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Attorneys for Plaintiff, Antoine Salloum

Electronically Filed
Mar 10 2020 03:24 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

DISTRICT COURT
CLARK COUNTY, NEVADA

ANTOINE SALLOUM,
Plaintiff,

vs.

BOYD GAMING CORPORATION, d/b/a
MAIN STREET STATION, a Delaware
corporation; DOES 1-50, ROE
CORPORATIONS 1-50, inclusive,
Defendants.

Case No.: A-19-804678-C

Dept. No. XXV

NOTICE OF APPEAL

NOTICE is hereby given that Antoine Salloum, Plaintiff in the above matter, hereby appeals to the Supreme Court of Nevada from the Order of Dismissal, entered on February 14, 2020.

DATED this 5th day of March, 2020.

WATKINS & LETOFSKY, LLP

/s/ Daniel R. Watkins

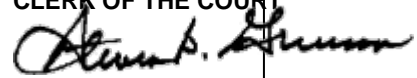
By: _____

Daniel R. Watkins, Esq.
Theresa M. Santos, Esq.
8215 S. Eastern Ave., Ste. 265
Las Vegas, NV 89123
Attorneys for Plaintiff, Antoine Salloum

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☒ BY ELECTRONIC SUBMISSION: submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

NOTICE OF APPEAL
-2-



ASTA
Daniel R. Watkins
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Office: (702) 901-7553; Fax: (702) 974-1297
Attorneys for Plaintiff, Antoine Salloum

DISTRICT COURT
CLARK COUNTY, NEVADA

ANTOINE SALLOUM,
Plaintiff,

Case No.: A-19-804678-C

Dept. No. XXV

vs.

BOYD GAMING CORPORATION, d/b/a
MAIN STREET STATION, a Delaware
corporation; DOES 1-50, ROE
CORPORATIONS 1-50, inclusive,
Defendants.

CASE APPEAL STATEMENT

1. **Name of appellant filing this case appeal statement:** Antoine Salloum
2. **Identify the judge issuing the decision, judgment, or order appealed from:**
Hon. Kathleen Delaney
3. **Identify each appellant and the name and address of counsel for each appellant:**

Antoine Salloum, Appellant

Counsel: WATKINS & LETOFSKY, LLP.
Daniel R. Watkins, Esq. (Bar No. 11881)
Theresa M. Santos, Esq. (Bar No. 9448)
8215 S. Eastern Ave., Ste. 265
Las Vegas, NV 89123

1 **4. Identify each respondent and the name and address of appellate counsel, if**
2 **known, for each respondent:**

3 Boyd Gaming Corp., Respondent

4 Counsel: SNELL & WILMER, LLP.
5 Paul Swenson Prior, Esq. (Bar No. 9324)
6 Hayley J. Cummings, Esq. (Bar No. 14858)
7 3883 Howard Hughes Pkwy. Ste. 1100
8 Las Vegas, NV 89169

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

13 All attorneys in this matter are licensed to practice law in Nevada.

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

16 Appellant was represented by retained counsel in District Court.

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

19 Appellant is represented by retained counsel on appeal.

20 **8. Indicate whether appellant was granted leave to proceed in forma pauperis, and**
21 **the date of entry of the district court order granting such leave:**

22 Not Applicable

23 **9. Indicate the date the proceedings commenced in the district court:**

24 November 1, 2019

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

28 Appellant, Antoine Salloum, filed a Complaint in Clark County District Court on
November 1, 2019, alleging discriminatory employment practices by Respondent,
Boyd Gaming Corp., d/b/a Main Street Station.

Respondent, Boyd Gaming Corp., filed a Motion to Dismiss, alleging that the
Complaint was time-barred.

