

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

ANTOINE SALLOUM,
Appellant,
vs.
BOYD GAMING CORP., d/b/a MAIN STREET
STATION, a Delaware corporation; DOES
1-50, ROE CORPORATIONS 1-50,
Respondent

No. 80769

Electronically Filed
Apr 10 2020 10:45 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

DOCKETING STATEMENT
CIVIL APPEALS

GENERAL INFORMATION

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

WARNING

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

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

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

1. Judicial District Eighth Department XXV
County Clark Judge Hon. Kathleen E. Delaney
District Ct. Case No. A-19-804678-C

2. Attorney filing this docketing statement:

Attorney Daniel R. Watkins / Theresa M. Santos Telephone 702 901-7553
Firm Watkins & Letofsky, LLP.
Address 8215 S. Eastern Ave., Ste. 265; Las Vegas, NV 89123

Client(s) Antoine Salloum

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

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

Attorney Paul Swenson Prior Telephone 702-784-5200
Firm Snell & Wilmer, LLP.
Address 3883 Howard Hughes Pkwy, Ste. 1100 89169

Client(s) Boyd Gaming Corp. d/b/a Main Street Station

Attorney _____ Telephone _____
Firm _____
Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

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

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

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

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

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

N/A

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

N/A

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

Appellant filed an action on November 1, 2019 alleging sex discrimination, age discrimination and hostile work environment under NRS 613.330 et seq.

Respondent filed a Motion to Dismiss on November 25, 2019, alleging that the Complaint was untimely and that the wrong defendant had been named.

An Order Granting the Motion to Dismiss was entered on February 14, 2020.

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

1. Whether Appellant timely submitted a sworn charge of discrimination within Nev. Rev. Stat. §613.430's 180-day deadline.
2. Whether the 90-day language added to NRS §613.430 that became effective on October 1, 2019, extended the deadline for Appellant to file an action in District Court.
3. Whether any miscalculation by Appellant is excusable under the Doctrine of Equitable Tolling.

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

Appellant is unaware of any similar pending proceedings.

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

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

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

☒ A substantial issue of first impression

☐ An issue of public policy

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

☐ A ballot question

If so, explain: This appeal involves an issue of first impression - whether NRS 613.430, amended by SB 177 in the 2019 legislative session and which went into effect on October 1, 2019, extended the deadline for Appellant to file an action in District Court.

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

Because this appeal involves a matter of first impression, it is presumptively retained by the Supreme Court. NRAP 17(a)(10).

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

Was it a bench or jury trial? N/A

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from Feb 10, 2020

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

17. Date written notice of entry of judgment or order was served Feb 14, 2020

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

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

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

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

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed Mar 5, 2020

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

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

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

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

(a)

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

(b) Explain how each authority provides a basis for appeal from the judgment or order:

Respondent filed a 12(b)(5) Motion to Dismiss, alleging that Appellant's Complaint was untimely. The District Court granted Respondent's Motion and dismissed the case with prejudice.

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

(a) Parties:

Antoine Salloum - Appellant

Boyd Gaming Corporation, d/b/a Main Street Station - Respondent

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

N/A

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

Appellant filed an employment discrimination action on November 1, 2019.

Respondent filed a Motion to Dismiss on November 25, 2019.

The District Court filed an Order granting the Motion to Dismiss on February 14, 2020.

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

☒ Yes

☐ No

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

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

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

☐ Yes

☒ No

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

☐ Yes

☒ No

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

Order is independently appealable under NRAP 3A(b)

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

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

VERIFICATION

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

Antoine Salloum
Name of appellant

Daniel R. Watkins / Theresa M. Santos
Name of counsel of record

Apr 10, 2020
Date

Theresa M. Santos
Signature of counsel of record

Clark County, Nevada
State and county where signed

CERTIFICATE OF SERVICE

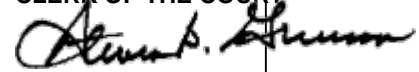
I certify that on the 10th day of April, 2020, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Paul Swenson Prior, Esq.
Snell & Wilmer, LLP.
3883 Howard Hughes Pkwy, Ste. 1100
Las Vegas, NV 89169

Dated this 10th day of April, 2020

Farah Kachermeyer
Signature



COMP

Daniel R. Watkins
Nevada State Bar No. 11881
DW@wl-llp.com
Theresa M. Santos
Nevada State Bar No. 9448
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Attorneys for Plaintiff, Antoine Salloum

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

DISTRICT COURT
CLARK COUNTY, NEVADA

ANTOINE SALLOUM,
Plaintiff,

Case No.:

Dept. No.:

vs.

