prepare the order; opposing counsel to review as to form and content.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

May 16, 2017

A-16-744146-D	Laurent Hallier, Plaintiff(s) vs. Panorama Towers Condominium Unit Owners Association, Defendant(s)
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May 16, 2017 3:00 AM Minute Order

HEARD BY: Johnson, Susan **COURTROOM:** Chambers

COURT CLERK: Kristen Brown

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Pursuant to EDCR 2.20(g), the moving party shall deliver Courtesy Copies of all papers related to their Motion at least 5 judicial days before the hearing. This includes the Opposition if opposing counsel fails to deliver their own courtesy copies. As all courtesy copies have not been received, the following hearing(s) have been VACATED:

Thursday, May 18, 2017: Plaintiffs Motion for Summary Judgment

Should the parties wish to proceed, the Hearing will need to be Re-Noticed and courtesy copies delivered to chambers accordingly.

CLERK'S NOTE: The above minute order has been distributed to counsel by the Judicial Executive Assistant, via electronic service, facsimile and/or mail. /kb 5-16-17

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

June 20, 2017

A-16-744146-D	Laurent Hallier, Plaintiff(s) vs. Panorama Towers Condominium Unit Owners Association, Defendant(s)
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June 20, 2017	10:30 AM	Motion for Summary Judgment
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HEARD BY: Johnson, Susan

COURTROOM: RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Brown, Peter C.	Attorney
	Hopper, Charles Dee	Attorney
	Lynch, Francis I	Attorney

JOURNAL ENTRIES

- Jeffrey Saab, Esq., present for Plaintiffs and Sergio Salzano, Esq., present for Defendant. Arguments by Mr. Brown and Mr. Salzano regarding the merits of the Motion. COURT ORDERED, matter taken UNDER ADVISEMENT. Colloquy regarding Special Master Hale holding off on assigning discovery deadline dates.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

August 01, 2017

A-16-744146-D	Laurent Hallier, Plaintiff(s)
	vs.
	Panorama Towers Condominium Unit Owners Association, Defendant(s)

August 01, 2017 10:30 AM Motion

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Brown, Peter C.	Attorney
	Hopper, Charles Dee	Attorney

JOURNAL ENTRIES

- Mr. Hopper requested additional time to serve the three remaining parties and argued that good cause existed under the Scrimmer factors; further argued that there was no prejudice. Mr. Brown argued that Defendant waited until the 105th day into the 120-day time period to attempt service; further argued this pleading was invalid and had been from the start. Further arguments by Mr. Hopper. Court stated its findings and ORDERED, Motion DENIED WITHOUT PREJUDICE. Mr. Brown noted that they had not waived any arguments regarding Third Party Complaints. Mr. Brown to prepare the Order; Mr. Hopper to review as to form and content.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

November 21, 2017

A-16-744146-D Laurent Hallier, Plaintiff(s)
vs.
Panorama Towers Condominium Unit Owners Association, Defendant(s)

November 21, 2017 10:30 AM Motion for Clarification

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Brown, Peter C.	Attorney
	Hopper, Charles Dee	Attorney
	Saab, Jeffrey W.	Attorney
	Salzano, Sergio	Attorney

JOURNAL ENTRIES

- Arguments by Mr. Salzano and Mr. Brown regarding the merits of the Motion. Court reviewed portions of its prior Order. Further arguments by Mr. Salzano. Court stated its findings and ORDERED, Motion DENIED. Mr. Brown to prepare the Order; opposing counsel to review as to form and content.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

March 15, 2018

A-16-744146-D Laurent Hallier, Plaintiff(s)
vs.
Panorama Towers Condominium Unit Owners Association, Defendant(s)

March 15, 2018 10:30 AM Status Check

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer
Lauren Kidd

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT: Brown, Peter C. Attorney
Lynch, Francis I Attorney

JOURNAL ENTRIES

- Mr. Brown reviewed the procedural history of the case. Colloquy regarding Chapter 40 notice and surviving claims. COURT ORDERED, stay CONTINUED for 30 days; matter CONTINUED.

CONTINUED TO: 4/12/18 - 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40**COURT MINUTES****April 12, 2018**

A-16-744146-D

Laurent Hallier, Plaintiff(s)

vs.