1 The District Court granted the Motion to Dismiss.

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

5 This case has never been the subject of an appeal.

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

7 This appeal does not involve child custody or visitation.

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

10 This appeal involves the possibility of settlement.

11 DATED this 5th day of March, 2020.

12 WATKINS & LETOFSKY, LLP

13 */s/ Daniel R. Watkins*

14 By:

15 Daniel R. Watkins, Esq. (Bar No. 11881)
16 Theresa M. Santos, Esq. (Bar No. 9448)
17 8215 S. Eastern Ave., Ste. 265
18 Las Vegas, NV 89123
19 (702) 901-7553
20 Attorneys for Plaintiff, Antoine Salloum
21
22
23
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27
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on 6th Day of March, 2020, a true and correct copy of the foregoing
3 **CASE APPEAL STATEMENT** was served by the following method(s):

4
5 ☒ BY ELECTRONIC SUBMISSION: submitted to the above-entitled Court for electronic
6 filing and service upon the Court's Service List for the above-referenced case.

7 /s/ Farah Kachermeyer
8 Farah Kachermeyer
9 An Employee of Watkins & Letofsky
10
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CASE SUMMARY

CASE NO. A-19-804678-C

Antoine Salloum, Plaintiff(s)
vs.
Boyd Gaming Corporation, Defendant(s)

§
§
§
§
§

Location: **Department 25**
 Judicial Officer: **Delaney, Kathleen E.**
 Filed on: **11/01/2019**
 Cross-Reference Case Number: **A804678**

CASE INFORMATION

Statistical Closures

02/13/2020 Motion to Dismiss by the Defendant(s)

Case Type: **Employment Tort**

Case Flags: **Appealed to Supreme Court
Jury Demand Filed**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-19-804678-C
 Court Department 25
 Date Assigned 11/01/2019
 Judicial Officer Delaney, Kathleen E.

PARTY INFORMATION

Plaintiff Salloum, Antoine

Lead Attorneys

Watkins, Daniel R.
Retained
 702-901-7553(W)

Defendant Boyd Gaming Corporation

Prior, Paul S.
Retained
 7024645507(W)











DATE

EVENTS & ORDERS OF THE COURT

INDEX

11/01/2019	 Complaint Filed By: Plaintiff Salloum, Antoine <i>Complaint for Damages</i>
11/01/2019	 Demand for Jury Trial Filed By: Plaintiff Salloum, Antoine <i>Demand for Jury Trial</i>
11/01/2019	 Initial Appearance Fee Disclosure Filed By: Plaintiff Salloum, Antoine <i>Initial Appearance Fee Disclosure (NRS Chapter 19)</i>
11/01/2019	 Summons Electronically Issued - Service Pending Party: Plaintiff Salloum, Antoine <i>Summons</i>
11/06/2019	 Declaration Filed By: Plaintiff Salloum, Antoine <i>Declaration of Service</i>
11/25/2019	 Motion to Dismiss Filed By: Defendant Boyd Gaming Corporation <i>Boyd Gaming Corporation's Motion to Dismiss</i>

CASE SUMMARY**CASE NO. A-19-804678-C**

11/25/2019	 Initial Appearance Fee Disclosure Filed By: Defendant Boyd Gaming Corporation <i>Initial Appearance Fee Disclosures (NRS Chapter 19)</i>
11/26/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/06/2019	 Opposition to Motion to Dismiss Filed By: Plaintiff Salloum, Antoine <i>Opposition to Motion to Dismiss</i>
12/16/2019	 Minute Order (3:00 AM) (Judicial Officer: Delaney, Kathleen E.)
01/02/2020	 Reply in Support Filed By: Defendant Boyd Gaming Corporation <i>Boyd Gaming Corporation's Reply in Support of Motion to Dismiss</i>
01/07/2020	 Motion to Dismiss (9:00 AM) (Judicial Officer: Delaney, Kathleen E.) 01/07/2020, 01/14/2020 <i>Boyd Gaming Corporation's Motion to Dismiss</i>
02/13/2020	 Order Granting Motion Filed By: Defendant Boyd Gaming Corporation <i>Order Granting Motion to Dismiss</i>
02/13/2020	Order of Dismissal With Prejudice (Judicial Officer: Delaney, Kathleen E.) Debtors: Antoine Salloum (Plaintiff) Creditors: Boyd Gaming Corporation (Defendant) Judgment: 02/13/2020, Docketed: 02/14/2020
02/14/2020	 Notice of Entry of Order Filed By: Defendant Boyd Gaming Corporation <i>Notice of Entry of Order Granting Motion to Dismiss</i>
03/05/2020	 Notice of Appeal Filed By: Plaintiff Salloum, Antoine NOTICE OF APPEAL
03/06/2020	 Case Appeal Statement Filed By: Plaintiff Salloum, Antoine <i>Case Appeal Statement</i>