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

COMPLAINT FOR DAMAGES

COMES NOW, Antoine Salloum (hereinafter "PLAINTIFF") and files this civil action against Defendants, and each of them, for violations of Nevada Revised Statutes §613.330 et seq.; and related claims under Nevada law, seeking damages, and alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction and venue over this action pursuant to NRS §3.040 and §613.333 et seq., which confer jurisdiction to address the deprivation of rights, privileges and immunities secured by Nevada law.

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2. Venue is proper in the Eighth Judicial District Court because the unlawful employment practices alleged herein were committed in whole or in part in Clark County, Nevada.

3. Plaintiff has exhausted his administrative remedies.

4. All conditions precedent to jurisdiction under section NRS §613.310 et seq. have occurred or been complied with:

5. A charge of employment discrimination was filed with the Equal Employment Opportunity Commission ("EEOC") within 180 days of the commission of the unlawful employment practice alleged herein and / or within 300 days of PLAINTIFF instituting proceedings with a State or local agency with authority to grant or seek relief from such unlawful employment practices alleged herein:

6. A Notice of Right to Sue in state or federal court was received from the EEOC, dated August 13, 2019. (A true and correct copy of said letter is attached and incorporated herein as Exhibit “1”.)

7. This complaint is filed within 90 days of receipt of the EEOC's Notification of Right to Sue.

PARTIES

PLAINTIFF

8. Plaintiff, ANTOINE SALLOUM, is a qualified/eligible “employee” of Defendant, BOYD GAMING., within the meaning of Nevada Revised Statutes §608.101 and 613.010 et seq. and resided in Clark County, Nevada.

DEFENDANTS

9. Defendant, BOYD GAMING CORPORATION, (hereinafter “BOYD” or “Defendant”) is a Delaware corporation qualified to do business in Nevada. Defendant employs 15 or more employees and as such, is an "employer" within the meaning of Nevada Revised Statutes §608.011 and 613.310. Defendant has offices located at 3883 Howard Hughes Parkway, Ninth Floor, Las Vegas, Nevada, 89169.

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10. The true names and capacities, whether individual, corporate, associate, or otherwise, of DOES 1 through 50 and ROE CORPORATIONS 1-50, inclusive, are unknown to Plaintiff at this time, who therefore sues said Defendants by such fictitious names. PLAINTIFF is informed and believes and thereon alleges that each of the fictitiously named DEFENDANTS are in some way responsible for, or participated in, or contributed to, the matters and things complained of herein, and are legally responsible in some manner. PLAINTIFF will seek leave to amend this Complaint when the true names, capacities, participation and responsibilities have been ascertained.

STATEMENT OF FACTS

11. PLAINTIFF is a 66 year old male with a date of birth of July 28, 1953. PLAINTIFF is a former employee of Defendant BOYD, where he worked as a food and beverage manager. At the time of his employment, PLAINTIFF'S pay included a salary of \$48,300.00 annually.

12. PLAINTIFF is a member of the group of individuals over the age of 40 protected by the civil rights law referenced herein.

13. PLAINTIFF was employed by Defendant from April 23, 2003 until August 15, 2018.

14. In approximately 2017, the general manager and the director at Main Street Station retired. Terri Mercer, a female, was named the new director.

15. Terri Mercer engaged in misandrist behavior by harassing the male employees at the Main Street Station.

16. Terri Mercer's harassing conduct consisted of speaking to Plaintiff in condescending tones to make him feel inferior, speaking to him in verbally abusive language in front of management and employees and screaming at him in front of guests.

17. On or about January 20, 2018, Plaintiff was making his rounds to check on the status of the Garden Court Buffet and to see if the supervisor of the buffet, a female, needed assistance. When Plaintiff arrived, Terri Mercer approached him, noted that the salad bowl at the salad bar was empty, blamed him for the missing salad bowl, and told him, in front of his subordinates that he was not doing his job as a manager.