Panorama Towers Condominium Unit Owners Association, Defendant(s)

April 12, 2018**10:30 AM****Status Check****HEARD BY:** Johnson, Susan**COURTROOM:** RJC Courtroom 15D**COURT CLERK:** Keri Cromer**RECORDER:** Norma Ramirez**REPORTER:****PARTIES****PRESENT:**

Brown, Peter C.

Attorney

Lynch, Francis I

Attorney

JOURNAL ENTRIES

- Scott Williams, Esq., also present. Mr. Brown reviewed the facts of the case, advised an agreement had been reached with Defendants for an extension of time for Chapter 40 notice, and requested a briefing schedule; further advised there were a myriad of problems which he would be putting into a motion. Mr. Brown requested a stay, citing the terms he wanted included in it. Mr. Lynch advised this was not a new issue. COURT ORDERED, matter CONTINUED; stay GRANTED on Chapter 40 requirements for four months. Colloquy regarding who would and would not receive the notice; colloquy regarding order language.

CONTINUED TO 8/07/2018 - 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

August 07, 2018

A-16-744146-D	Laurent Hallier, Plaintiff(s) vs. Panorama Towers Condominium Unit Owners Association, Defendant(s)
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August 07, 2018 8:30 AM Status Check

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Brown, Peter C.	Attorney
	Lynch, Francis I	Attorney
	Saab, Jeffrey W.	Attorney

JOURNAL ENTRIES

- Scott Williams, Esq., present telephonically for Defendant. Mr. Brown advised a Motion for Summary Judgment had been filed on Friday, with a hearing date scheduled for 9/6/18; requested a continuance for after the hearing. No opposition by Mr. Lynch. Mr. Williams requested matter be continued into October to accommodate for a surgery. COURT ORDERED, matter CONTINUED.

CONTINUED TO 10/02/2018 - 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

October 02, 2018

A-16-744146-D Laurent Hallier, Plaintiff(s)
vs.
Panorama Towers Condominium Unit Owners Association, Defendant(s)

October 02, 2018 8:30 AM All Pending Motions

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT: Brown, Peter C. Attorney
 Coulthard, William L Attorney
 Gayan, Michael J Attorney
 Lynch, Francis I Attorney

JOURNAL ENTRIES

- PLAINTIFFS/COUNTER-DEFENDANTS LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC, AND M.J. DEAN CONSTRUCTION, INC.'S MOTION FOR SUMMARY JUDGMENT ON DEFENDANT/COUNTERCLAIMANT PANORAMA TOWER CONDOMINIUM UNIT OWNERS' ASSOCIATION'S April 5, 2018 AMENDED NOTICE OF CLAIMS STATUS CHECK RE: STAY (PER 9/15/17 ORDER)

Scott Williams, Esq., also present (telephonically). Arguments by Mr. Brown and Mr. Gayan regarding the merits of the Motion. Prior Court Order reviewed. Further arguments by counsel. COURT ORDERED, matter taken UNDER ADVISEMENT; stay LIFTED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

December 10, 2018

A-16-744146-D	Laurent Hallier, Plaintiff(s)
	vs.
	Panorama Towers Condominium Unit Owners Association, Defendant(s)

December 10, 2018 3:00 AM Minute Order

HEARD BY: Johnson, Susan **COURTROOM:** Chambers

COURT CLERK: Keri Cromer

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Pursuant to EDCR 2.20(g), the moving party shall deliver Courtesy Copies of all papers related to their Motion at least 5 judicial days before the hearing. This includes the Opposition if opposing counsel fails to deliver their own courtesy copies. Furthermore, EDCR 7.20(d) requires that all exhibits attached to the pleadings or papers must be clearly divided by a tab. As all courtesy copies have not been received and/or properly tabbed, the following hearing(s) have been VACATED:

Thursday December 13, 2018: Motion for Declaratory Relief

Thursday December 13, 2018: Opposition and Countermotion

Should the parties wish to proceed, the Hearing will need to be Re-Noticed. All courtesy copies must be properly tabbed and delivered to chambers 5 judicial days before the hearing.

CLERK'S NOTE: The above minute order has been distributed to counsel by the Judicial Executive Assistant, via electronic service, facsimile and/or mail. kc//12-10-18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

February 12, 2019

A-16-744146-D	Laurent Hallier, Plaintiff(s)
	vs.
	Panorama Towers Condominium Unit Owners Association, Defendant(s)

February 12, 2019 8:30 AM All Pending Motions

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Keri Cromer

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Gayan, Michael J	Attorney
	Gifford, Devin R.	Attorney
	Saab, Jeffrey W.	Attorney

JOURNAL ENTRIES

- PLAINTIFFS/COUNTER-DEFENDANTS' MOTION FOR DECLARATORY RELIEF REGARDING STANDING DEFENDANT'S OPPOSITION TO PLAINTIFFS/COUNTER-DEFENDANTS' MOTION FOR DECLARATORY RELIEF REGARDING STANDING AND COUNTERMOTIONS TO EXCLUDE INADMISSIBLE EVIDENCE AND FOR RULE 56(F) RELIEF PLAINTIFFS/COUNTER-DEFENDANTS LAURENT HALLIER, PANORAMA TOWERS I, LLC, PANORAMA TOWERS I MEZZ, LLC, AND M.J. DEAN CONSTRUCTION, INC.'S MOTION FOR RECONSIDERATION OF THEIR MOTION FOR SUMMARY JUDGMENT DEFENDANT/COUNTER-CLAIMANT PANORAMA TOWER CONDOMINIUM UNIT OWNERS' ASSOCIATION'S April 5, 2018 AMENDED NOTICE OF CLAIMS

Scott Williams, Esq., appearing telephonically for Defendant. Exhibits presented (see worksheet). Arguments by Mr. Gifford and Mr. Gayan regarding the merits of the Motion for Reconsideration. Mr. Gayan requested an oral Motion for 56(f) relief if the Court was inclined to grant this Motion. Court stated its findings and ORDERED, Motion for Reconsideration DENIED.

Arguments by Mr. Saab and Mr. Gayan regarding the merits of the Motion for Declaratory Relief.

Court advised there were issues of fact that needed to be explored and ORDERED, Motion for Declaratory Relief DENIED WITHOUT PREJUDICE; oral 56(f) Motion MOOT as discovery would be done.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

April 23, 2019

A-16-744146-D	Laurent Hallier, Plaintiff(s) vs. Panorama Towers Condominium Unit Owners Association, Defendant(s)
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April 23, 2019 8:30 AM All Pending Motions

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Louisa Garcia

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Gayan, Michael J	Attorney
	Gifford, Devin R.	Attorney
	Lynch, Francis I	Attorney
	Saab, Jeffrey W.	Attorney

JOURNAL ENTRIES

- PLAINTIFFS/ COUNTER-DEFENDANTS MOTION FOR SUMMARY JUDGMENT PURSUANT TO NRS 11.202(1) DEFENDANT'S (1) OPPOSITION TO PLAINTIFFS' COUNTER-DEFENDANTS' MOTION FOR SUMMARY JUDGMENT PURSUANT TO NRS 11.202(1) AND (2) CONDITIONAL COUNTERMOTION FOR RELIEF PURSUANT TO NRS 40.695(2)

Also present, Scott Williams, Esq., appeared via telephone on behalf of Panorama Towers.

Following arguments by counsel regarding their respective positions, COURT ADVISED it reviewed the briefs but did not get a chance to review all the new issues counsel brought up. COURT ORDERED, matter UNDER ADVISEMENT; it will issue a minute order with its decision.

July 16, 2019

directed counsel to submit written motions along with further briefing which would place the matters back on calendar adding that the Court would then take the matters under advisement upon receiving everything. COURT ORDERED, plaintiff's Motion for Attorney Fees set for 7/23/19, VACATED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

August 06, 2019

A-16-744146-D	Laurent Hallier, Plaintiff(s) vs. Panorama Towers Condominium Unit Owners Association, Defendant(s)
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August 06, 2019 8:30 AM Motion

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Nylasia Packer
April Watkins

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Brown, Peter C.	Attorney
	Coulthard, William L	Attorney
	Gayan, Michael J	Attorney
	Polsenberg, Daniel F.	Attorney
	Whittaker, Cyrus S.	Attorney

JOURNAL ENTRIES

- Mr. Gayan argued the May 23, 2019 order was not a final judgment. Further statements by Mr. Gayan regarding the history of the case and indication that the use of Rule 54(B) is to avoid a new controlling law, and it is inappropriate use of Rule 54(B). Mr. Polsenberg argued there is no just reason for delay, these claims are already time barred, and it is appropriate use of Rule 54(B). COURT ORDERED, matter taken UNDER ADVISEMENT.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

October 17, 2019

A-16-744146-D Laurent Hallier, Plaintiff(s)
vs.
Panorama Towers Condominium Unit Owners Association, Defendant(s)

October 17, 2019 9:00 AM Motion to Amend

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Jill Chambers

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT:	Brown, Peter C.	Attorney
	Coulthard, William L	Attorney
	Gayan, Michael J	Attorney
	Gifford, Devin R.	Attorney
	Lynch, Francis I	Attorney
	Polsenberg, Daniel F.	Attorney

JOURNAL ENTRIES

- Argument by counsel. Court advised counsel that it read everything but was to review their authorities before issuing a decision via minute order.

EXHIBIT(S) LIST

Case No.: A744146

[Select Type] (Date: 2/12/19)

Dept. No.: 22

Judge: Susan Johnson

Plaintiff: Laurent Hallier

Court Clerk: Leri Cromer

[Select Type]: Ultima Ramulus

Counsel for Plaintiff: Devin Gifford

Jeff Laab & Scott Williams

Counsel for Defendant: Michael Egan

vs.

Defendant: Panorama Towers
Condominium Unit
Homeowners association

Hearing [SELECT TYPE] BEFORE THE COURT

[Select Type] EXHIBITS

[illegible]

Certification of Copy

State of Nevada }
County of Clark } SS:

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

PANORAMA TOWERS' CONDOMINIUM UNIT OWNERS' ASSOCIATION'S NOTICE OF APPEAL; PANORAMA TOWERS' CONDOMINIUM UNIT OWNERS' ASSOCIATION'S CASE APPEAL STATEMENT; NOTICE OF POSTING BOND; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER RE: MOTION TO CERTIFY JUDGMENT AS FINAL UNDER NRCP 54(B); NOTICE OF ENTRY OF ORDER RE: MOTION TO CERTIFY JUDGMENT AS FINAL UNDER NRCP 54(B); NOTICE OF ENTRY OF ORDER RE: MOTION TO CERTIFY JUDGMENT AS FINAL UNDER NRCP 54(B); FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF ENTRY OF ORDER AS TO PLAINTIFF'S COUNTER-DEFENDANT'S MOTION FOR SUMMARY JUDGMENT PURSUANT TO NRS 11.202(L) FILED FEBRUARY 11, 2019 AND DEFENDANT'S COUNTER-CLAIMANT'S CONDITIONAL COUNTER-MOTION FOR RELIEF PURSUANT TO NRS 40.695(2) FILED MARCH 1, 2019; ORDER RE: DEFENDANT'S MOTION TO ALTER OR AMEND COURT'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ENTERED MAY 23, 2019; NOTICE OF ENTRY OF ORDER RE: DEFENDANT'S MOTION TO ALTER OR AMEND COURT'S FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER ENTERED MAY 23, 2019; DISTRICT COURT MINUTES; EXHIBITS LIST

LAURENT HALLIER; PANORAMA TOWERS
I, LLC; PANORAMA TOWERS I MEZZ, LLC;
M.J. DEAN CONSTRUCTION, INC.,

Plaintiff(s),

vs.

PANORAMA TOWERS CONDOMINIUM
UNIT OWNERS' ASSOCIATION,

Defendant(s),

Case No: A-16-744146-D

Dept No: XXII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 18 day of February 2020.

Steven D. Grierson, Clerk of the Court

A handwritten signature in black ink, appearing to read 'Amanda Hampton', is written over a faint, circular court seal. The seal contains the text 'UNITED STATES DISTRICT COURT OF THE EIGHTH JUDICIAL DISTRICT LAS VEGAS, NEVADA'.

Amanda Hampton, Deputy Clerk
A-16-744146-D

75355

KEMP, JONES & COULTHARD, LLP

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3800 HOWARD HUGHES PARKWAY
SEVENTEENTH FLOOR
LAS VEGAS, NV 89169

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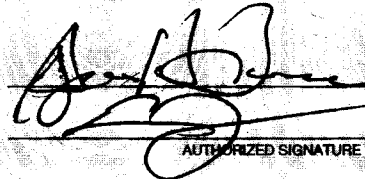
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\$250.00

Clerk of the Supreme Court

TO THE
ORDER
OF




AUTHORIZED SIGNATURE

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