DATE**FINANCIAL INFORMATION****Defendant** Boyd Gaming Corporation

Total Charges

223.00

Total Payments and Credits

223.00

Balance Due as of 3/9/2020**0.00****Plaintiff** Salloum, Antoine

Total Charges

294.00

Total Payments and Credits

294.00

Balance Due as of 3/9/2020**0.00**

DISTRICT COURT CIVIL COVER SHEET

County, Nevada
 Case No. _____
(Assigned by Clerk's Office)

CASE NO: A-19-804678-C
Department 25

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

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
Attorney (name/address/phone):	Attorney (name/address/phone):

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

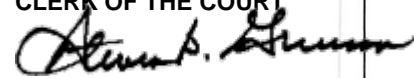
Civil Case Filing Types

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 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.

_____ Date	<u>/s/ Theresa M. Santos</u> Signature of initiating party or representative
---------------	---

See other side for family-related case filings.



Paul Swenson Prior, Esq.
Nevada Bar No. 9324
Hayley J. Cummings, Esq.
Nevada Bar No. 14858
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Email: sprior@swlaw.com
hcummings@swlaw.com

Attorneys for Defendant Boyd Gaming Corporation

DISTRICT COURT
CLARK COUNTY, NEVADA

ANTOINE SALLOUM,
Plaintiff,

v.

BOYD GAMING CORPORATION, d/b/a
MAIN STREET STATION, a Delaware
corporation; DOES 1-50, ROE
CORPORATIONS 1-50, inclusive,
Defendants.

Case No. A-19-804678-C
Dept. No. XXV

**ORDER GRANTING
MOTION TO DISMISS**

On November 25, 2019, Defendant Boyd Gaming Corporation ("Boyd" or the "Company") filed its Motion to Dismiss (the "Motion"). Plaintiff Antoine Salloum ("Plaintiff") filed an opposition thereto on December 6, 2019.

The Motion was originally set for a hearing on December 31, 2019, but was subsequently moved to January 7, 2020 to accommodate the Court's schedule. Boyd filed a reply to the opposition on January 2, 2020.

The Motion was argued on January 7, 2020 and continued argument was heard on January 14, 2020 at the hour of 9:00 a.m. in Dept. XXV of the Eighth Judicial District Court, in and for Clark County, Nevada, with Judge Kathleen E. Delaney presiding. Boyd appeared by and through its attorneys, Paul Swenson Prior, Esq. and Hayley J. Cummings, Esq. of the law firm of Snell &

Snell & Wilmer

LLP
LAW OFFICES
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169
702.784.5200

☒ Motion to Dismiss by Def(s)
☐ Voluntary Dismissal
☐ Stipulated Dismissal
☐ Summary Judgment
☐ Stipulated Judgment
☐ Default Judgment
☐ Judgment of Arbitration

1 Wilmer, L.L.P. Plaintiff appeared by and through his attorney, Theresa M. Santos, Esq. of the law
2 firm Watkins & Letofsky, L.L.P.

3 Having reviewed the papers and pleadings on file, the oral arguments of counsel, and the
4 applicable case law, pursuant to Nev. R. Civ. P. 12(b)(5), the Court makes the following Factual
5 Findings and Conclusions of Law:

6 **FACTUAL FINDINGS**

- 7 1. Plaintiff's employment with the Company ended on August 10, 2018.
- 8 2. The 180-day deadline for filing claims authorized by Chapter 613 of the Nevada
9 Revised Statutes in district court ran on February 11, 2019.
- 10 3. As of February 11, 2019, Plaintiff had not submitted a sworn complaint to either
11 the Nevada Equal Rights Commission ("NERC") or the Equal Employment Opportunity
12 Commission ("EEOC").
- 13 4. Plaintiff filed a charge of discrimination with the EEOC and against the Company
14 on June 10, 2019.
- 15 5. Plaintiff requested a right-to-sue letter on August 12, 2019.
- 16 6. The EEOC issued a right-to-sue letter to Plaintiff on August 13, 2019.
- 17 7. Plaintiff filed his Complaint against the Company on November 1, 2019.