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1 18. On or about January 30, 2018, Jennifer Billings, the food and beverage supervisor, a
2 female, asked Plaintiff, the food and beverage manager, if she could leave early for personal
3 reasons. Plaintiff, as food and beverage manager, had direct authority over the food and
4 beverage supervisors. Plaintiff granted the request. When Terri Mercer learned of this event,
5 she became angry and instructed Jennifer Billings never to ask Plaintiff for any changes to the
6 schedule because "Antoine is not your boss."

7 19. On or about February 4, 2018, Plaintiff was working in the Triple Seven Brewpub for
8 a promotional Super Bowl Party, which was first come, first serve. During the game, in front of
9 guests and employees, Terri Mercer yelled at Plaintiff, accusing him of accepting bribes for
10 reservations. "How much money do you have in your pockets?" she asked in front of guests and
11 employees.

12 20. On or about June 9, 2018, Defendant's Human Resources department investigated a
13 claim that Plaintiff was borrowing money from subordinates. Defendant closed the investigation
14 because it was unable to substantiate the claims.

15 21. In early July, 2018, Plaintiff received a card from Defendant's human resources
16 department, inviting him to attend the Garden Court Buffet with a friend, free of charge, for his
17 birthday. It was Defendant's standard practice to send these invitations to every employee and
18 manager for their birthdays.

19 22. On July 28, 2018, Plaintiff's birthday, Plaintiff was walking through the California
20 Hotel, on his way to meet his friend at the Garden Court Buffet at Main Street Station, when he
21 encountered Terri Mercer. Terri Mercer asked Plaintiff where he was going and Plaintiff
22 informed her that he was celebrating his birthday at the Garden Court Buffet. Terri Mercer told
23 Plaintiff, "You cannot go to the buffet and eat tonight." When Plaintiff asked why he could not
24 go to the buffet, Terri Mercer refused to give him an explanation, telling him, "As your
25 supervisor, I am giving you a direct order not to go to the buffet tonight."

26 23. Plaintiff proceeded to the Garden Court Buffet to meet his friend and inform his
27 friend that they needed to eat somewhere else. Terri Mercer followed Plaintiff, stood in front of
28 the buffet, and told him in front of his guest and customers, "You are not coming in here."

1 Plaintiff replied that he understood and would go to the California or the Fremont. Terri Mercer
2 replied, again in front of Plaintiff's friend and other patrons, "I don't want you to go to either
3 one. Maybe you should go somewhere else and not a Boyd property"

4 24. On or about August 9, 2018, Terri Mercer called Plaintiff to her office and questioned
5 him about borrowing money from team members. When Plaintiff adamantly denied borrowing
6 money from team members, Terri Mercer smirked, laughed and shook her head in a manner that
7 Plaintiff understood to mean that she did not believe him.

8 25. Later in the afternoon on August 9, 2018, Terri Mercer placed Plaintiff on suspension
9 and informed him he was under investigation for borrowing money from employees and or
10 soliciting and/or coercing employees to donate to charitable causes.

11 26. Plaintiff's suspension was due, in part, to claims made by cocktail server Eva Pilapil
12 that Plaintiff borrowed money from her husband's PayDay loan company.

13 27. Plaintiff denied the accusations and requested proof and documentation to support
14 Ms. Pilapil's accusations. Defendant never provided any proof to support the accusations.

15 28. On or about August 15, 2018, Terri Mercer terminated Plaintiff's employment for
16 allegedly borrowing money from employees and/or soliciting and/or coercing employees to
17 donate to charitable causes.

18 29. Defendant replaced Plaintiff with a younger, female employee.

19 30. During Plaintiff's employment, Plaintiff regularly fielded customer complaints about
20 food and beverage supervisor, Jennifer Billings, for her rude and unprofessional conduct.
21 Guests complained about Jennifer Billings to both Plaintiff and Terri Mercer nearly daily.
22 Despite multiple complaints from customers regarding Jennifer Billings' rude and unprofessional
23 demeanor, Terri Mercer promoted her.