18 **CONCLUSIONS OF LAW**

19 **A. Standard for Motion to Dismiss.**

20 1. A defendant is entitled to dismissal when a plaintiff fails "to state a claim upon
21 which relief can be granted." NRCP 12(b)(5). Dismissal for failure to state a claim is therefore
22 appropriate when the plaintiff cannot prove any set of facts that would entitle her to relief. *See Buzz*
23 *Stew, LLC v. City of North Las Vegas*, 124 Nev. 224, 227–28 (2008); *Morris v. Bank of America*,
24 110 Nev. 1274, 1277, 886 P.2d 454, 456 (1994).

25 2. In considering a motion to dismiss, the Court must accept the non-moving party's
26 factual allegations as true and construe them in its favor. *Buzz Stew*, 181 P.3d at 672; *Morris*, 110
27 Nev. at 1276, 886 P.2d at 456. However, the Court is "not bound to accept as true a legal conclusion
28 couched as a factual allegation." *Papasan v. Allain*, 478 U.S. 265, 286 (1986); *see also Pack v.*

1 *LaTourette*, 128 Nev. 264, 268, 277 P.3d 1246, 1248 (2012) (holding that the court must accept
2 *factual* allegations as true and then determine whether these allegations are *legally* sufficient to
3 satisfy the elements of the claim asserted).

4 **B. Plaintiff's Complaint Is Untimely Because Plaintiff Did Not Submit a Sworn Charge**
5 **of Discrimination Within Nev. Rev. Stat. § 613.430's 180-Day Deadline.**

6 3. Under NRS § 613.430, employment discrimination claims authorized by Chapter
7 613 of the Nevada Revised Statutes may not be "brought more than 180 days after the date of the
8 act complained of." Thus, per NRS § 613.430, a suit must be filed within 180 days of the allegedly
9 unlawful act (with time for filing tolled during the exhaustion period).

10 4. The alleged unlawful act triggering the 180-day period was, at the latest, Plaintiff's
11 termination on August 10, 2018.

12 5. The 180-day deadline expired on February 11, 2019.

13 6. Plaintiff did not submit a sworn complaint sufficient to toll NRS § 613.430's 180-
14 day period on or before February 11, 2019.

15 7. Without a sworn complaint submitted by February 11, 2019, Plaintiff's claims under
16 NRS § 613.330 expired and Plaintiff lost his right to sue.

17 8. Further, the unsigned letter, dated February 11, 2019, submitted with Plaintiff's
18 opposition to the Company's Motion was insufficient to toll NRS § 613.430's 180-day deadline.

19 9. Since more than 180 days passed between the unlawful act and Plaintiff's filing of
20 suit, Plaintiff's Complaint is time-barred and therefore dismissed with prejudice.

21 **B. The 90-Day Language Added to NRS § 613.430 by Senate Bill 177 Cannot Resurrect**
22 **Plaintiff's Expired State Law Discrimination Claims.**

23 10. Plaintiff's employment discrimination claims authorized by Chapter 613 of the
24 Nevada Revised Statutes expired on February 11, 2019.

25 11. As Plaintiff's employment discrimination claims were dead from a state law
26 standpoint on February 11, 2019, any events that occurred thereafter, including the Nevada
27 Legislature's amendments to NRS § 613.430, cannot revive Plaintiff's claims under NRS §
28 613.330.

1 **C. Equitable Tolling Does Not Apply.**

2 12. The Court considered equitable tolling, which Plaintiff raised for the first time at the
3 January 14, 2020 continued hearing.

4 13. The Court finds that equitable tolling does not apply because the 180-day deadline
5 set forth by NRS § 613.430 is a strict time, place, and manner requirement.

6 14. The statutory period set forth in NRS § 613.430 expired because Plaintiff failed to
7 comply with NRS § 613.430's strict time, place, and manner requirement.

8 15. As the law is clear on what is required, equitable tolling does not apply.

9 **ORDER**

10 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:


11 That Boyd's Motion to Dismiss is **GRANTED** and Plaintiff's Complaint against Boyd
12 is **DISMISSED WITH PREJUDICE** in its entirety.

13 DATED: FEBRUARY 10, 2020

14 
15 DISTRICT COURT JUDGE
16 

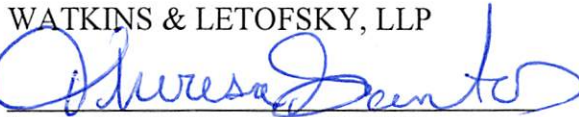
16 Respectfully submitted by:

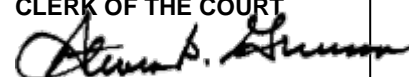
17 SNELL & WILMER L.L.P.

18 
19 Paul Swenson Prior, Esq. (9324)
20 Hayley J. Cummings, Esq. (14858)
21 3883 Howard Hughes Parkway, Suite 1100
22 Las Vegas, NV 89169
23 *Attorneys for Defendant Boyd Gaming Corporation*

22 Approved as to form and content:

23 WATKINS & LETOFSKY, LLP

24 
25 Daniel R. Watkins, Esq. (11881)
26 Theresa M. Santos, Esq. (9448)
27 8215 S. Eastern Ave., Ste. 265
28 Las Vegas, NV 89123
Attorneys for Plaintiffs Antoine Salloum



Paul Swenson Prior, Esq.
Nevada Bar No. 9324
Hayley J. Cummings, Esq.
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Email: sprior@swlaw.com
hcummings@swlaw.com

Attorneys for Defendant Boyd Gaming Corporation

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Defendants.

Case No. A-19-804678-C
Dept. No. XXV

**NOTICE OF ENTRY OF ORDER
GRANTING MOTION TO DISMISS**

PLEASE TAKE NOTICE that an Order Granting Motion to Dismiss was entered in the
above-captioned matter on February 10, 2020, a copy of which is attached hereto.

Dated: February 14, 2020

SNELL & WILMER L.L.P.

By: /s/ Paul Swenson Prior

Paul Swenson Prior
Nevada Bar No. 9324
Hayley J. Cummings, Esq.
Nevada Bar No. 14858
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
*Attorneys for Defendant Boyd Gaming
Corporation*

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING MOTION TO DISMISS** by method indicated below:

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document(s).
- ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.
- ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- ☐ **BY PERSONAL DELIVERY:** by causing personal delivery by, a messenger service with which this firm maintains an account, of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ **BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.
- ☐ **BY EMAIL:** by emailing a PDF of the document listed above to the email addresses of the individual(s) listed below.

DATED this 14th day of February, 2020.

/s/ Maricris Williams
An employee of SNELL & WILMER L.L.P.

4849-2274-3732

Paul Swenson Prior, Esq.
Nevada Bar No. 9324
Hayley J. Cummings, Esq.
Nevada Bar No. 14858
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Facsimile: (702) 784-5252
Email: sprior@swlaw.com
hcummings@swlaw.com

Attorneys for Defendant Boyd Gaming Corporation

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

1 Wilmer, L.L.P. Plaintiff appeared by and through his attorney, Theresa M. Santos, Esq. of the law
2 firm Watkins & Letofsky, L.L.P.

3 Having reviewed the papers and pleadings on file, the oral arguments of counsel, and the
4 applicable case law, pursuant to Nev. R. Civ. P. 12(b)(5), the Court makes the following Factual
5 Findings and Conclusions of Law:

6 **FACTUAL FINDINGS**

- 7 1. Plaintiff's employment with the Company ended on August 10, 2018.
- 8 2. The 180-day deadline for filing claims authorized by Chapter 613 of the Nevada
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25 2. In considering a motion to dismiss, the Court must accept the non-moving party's
26 factual allegations as true and construe them in its favor. *Buzz Stew*, 181 P.3d at 672; *Morris*, 110
27 Nev. at 1276, 886 P.2d at 456. However, the Court is "not bound to accept as true a legal conclusion
28 couched as a factual allegation." *Papasan v. Allain*, 478 U.S. 265, 286 (1986); *see also Pack v.*

1 *LaTourette*, 128 Nev. 264, 268, 277 P.3d 1246, 1248 (2012) (holding that the court must accept
2 *factual* allegations as true and then determine whether these allegations are *legally* sufficient to
3 satisfy the elements of the claim asserted).