24 31. Throughout the time of Plaintiff's employment that Terri Mercer was director of
25 Main Street Station, Terri Mercer never fired any female employees.

26 32. Throughout the time of Plaintiff's employment that Terri Mercer was director of
27 Main Street Station, Terri Mercer fired several male employees, including Plaintiff.

28 //

33. At the time of his termination from employment, PLAINTIFF was qualified for the position he held of food and beverage manager.

COUNT I

SEX (GENDER) DISCRIMINATION

NV Rev. Stat. §613.330 *et seq.*

34. PLAINTIFF hereby incorporates paragraphs 1 through 33 of this Complaint as though fully set forth herein.

35. The subjection of Plaintiff to disparate treatment and adverse employment actions by defendants in whole or substantial part because of his sex (male) was in violation of the NRS 613.330 et. seq.

36. Defendant BOYD's violation of the NRS 613.330 et. seq. was intentional, willful and deliberate and Plaintiff seeks liquidated damages for each violation.

37. Defendant BOYD's unlawful actions were intentional, willful, malicious and/or done with reckless disregard for PLAINTIFF'S statutorily protected rights.

38. Defendant BOYD, through its agents or supervisors, failed to adequately supervise, control, discipline, and/or otherwise penalize the conduct, acts, and failures to act of BOYD as described above and thereby ratified the unlawful conduct of its agents or supervisors.

39. As a direct and proximate result of Defendant BOYD's discriminatory actions as alleged herein, Plaintiff has been made to suffer mental anguish and emotional distress, loss of employment and future employment opportunities, and loss of wages and benefits. Plaintiff is reasonably certain to continue to suffer these damages in the future.

40. As a result of Defendant's conduct, PLAINTIFF has sustained damages in excess of \$15,000.00 and requests relief as described in the Prayer for Relief below.

COUNT II

AGE DISCRIMINATION

NV Rev. Stat. §613.330 *et seq.*

41. PLAINTIFF hereby incorporates paragraphs 1 through 40 of this Complaint as though fully set forth herein.

42. The subjection of Plaintiff to disparate treatment and adverse employment actions by defendants in whole or substantial part because of his age was in violation of NRS 613.330 et seq.

43. Defendant BOYD's violation of NRS 613.330 was intentional, willful and deliberate and Plaintiff seeks liquidated damages for each violation.

44. Defendant BOYD's unlawful actions were intentional, willful, malicious and/or done with reckless disregard for PLAINTIFF'S statutorily protected rights.

45. Defendant BOYD, through its agents or supervisors, failed to adequately supervise, control, discipline, and/or otherwise penalize the conduct, acts, and failures to act of BOYD as described above and thereby ratified the unlawful conduct of its agents or supervisors.

46. As a direct and proximate result of Defendant BOYD's discriminatory actions as alleged herein, Plaintiff has been made to suffer mental anguish and emotional distress, loss of employment and future employment opportunities, and loss of wages and benefits. Plaintiff is reasonably certain to continue to suffer these damages in the future. Plaintiff is entitled to the rights and remedies at law provided by NRS 613.330 et. seq., including actual damages, liquidated damages, and attorneys' fees, in an amount to be proven at trial.

47. As a result of Defendant's conduct, PLAINTIFF has sustained damages in excess of \$15,000.00 and requests relief as described in the Prayer for Relief below.

COUNT III

HOSTILE WORK ENVIRONMENT

NV Rev. Stat. §613.330 *et seq.*

48. PLAINTIFF hereby incorporates paragraphs 1 through 47 of this Complaint as though fully set forth herein.

49. PLAINTIFF was subjected to verbally abusive, condescending, demeaning language during his employment with BOYD which was perpetrated upon him by Defendant, and that this conduct was based upon and directed at PLAINTIFF by reason of his gender.

50. The conduct was unwelcome.

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1 51. The conduct was sufficiently severe or pervasive to alter the conditions of the
2 PLAINTIFF's employment and create an abusive and/or hostile work environment;

3 52. This harassing and discriminatory conduct was sufficiently severe and pervasive so as
4 to unreasonably interfere with PLAINTIFF'S physical health, work performance and so as to
5 create an intimidating, hostile and offensive working environment.

6 53. Plaintiff perceived the working environment to be abusive or hostile.

7 54. During the times referenced herein, PLAINTIFF was subject to a number of
8 inappropriate comments made by his supervisor, Terri Mercer. Ms. Mercer made highly
9 inappropriate comments to PLAINTIFF such as berating him in front of subordinates for an error
10 made by supervisor, refusing to allow him to redeem his BOYD-issued birthday certificate at a
11 Boyd property, birthday certificate, and accusing him of privately charging patrons for reserved
12 seating at a Super Bowl party.

13 55. As a direct and proximate result of the harassing and hostile environment of BOYD
14 and his supervisors, PLAINTIFF suffered great embarrassment, humiliation and mental and
15 physical anguish.

16 56. Defendant's unlawful actions were intentional, willful, malicious and/or done with
17 reckless disregard for PLAINTIFF'S federally protected rights.

18 57. BOYD through its agents or supervisors failed to adequately supervise, control,
19 discipline, and/or otherwise penalize the conduct, acts, and failures to act of BOYD described
20 above thereby ratifying the unlawful conduct of its agents or supervisors.

21 58. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff has
22 suffered damages including, but not limited to, a loss of income and benefits, and has further
23 suffered emotional distress and other general damages.

24 59. In doing the things alleged herein, Defendants' conduct was despicable, and
25 Defendants acted toward Plaintiff with malice, oppression, fraud, and with willful and conscious
26 disregard of Plaintiff's rights, entitling Plaintiff to an award of punitive damages. The
27 Defendants' conduct described herein was engaged in by managing agents for Defendant and/or
28 ratified by managing agents.

1 60. As a result of Defendant's conduct, PLAINTIFF has sustained damages in excess of
2 \$15,000.00 and requests relief as described in the Prayer for Relief below.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, PLAINTIFF prays that this Court grant the following relief:

- 5 A. Grant PLAINTIFF economic loss including front and back pay, plus interest.
6 B. Grant general and special damages in amounts according to proof..
7 C. Grant liquidated damages in amounts according to proof.
8 D. Grant punitive damages to deter and punish the defendants;
9 E. Grant reasonable attorneys' fees;
10 F. Grant costs of suit incurred herein; and
11 G. Grant such other and further relief as the court deems just and proper.

12
13 DATED this 1st day of November, 2019.

WATKINS & LETOFSKY, LLP

14 */s/ Daniel R. Watkins*

15 By:

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

Exhibit 1

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Antoine S. Salloum
c/o Theresa M. Santos
WATKINS & LETOFSKY LLP
8215 S. Eastern Ave., Suite 265
Las Vegas, NV 89123

From: Las Vegas Local Office
333 Las Vegas Blvd South
Suite 5560
Las Vegas, NV 89101

☐ On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
487-2019-00649	Amy Nigro, Investigator	(702) 388-5014

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- ☐ More than 180 days have passed since the filing of this charge.
- ☒ Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- ☒ The EEOC is terminating its processing of this charge.
- ☐ The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- ☒ The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court **WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- ☐ The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



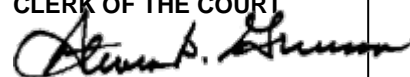
Patricia A. Kane,
Acting Director

8/13/19

(Date Mailed)

Enclosures(s)

CC: Sarah Bassett
Associate General Counsel
BOYD GAMING CORPORATION
6465 S Rainbow Blvd.
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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

**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

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Nevada Bar No. 9324
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3883 Howard Hughes Parkway, Suite 1100
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*Attorneys for Defendant Boyd Gaming
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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

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ANTOINE SALLOUM,
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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 &

<input checked="" type="checkbox"/> Motion to Dismiss by Def(s)	<input type="checkbox"/> Voluntary Dismissal
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Stipulated 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
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 BJC

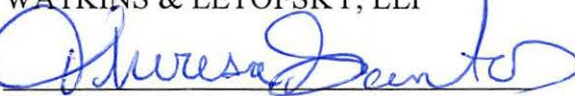
16 Respectfully submitted by:

17 SNELL & WILMER L.L.P.

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22 Approved as to form and content:

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