4 **B. Plaintiff's Complaint Is Untimely Because Plaintiff Did Not Submit a Sworn Charge**
5 **of Discrimination Within Nev. Rev. Stat. § 613.430's 180-Day Deadline.**

6 3. Under NRS § 613.430, employment discrimination claims authorized by Chapter
7 613 of the Nevada Revised Statutes may not be "brought more than 180 days after the date of the
8 act complained of." Thus, per NRS § 613.430, a suit must be filed within 180 days of the allegedly
9 unlawful act (with time for filing tolled during the exhaustion period).

10 4. The alleged unlawful act triggering the 180-day period was, at the latest, Plaintiff's
11 termination on August 10, 2018.

12 5. The 180-day deadline expired on February 11, 2019.

13 6. Plaintiff did not submit a sworn complaint sufficient to toll NRS § 613.430's 180-
14 day period on or before February 11, 2019.

15 7. Without a sworn complaint submitted by February 11, 2019, Plaintiff's claims under
16 NRS § 613.330 expired and Plaintiff lost his right to sue.

17 8. Further, the unsigned letter, dated February 11, 2019, submitted with Plaintiff's
18 opposition to the Company's Motion was insufficient to toll NRS § 613.430's 180-day deadline.

19 9. Since more than 180 days passed between the unlawful act and Plaintiff's filing of
20 suit, Plaintiff's Complaint is time-barred and therefore dismissed with prejudice.

21 **B. The 90-Day Language Added to NRS § 613.430 by Senate Bill 177 Cannot Resurrect**
22 **Plaintiff's Expired State Law Discrimination Claims.**

23 10. Plaintiff's employment discrimination claims authorized by Chapter 613 of the
24 Nevada Revised Statutes expired on February 11, 2019.

25 11. As Plaintiff's employment discrimination claims were dead from a state law
26 standpoint on February 11, 2019, any events that occurred thereafter, including the Nevada
27 Legislature's amendments to NRS § 613.430, cannot revive Plaintiff's claims under NRS §
28 613.330.

1 **C. Equitable Tolling Does Not Apply.**

2 12. The Court considered equitable tolling, which Plaintiff raised for the first time at the
3 January 14, 2020 continued hearing.

4 13. The Court finds that equitable tolling does not apply because the 180-day deadline
5 set forth by NRS § 613.430 is a strict time, place, and manner requirement.

6 14. The statutory period set forth in NRS § 613.430 expired because Plaintiff failed to
7 comply with NRS § 613.430's strict time, place, and manner requirement.



8 15. As the law is clear on what is required, equitable tolling does not apply.

9 **ORDER**

10 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:


11 That Boyd's Motion to Dismiss is **GRANTED** and Plaintiff's Complaint against Boyd
12 is **DISMISSED WITH PREJUDICE** in its entirety.

13 DATED: FEBRUARY 10, 2020

14 
15 DISTRICT COURT JUDGE
16 


16 Respectfully submitted by:

17 SNELL & WILMER L.L.P.

18 
19 Paul Swenson Prior, Esq. (9324)
20 Hayley J. Cummings, Esq. (14858)
21 3883 Howard Hughes Parkway, Suite 1100
22 Las Vegas, NV 89169
23 *Attorneys for Defendant Boyd Gaming Corporation*

22 Approved as to form and content:

23 WATKINS & LETOFSKY, LLP

24 
25 Daniel R. Watkins, Esq. (11881)
26 Theresa M. Santos, Esq. (9448)
27 8215 S. Eastern Ave., Ste. 265
28 Las Vegas, NV 89123
Attorneys for Plaintiffs Antoine Salloum

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

December 16, 2019

A-19-804678-C	Antoine Salloum, Plaintiff(s) vs. Boyd Gaming Corporation, Defendant(s)
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December 16, 2019 3:00 AM Minute Order

HEARD BY: Delaney, Kathleen E.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Shelley Boyle

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- The Clerk's Office having previously set this matter for hearing on Defendant Boyd Gaming Corporation's Motion to Dismiss (Defendant's Motion) on December 31, 2019; and for purposes of the convenience of the Court due to an unexpected change in availability, COURT ORDERS the hearing on Defendant's Motion currently set for Tuesday, December 31, 2019 at 9:00 a.m. re-set to Tuesday, January 7, 2020 at 9:00 a.m.

CLERK'S NOTE: A copy of this minute order was served on all attorneys of record via the Court's electronic filing system. /sb 12/16/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

January 07, 2020

A-19-804678-C Antoine Salloum, Plaintiff(s)
vs.
Boyd Gaming Corporation, Defendant(s)

January 07, 2020 9:00 AM Motion to Dismiss

HEARD BY: Delaney, Kathleen E. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Shelley Boyle

RECORDER:

REPORTER: Robert Cangemi

PARTIES

PRESENT: Prior, Paul S. Attorney
Santos, Theresa Attorney

JOURNAL ENTRIES

- Extensive argument and colloquy regarding the timing of the filing of the Complaint, changes to state laws and the remedies available to Pltf., the application of NRS 223.160, and Pltf's. filing with the Equal Employment Opportunity Commission (EEOC). Mr. Prior argued Pltf. had 180 days available to statutorily pursue a claim in Court. Ms. Santos argued Pltf. was filing and preparing matters with the EEOC; they realized the laws changed in Nevada and decided to file a claim there as well. COURT ORDERED, matter CONTINUED. COURT ADVISED, no supplemental briefing is required.

CONTINUED TO: 01/14/20 9:00 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Employment Tort

COURT MINUTES

January 14, 2020

A-19-804678-C	Antoine Salloum, Plaintiff(s) vs. Boyd Gaming Corporation, Defendant(s)
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January 14, 2020 9:00 AM Motion to Dismiss

HEARD BY: Delaney, Kathleen E. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Shelley Boyle

RECORDER:

REPORTER: Dana J. Tavaglione

PARTIES

PRESENT:	Cummings, Hayley J.	Attorney
	Prior, Paul S.	Attorney
	Santos, Theresa	Attorney

JOURNAL ENTRIES

- Additional arguments oral argument by counsel. COURT ORDERED, Deft's. Motion GRANTED, and STATED EXTENSIVE FINDINGS regarding the 90 day tolling period, right to sue letter, and Federal and State claims being pursued. Court believes the 180 day period for the right to sue was lost after February, 2019. Adding, it does appear that the 180 days lapsed before any sworn compliant was actually submitted, and the date that would have had to be done by was February 11th, 2019, and it does not appear to have occurred. Therefore, the claim was essentially dead from a State law claim standpoint. What ever occurred thereafter can not resurrect it even if the statute was applicable to allow the 90 days to apply.

COURT ALSO FINDS, equitable tolling does not apply, not because counsel has been on board for so long, but because this is a strict time placed matter requirement. It wasn't met. Despite the intentions of the parties, the law is evident on what is allowed and was isn't allowed, and it didn't occur. ADDITIONAL FINDINGS by COURT. Mr. Prior is to prepare the Order, provide a copy to opposing counsel to review as to form and content, and return it back to the Court within 10 days.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

DANIEL R. WATKINS
8215 S. EASTERN AVE., STE. 265
LAS VEGAS, NV 89123

DATE: March 9, 2020
CASE: A-19-804678-C

RE CASE: ANTOINE SALLOUM vs. BOYD GAMING CORPORATION dba MAIN STREET STATION

NOTICE OF APPEAL FILED: March 5, 2020

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING MOTION TO DISMISS; NOTICE
OF ENTRY OF ORDER GRANTING MOTION TO DISMISS; DISTRICT COURT MINUTES;
NOTICE OF DEFICIENCY

ANTOINE SALLOUM,

Plaintiff(s),

vs.

BOYD GAMING CORPORATION dba MAIN
STREET STATION,

Defendant(s),

Case No: A-19-804678-C

Dept No: XXV

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 9 day of March 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk