

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Airbnb, Inc., a Foreign corporation,
Appellant.
vs.
Eric Rice, et al.,
Respondents.

No. 81346

Electronically Filed
 Jul 09 2020 02:40 p.m.
 Elizabeth A. Brown
 Clerk of Supreme Court

DOCKETING
 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 XXVI
County of Clark Judge Honorable Gloria Sturman
District Ct. Case No. A-19-801549-c

2. Attorney filing this docketing statement:

Attorney Jeff Silvestri Telephone (702) 873-4100

Firm McDonald Carano LLP

Address 2300 W. Sahara Ave., Suite 1200
Las Vegas, NV 89102

Client(s) Airbnb, Inc.

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 Jordan P. Schnitzer Telephone (702) 960-4050

Firm Schnitzer Law Firm

Address 9205 W. Russel Road, Suite 240
Las Vegas, NV 89148

Client(s) Bryan Lovett

Attorney Michael C. Kane Telephone 702 776-3333

Firm The 702 Firm

Address 400 South 7th Street Suite/Floor 4
Las Vegas, Nevada 89101

Client(s) Eric Rice and Jefferson Temple as special admin. of the estate of Raheem Rice

(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 type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input 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 checked="" type="checkbox"/> Other disposition (specify): <u>See Attached</u> |

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

- Child Custody
- Venue
- Termination of parental rights

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

None

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

None

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

Respondents Bryce Lovett and Raheem Rice were on their way to a party at a house that had been rented through Appellant Airbnb's website. Before they arrived at the party, both were shot by an unknown assailant. Raheem Rice died and Bryce Lovett was injured. Bryan Lovett, the Estate of Raheem Rice, and Raheem Rice's father (Eric Rice), filed a lawsuit against Airbnb and others seeking damages.

Both Raheem Rice and Eric Rice had signed up to use Airbnb's website and had agreed to Airbnb's Terms of Service. The Airbnb Terms of Service contained an agreement to arbitrate any disputes that arose between Eric Rice and/or Raheem Rice and Airbnb. Airbnb filed a Motion to Compel Arbitration and a Motion to Stay all proceedings based on that agreement. The District Court denied the Motion to Compel and the Motion to Stay all Proceedings, and Airbnb filed this appeal.

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

The arbitration agreement at issue delegated to the arbitrator the gateway issue of whether the arbitration agreement could be enforced or applied to the dispute at issue. Airbnb filed a Motion to Compel Arbitration and to Stay all Proceedings to allow the arbitrator to decide if the arbitration agreement applied to the "dispute" of the Plaintiffs' Complaint. The District Court denied the Motion to Compel Arbitration, concluding that the arbitration agreement did not apply to the dispute, thereby taking the issue away from the arbitrator.

Did the District Court err in denying Airbnb's Motion to Compel Arbitration and Motion to Stay all Proceedings when both Eric Rice and Raheem Rice had consented to Airbnb's Terms of Service which expressly granted to the arbitrator the authority to decide if the arbitration agreement applied to the dispute?

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

None

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

N/A

Yes

No

If not, explain:

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

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

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

A substantial issue of first impression

An issue of public policy

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

A ballot question

If so, explain: See Attachment

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:

The case should be presumptively retained by the Supreme Court pursuant to NRAP 17(a) (12), as this case raises as a principal issue a question of statewide public importance, i.e., whether the United States Supreme Court precedent regarding the Federal Arbitration Act must be followed by the state district court.

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 May 28, 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 Jun 15, 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 Jun 15, 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)

NRAP 3A(b)(1)

NRS 38.205

NRAP 3A(b)(2)

NRS 233B.150

NRAP 3A(b)(3)

NRS 703.376

Other (specify) NRS 38.247(1)(a). Denial of Motion to Compel Arbitration

(b) Explain how each authority provides a basis for appeal from the judgment or order: Airbnb filed a Motion to Compel Arbitration and to Stay all Proceedings. The District Court denied the motion. Pursuant to NRS 38.247(1)(a) an appeal may be taken from an order denying a motion to compel arbitration;

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

(a) Parties:

See Attachment

(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:

Defendants Zheng Trust c/o Fenex Consulting, Jasper Han, Shenandoah Southwest Inc., and Li Jun Zhang are not parties to this appeal as they were not the subject of the Motion to Compel Arbitration filed by Appellant Airbnb, Inc.

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.

Bryan Lovett, Eric Rice and the Estate of Raheem Rice asserted claims for Negligence, Negligent Security, Negligence per se, and Respondeat Superior against all Defendants. There has been no formal disposition of any claims.

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:

See Attachment

(b) Specify the parties remaining below:
See Attachment

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

Yes

No

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

Yes

No

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

The order is independently appealable pursuant to NRS 38.247(1)(a)

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.

Airbnb, Inc.
Name of appellant

Jeff Silvestri
Name of counsel of record

July 9, 2020
Date

/s/ Jeff Silvestri
Signature of counsel of record

Clark County, State of Nevada
State and county where signed

Question 4

Denial of Motion to Compel Arbitration and to Stay All Claims under applicable federal law.

Question 12

The United States Supreme Court has expressly stated that when parties delegate to the arbitrator the gateway issue of whether the arbitration agreement applies to the dispute issue, that is a valid assignment and must be upheld even when the court believes the argument that the arbitration agreement applies to the dispute is “wholly groundless.” *Henry Schein, Inc. v. Archer & White Sales, Inc.*, 586 U.S. ___, 139 S. Ct. 524, 528 (2019) (noting that “[w]hen the parties’ contract delegates the arbitrability question to an arbitrator, the courts must respect the parties’ decision as embodied in the contract.”). The District Court refused to follow *Schein* when it ruled that the arbitration agreement did not apply did to the dispute at issue, rather than allowing the arbitrator to decide that question as the parties had agreed to.

Question 22

Plaintiffs: Eric Rice; Jefferson Temple, as Special Administrator of the Estate of Raheem Rice

Plaintiff: Bryan Lovett

Defendant: Airbnb, Inc.

Defendant: Jasper Han

Defendant: Zheng Trust c/o Fenex Consulting

Defendant: Li Jun Zhang

Defendant: Shenandoah Southwest Inc.

Question 25(a)

All claims brought by Bryce Lovett, Eric Rice and the Estate of Raheem Rice against Jasper Han, Zheng Trust c/o Fenex Consulting, Shenandoah Southwest Inc., and Li Jun Zhang are still pending below as those parties did not have an arbitration agreement with Plaintiffs/Respondents. The claims brought by Bryce Lovett against Appellant Airbnb are pending below, but stayed by virtue of the Notice of Appeal of the Motion to Compel Arbitration and Motion to Stay All Proceedings, which divested the lower court of jurisdiction over the claims until this court adjudicates the appeal.

Question 25(b)

The parties remaining below are Eric Rice, the Estate of Raheem Rice, and Bryan Lovett, but only with regard to defendants Jasper Han, Zheng Trust c/o Fenex Consulting, Shenandoah Southwest Inc., and Li Jun Zhang.

CERTIFICATE OF SERVICE

Pursuant to NRC 5(b), I hereby certify that I am an employee of McDONALD CARANO LLP and that on July 9, 2020, a true and correct copy of the foregoing **DOCKETING STATEMENT** was e-filed and e-served on all registered parties to the Supreme Court's electronic filing system as listed below:

Michael C. Kane, Esq.
THE702FIRM
400 South Seventh Street, Floor 4
Las Vegas, Nevada 89101

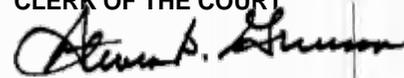
Jordan P. Schnitzer, Esq.
Schnitzer Law Firm
9205 West Russel Road, Suite 240
Las Vegas, Nevada 89148

*Attorney for Plaintiffs, ERIC RICE
and JEFFERSON TEMPLE, as
Special Administrator of the Estate of
RAHEEM RICE*

Attorney for Plaintiff, Bryan Lovett

Dated: July 9, 2020

/s/ CaraMia Gerard
An Employee of McDonald Carano LLP



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COMP
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CASE NO: A-19-801549-C
Department 26

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Attorney for Plaintiff BRYAN LOVETT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ERIC RICE, individually; JEFFERSON
TEMPLE as Special Administrator of the Estate
of RAHEEM RICE; BRYAN LOVETT,

Case No. :
Dept. No.:

Plaintiffs,

vs.

**PLAINTIFFS' COMPLAINT FOR
PERSONAL INJURIES AND DEMAND
FOR JURY TRIAL**

ZHENG TRUST c/o FENEX CONSULTING;
LI JUN ZHENG, individually;
SHENANDOAH SOUTHWEST, INC. a
Nevada Corporation; JASPER HAN,
individually; AIRBNB, INC., a Foreign
Corporation; ROE HOA; ROE SECURITY
COMPANY; DOE PARTY HOST; ROE
PROPERTY MANAGEMENT COMPANY;
DOES XI through XX, inclusive and ROE
CORPORATIONS XI through XX, inclusive.

Defendants.

1 COMES NOW ERIC RICE, JEFFERSON TEMPLE, as Special Administrator of the
2 Estate of RAHEEM RICE; by and through their attorneys of record, Michael C. Kane, Esq., and
3 Bradley J. Myers, Esq., of THE702FIRM, and BRYAN LOVETT, by and through his attorneys
4 of record, Jordan P. Schnitzer, Esq., of The Schnitzer Law Firm, and for their claims for relief
5 against Defendants, and each of them, allege as follows:

6 **BACKGROUND FACTS**

7 1. At all times relevant to this action, Decedent RAHEEM RICE was a resident of
8 Clark County, State of Nevada.

9 2. At all times relevant to this action, Plaintiff ERIC RICE was a resident of Clark
10 County, State of Nevada.

11 3. At all times relevant to this action, Plaintiff JEFFERSON TEMPLE, as Special
12 Administrator of the Estate of RAHEEM RICE was a resident of Clark County, State of Nevada.

13 4. At all times relevant to this action, Plaintiff BRYAN LOVETT was a resident of
14 Clark County, State of Nevada.

15 5. Upon information and belief, at all times relevant to this action, Defendant, ZHENG
16 TRUST c/o FENEX CONSULTING, was a Nevada Trust which owned the property at issue.

17 6. Upon information and belief, at all times relevant to this action, Defendant, LI JUN
18 ZHENG, was and is a resident of Clark County, State of Nevada.

19 7. Upon information and belief, at all times relevant to this action, Defendant
20 SHENANDOAH SOUTHWEST, INC. was the owner of FENEX CONSULTING, which operated
21 the ZHENG TRUST.

22 8. Upon information and belief, Defendants AIRBNB, INC., SHENANDOAH
23 SOUTHWEST, INC., FENEX CONSULTING and ZHENG TRUST, or some of them were joint
24 ventures.

25 9. Upon information and belief, at all times relevant to this action, Defendant
26 AIRBNB, INC. was a Delaware Corporation operating in Nevada.

27 10. Upon information and belief, at all times relevant to this action, Defendant HOA is
28 a Nevada Limited-Liability Company.

1 11. Upon information and belief, at all times relevant to this action, Defendant ROE
2 SECURITY COMPANY was operating security on the property or in the neighborhood.

3 12. Upon information and belief, at all times relevant to this action, Defendant DOE
4 PARTY HOST was hosting the party to which Decedent and Plaintiff BRYAN LOVETT were
5 travelling at the time of the subject incident.

6 13. Upon information and belief, at all times relevant to this action, Defendant
7 DOE/ROE PROPERTY MANAGEMENT COMPANY is a company or individual conducting
8 business in Nevada in the County of Clark, and is the management company of that certain
9 property located 6145 Novelty Street, Las Vegas, Nevada. That the true names or capacities,
10 whether individual, corporate, associate or otherwise of Defendants DOES I through XX and ROE
11 CORPORATIONS I through X are unknown to Plaintiff who therefore sues said Defendants by
12 such fictitious names. Plaintiffs are informed and believe and thereon allege that each of the
13 Defendants designated herein as DOE and ROE CORPORATIONS are responsible in some
14 manner for the events and happenings herein referred to and caused damage proximately to
15 Plaintiffs as herein alleged; and Plaintiffs will ask leave of this Court to amend this Complaint to
16 insert the true names and capacities of DOES I through X and ROE CORPORATIONS I through
17 XX, when the same have been ascertained and to join such Defendants in this action. Plaintiffs
18 are informed, believe and allege that Defendant designated herein as a DOE and/or ROE
19 CORPORATION include any one of the following:

20 a. A party responsible in some manner for the events and happenings hereunder
21 referred to, and in some manner proximately caused injuries and damages to the Plaintiff as herein
22 alleged including, but not limited to, responsible for the property at issue.

23 b. Parties that were the agents, servants, authorities and contractors of the Defendants,
24 each of them acting within the course and scope of their agency, employment, or contract;

25 c. Parties that own, lease, manage, operate, secure, inspect, repair, maintain and/or
26 are responsible for the Property owned by the Defendant at the time of this incident; and/or

27 d. Parties that have assumed or retained the liabilities of any of the Defendants by
28 virtue of an agreement, sale, transfer or otherwise.

1 in violation of Nevada law.

2 27. As a direct and proximate result of the conduct of each of the Defendants, Plaintiff
3 BRYAN LOVETT was injured and Decedent RICE was killed.

4 28. As a direct and proximate result of the conduct of each of the Defendants, Plaintiffs,
5 sustained damages as a result of the death of Decedent RICE. Plaintiffs sustained past and future
6 loss of support, society, comfort, consortium, companionship and disfigurement as well as past
7 and future, grief or sorrow; and such other damages in excess of FIFTEEN THOUSAND
8 DOLLARS (\$15,000.00).

9 29. Decedent RICE and Plaintiff BRYAN LOVETT sustained damages including, but
10 not limited to physical pain and suffering; mental pain and suffering; loss of enjoyment of life and
11 disfigurement; Plaintiffs, and each of them, have sustained damages in excess of FIFTEEN
12 THOUSAND DOLLARS (\$15,000.00).

13 30. Prior to the injuries complained of herein, Decedent RICE and Plaintiff BRYAN
14 LOVETT were able-bodied men, gainfully employable and physically capable of engaging in all
15 other activities for which they were otherwise suited. By reason of the premises and as a direct
16 and proximate result therefore, Decedent RICE and Plaintiff BRYAN LOVE were precluded from
17 engaging in activities and occupations in which he would have been able to achieve. This has
18 caused and shall continue to cause Decedent and Plaintiff BRYAN LOVETT a loss of earning and
19 earning capacity to their damages in a presently unascertainable amount, the allegations of which
20 Plaintiff prays leave of this Court to insert herein.

21 31. By reason of the premises and as a direct and proximate result therefore, Plaintiff
22 BRYAN LOVETT, continues to and shall continue to be limited in his activities and occupations
23 in which he is able to achieve. This has caused and shall continue to cause Plaintiff a loss of
24 earning and earning capacity to their damages in a presently unascertainable amount, the
25 allegations of which Plaintiff prays leave of this Court to insert herein.

26 32. That as a direct and proximate cause of Defendants' negligence, the Estate of
27 Decedent RICE incurred unnecessary funeral expenses, burial fees, and other special damages in
28 an amount in excess of \$15,000.00.

1 d. negligently cause a dangerous condition to exist; to wit, allowing dangerous
2 patrons to return to the premises after having been removed from the property;

3 e. negligently allow said dangerous condition to remain in existence, as
4 aforesaid, for an unreasonable length of time;

5 f. negligently failed to warn Plaintiffs of the presence of said dangerous
6 condition;

7 g. negligently allowed the properties and premises occupied by Plaintiffs and
8 other invitees of the Defendants to be in a condition dangerous and unfit for use in that the
9 Defendants permitted the dangerous behaviors outlined above on said premises, and,
10 further, negligently failed to reasonably warn or guard Plaintiffs in regard thereto;

11 h. negligently lease and/or rent the premises without any and/or a sufficient
12 investigation regarding the renter/lessor and/or the purpose of the rental/lease; and

13 i. negligently invite unknown individuals to the premises.

14 39. As a direct and proximate result of the conduct of each of the Defendants, Plaintiff
15 BRYAN LOVETT was injured and Decedent RICE was killed.

16 40. As a direct and proximate result of the conduct of each of the Defendants, Plaintiffs,
17 sustained damages as a result of the death of Decedent RICE. Plaintiffs sustained past and future
18 loss of support, society, comfort, consortium, companionship and disfigurement as well as past
19 and future, grief or sorrow; and such other damages in excess of FIFTEEN THOUSAND
20 DOLLARS (\$15,000.00).

21 41. Decedent RICE and Plaintiff BRYAN LOVETT sustained damages including, but
22 not limited to physical pain and suffering; mental pain and suffering; loss of enjoyment of life and
23 disfigurement; Plaintiffs, and each of them, have sustained damages in excess of FIFTEEN
24 THOUSAND DOLLARS (\$15,000.00).

25 42. Prior to the injuries complained of herein, Decedent RICE and Plaintiff BRYAN
26 LOVETT were able-bodied men, gainfully employable and physically capable of engaging in all
27 other activities for which they were otherwise suited. By reason of the premises and as a direct
28 and proximate result therefore, Decedent RICE and Plaintiff BRYAN LOVETT were precluded

1 from engaging in activities and occupations in which he would have been able to achieve. This has
2 caused and shall continue to cause Decedent and Plaintiff BRYAN LOVETT a loss of earning and
3 earning capacity to their damages in a presently unascertainable amount, the allegations of which
4 Plaintiff prays leave of this Court to insert herein.

5 43. By reason of the premises and as a direct and proximate result therefore, Plaintiff
6 BRYAN LOVETT, continues to and shall continue to be limited in his activities and occupations
7 in which he is able to achieve. This has caused and shall continue to cause Plaintiff a loss of
8 earning and earning capacity to his damages in a presently unascertainable amount, the allegations
9 of which Plaintiff prays leave of this Court to insert herein.

10 44. That as a direct and proximate cause of Defendants' negligence, the Estate of
11 Decedent RICE incurred unnecessary funeral expenses, burial fees, and other special damages in
12 an amount in excess of \$10,000.00.

13 45. These unnecessary funeral expenses, burial fees and other special damages are
14 recoverable by the Estate of Decedent RICE pursuant to NRS § 41.085. The Estate of Decedent
15 RICE is also entitled to punitive damages pursuant to NRS § 41.085.

16 46. As a direct and proximate result of the aforementioned, Decedent RICE and
17 Plaintiff BRYAN LOVETT sustained injuries all or some of which conditions may be permanent
18 and disabling in nature, all to their general damage in a sum in excess of \$15,000.00.

19 47. AIRBNB, INC., SHENANDOAH SOUTHWEST, INC., FENEX CONSULTING
20 and ZHENG TRUST, were joint ventures therefore, jointly and severally liable.

21 48. As a direct and proximate result of the aforementioned, Decedent RICE and
22 Plaintiff BRYAN LOVETT were required to and did receive medical and other treatment for their
23 injuries received in an expense all to their damages in a sum in excess of \$15,000. Said services,
24 care, and treatment are continuing and shall continue in the future, at a presently unascertainable
25 amount.

26 49. Plaintiff has been compelled to retain the services of an attorney to prosecute this
27 action and is, therefore, entitled to reasonable attorney's fees and costs incurred herein.

28

SECOND CLAIM FOR RELIEF
(Negligence Per Se)

1
2 50. Plaintiffs repeat and reallege each and every allegation contained above and
3 incorporate the same herein by reference as though fully set forth herein.

4 51. At all times relevant hereto, the Defendants were the owners, managers,
5 supervisors, controllers, agents, hosts, security officers, employers, servants, and other parties
6 responsible in some manner for of the resident located at 6145 Novelty Street, Las Vegas, Nevada.

7 52. On or about June 3, 2018, the subject premises were in an unsafe and hazardous
8 condition, including but not limited to dangerous patrons on the premises, illegal activities on the
9 premises, violations of Nevada law, violations of Clark County Codes and Ordinances, etc; and
10 this dangerous conditions were known to the Defendants or through reasonable inquires should
11 have been known to Defendants.

12 53. That as a direct and a proximate cause of the unsafe, hazardous condition(s) and the
13 negligence of the Defendants a shooting occurred on or near the subject premises which caused
14 the injuries, death and damages alleged herein.

15 54. Leading up to the date of the incident, Defendants negligently and/or intentionally
16 violated the codes, rules, regulations, statutes and ordinances of the State of State of Nevada, County
17 of Clark, and the City of Las Vegas which caused or contributed to the shooting which occurred on
18 or near the subject premises which caused the injuries, death and damages alleged herein.

19 55. The codes, rules, regulations, statutes, and ordinances were designed to protect the
20 Decedent and Plaintiffs from the type of injuries they sustained on the night at issue.

21 56. The conduct of Defendants, and each of them, as alleged herein was willful,
22 oppressive, malicious, and done and conducted with a reckless and wanton disregard for the rights
23 and safety of the Decedent and Plaintiffs.

24 57. As a direct and proximate result of the willful, oppressive, and malicious conduct of
25 the Defendants done in reckless and wanton disregard for the rights and safety of the Decedent and
26 Plaintiffs, the Plaintiffs have and will sustain damages to be proven at trial and for which the Plaintiffs
27 are entitled to exemplary (or punitive) damages against the Defendants, and each of them individually,
28 in an amount to deter such conduct in the future.

1 58. As a direct and proximate result of the conduct of each of the Defendants, Plaintiff
2 BRYAN LOVETT was injured and Decedent RICE was killed.

3 59. As a direct and proximate result of the conduct of each of the Defendants, Plaintiffs,
4 sustained damages as a result of the death of Decedent RICE. Plaintiffs sustained past and future
5 loss of support, society, comfort, consortium, companionship and disfigurement as well as past
6 and future, grief or sorrow; and such other damages in excess of FIFTEEN THOUSAND
7 DOLLARS (\$15,000.00).

8 60. Decedent RICE and Plaintiff BRYAN LOVETT sustained damages including, but
9 not limited to physical pain and suffering; mental pain and suffering; loss of enjoyment of life and
10 disfigurement; Plaintiffs, and each of them, have sustained damages in excess of FIFTEEN
11 THOUSAND DOLLARS (\$15,000.00).

12 61. Prior to the injuries complained of herein, Decedent RICE and Plaintiff BRYAN
13 LOVETT were able-bodied men, gainfully employable and physically capable of engaging in all
14 other activities for which they were otherwise suited. By reason of the premises and as a direct
15 and proximate result therefore, Decedent RICE and Plaintiff BRYAN LOVETT were precluded
16 from engaging in activities and occupations in which he would have been able to achieve. This has
17 caused and shall continue to cause Decedent and Plaintiff BRYAN LOVETT a loss of earning and
18 earning capacity to their damages in a presently unascertainable amount, the allegations of which
19 Plaintiff prays leave of this Court to insert herein.

20 62. By reason of the premises and as a direct and proximate result therefore, Plaintiff
21 BRYAN LOVETT, continues to and shall continue to be limited in his activities and occupations
22 in which he is able to achieve. This has caused and shall continue to cause Plaintiff a loss of
23 earning and earning capacity to his damages in a presently unascertainable amount, the allegations
24 of which Plaintiff prays leave of this Court to insert herein.

25 63. That as a direct and proximate cause of Defendants' negligence, the Estate of
26 Decedent RICE incurred unnecessary funeral expenses, burial fees, and other special damages in
27 an amount in excess of \$15,000.00.

28 ///

1 72. That despite this knowledge, Defendants, and each of them failed to take adequate and
2 reasonable measures to appropriately ensure the safety of the general public, including Plaintiffs and
3 Decedent.

4 73. That despite this knowledge, Defendants, and each of them, created a danger to the
5 safety of the general public, including Plaintiffs and Decedent.

6 74. That the Defendant and their employees and agents were improperly trained,
7 supervised, and hired to handle the dangers and hazards connected with the party for which they were
8 responsible and/or created.

9 75. That Defendants and each of them breached said duties owed to Plaintiff as a result of
10 their negligence, carelessness, and recklessness by failing to maintain adequate security on the
11 property.

12 76. As a direct and proximate result of the conduct of each of the Defendants, Plaintiff
13 BRYAN LOVETT was injured and Decedent RICE was killed.

14 77. As a direct and proximate result of the conduct of each of the Defendants, Plaintiffs,
15 sustained damages as a result of the death of Decedent RICE. Plaintiffs sustained past and future
16 loss of support, society, comfort, consortium, companionship and disfigurement as well as past
17 and future, grief or sorrow; and such other damages in excess of FIFTEEN THOUSAND
18 DOLLARS (\$15,000.00).

19 78. Decedent RICE and Plaintiff BRYAN LOVETT sustained damages including, but
20 not limited to physical pain and suffering; mental pain and suffering; loss of enjoyment of life and
21 disfigurement; Plaintiffs, and each of them, have sustained damages in excess of FIFTEEN
22 THOUSAND DOLLARS (\$15,000.00).

23 79. Prior to the injuries complained of herein, Decedent RICE and Plaintiff BRYAN
24 LOVETT were able-bodied men, gainfully employable and physically capable of engaging in all
25 other activities for which they were otherwise suited. By reason of the premises and as a direct
26 and proximate result therefore, Decedent RICE and Plaintiff BRYAN LOVETT were precluded
27 from engaging in activities and occupations in which he would have been able to achieve. This has
28 caused and shall continue to cause Decedent and Plaintiff BRYAN LOVETT a loss of earning and

1 earning capacity to their damages in a presently unascertainable amount, the allegations of which
2 Plaintiff prays leave of this Court to insert herein.

3 80. By reason of the premises and as a direct and proximate result therefore, Plaintiff
4 BRYAN LOVETT, continues to and shall continue to be limited in his activities and occupations
5 in which he is able to achieve. This has caused and shall continue to cause Plaintiff a loss of
6 earning and earning capacity to his damages in a presently unascertainable amount, the allegations
7 of which Plaintiff prays leave of this Court to insert herein.

8 81. That as a direct and proximate cause of Defendants' negligence, the Estate of
9 Decedent RICE incurred unnecessary funeral expenses, burial fees, and other special damages in
10 an amount in excess of \$10,000.00.

11 82. These unnecessary funeral expenses, burial fees and other special damages are
12 recoverable by the Estate of Decedent RICE pursuant to NRS § 41.085. The Estate of Decedent
13 RICE is also entitled to punitive damages pursuant to NRS § 41.085.

14 83. As a direct and proximate result of the aforementioned, Decedent RICE and
15 Plaintiff BRYAN LOVETT sustained injuries all or some of which conditions may be permanent
16 and disabling in nature, all to their general damage in a sum in excess of \$15,000.00

17 84. As a direct and proximate result of the aforementioned, Decedent RICE and
18 Plaintiff BRYAN LOVETT were required to and did receive medical and other treatment for their
19 injuries received in an expense all to their damages in a sum in excess of \$15,000. Said services,
20 care, and treatment are continuing and shall continue in the future, at a presently unascertainable
21 amount.

22 85. Plaintiff has been compelled to retain the services of an attorney to prosecute this
23 action and is, therefore, entitled to reasonable attorney's fees and costs incurred herein.

24 **FOURTH CLAIM FOR RELIEF**
25 **(Respondeat Superior)**

26 86. Plaintiffs repeat and reallege each and every allegation contained above and
27 incorporate the same herein by reference as though fully set forth herein.

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1 87. Upon information and belief, at the time and place where Defendants acts occurred,
2 said Defendants or agents or employees of Defendants were in the course and scope of their duties as
3 an employee or agent for Defendants and in furtherance of the business of Defendants

4 88. Upon information and belief, Defendants are thereby responsible for the previously
5 alleged acts of negligence of their employees and/or agents, which acts were in furtherance of the
6 business of their principal.

7 89. As a direct and proximate result of the conduct of each of the Defendants, Plaintiff
8 BRYAN LOVETT was injured and Decedent RICE was killed.

9 90. As a direct and proximate result of the conduct of each of the Defendants, Plaintiffs,
10 sustained damages as a result of the death of Decedent RICE. Plaintiffs sustained past and future
11 loss of support, society, comfort, consortium, companionship and disfigurement as well as past
12 and future, grief or sorrow; and such other damages in excess of FIFTEEN THOUSAND
13 DOLLARS (\$15,000.00).

14 91. Decedent RICE and Plaintiff BRYAN LOVETT sustained damages including, but
15 not limited to physical pain and suffering; mental pain and suffering; loss of enjoyment of life and
16 disfigurement; Plaintiffs, and each of them, have sustained damages in excess of FIFTEEN
17 THOUSAND DOLLARS (\$15,000.00).

18 92. Prior to the injuries complained of herein, Decedent RICE and Plaintiff BRYAN
19 LOVETT were able-bodied men, gainfully employable and physically capable of engaging in all
20 other activities for which they were otherwise suited. By reason of the premises and as a direct
21 and proximate result therefore, Decedent RICE and Plaintiff BRYAN LOVETT were precluded
22 from engaging in activities and occupations in which he would have been able to achieve. This has
23 caused and shall continue to cause Decedent and Plaintiff BYRAN LOVETT a loss of earning and
24 earning capacity to their damages in a presently unascertainable amount, the allegations of which
25 Plaintiff prays leave of this Court to insert herein.

26 93. By reason of the premises and as a direct and proximate result therefore, Plaintiff
27 BRYAN LOVETT, continues to and shall continue to be limited in his activities and occupations
28 in which he is able to achieve. This has caused and shall continue to cause Plaintiff a loss of

1 earning and earning capacity to his damages in a presently unascertainable amount, the allegations
2 of which Plaintiff prays leave of this Court to insert herein.

3 94. That as a direct and proximate cause of Defendants' negligence, the Estate of
4 Decedent RICE incurred unnecessary funeral expenses, burial fees, and other special damages in
5 an amount in excess of \$10,000.00.

6 95. These unnecessary funeral expenses, burial fees and other special damages are
7 recoverable by the Estate of Decedent RICE pursuant to NRS § 41.085. The Estate of Decedent
8 RICE is also entitled to punitive damages pursuant to NRS § 41.085.

9 96. As a direct and proximate result of the aforementioned, Decedent RICE and
10 Plaintiff BRYAN LOVETT sustained injuries to all or some of which conditions may be
11 permanent and disabling in nature, all to their general damage in a sum in excess of \$15,000.00

12 97. As a direct and proximate result of the aforementioned, Decedent RICE and
13 Plaintiff BRYAN LOVETT were required to and did receive medical and other treatment for their
14 injuries received in an expense all to their damages in a sum in excess of \$15,000.00. Said services,
15 care, and treatment are continuing and shall continue in the future, at a presently unascertainable
16 amount.

17 98. Plaintiff has been compelled to retain the services of an attorney to prosecute this
18 action and is, therefore, entitled to reasonable attorney's fees and costs incurred herein.

19 WHEREFORE, the Plaintiffs, and each of them, expressly reserving their right to amend
20 this Complaint at the time of trial of this action to include all items of damages not yet ascertained,
21 demands judgment against the Defendants, and each of them, as follows:

- 22 1. For special damages to each of the Plaintiffs including, but not limited to, funeral
23 expenses, burial expenses, and medical expenses, the full nature and extent of said
24 expenses are not known to Plaintiffs but in any event in excess of FIFTEEN
25 THOUSAND DOLLARS (\$15,000.00); leave is requested to amend this complaint
26 to conform to proof at time of trial;

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2. General damages in excess of FIFTEEN THOUSAND DOLLARS (\$15,000.00);
3. For punitive or exemplary damages in an amount to be determined by the jury to punish the malicious and oppressive conduct of the Defendants;
4. Damages for loss of earnings and earning capacity, when the same have been fully ascertained;
5. Prejudgment interest;
6. Reasonable attorney's fees;
7. Costs of suit herein; and
8. For such other and further relief as the Court may deem proper.

DATED on this 29 day of August, 2019.

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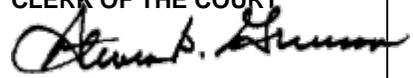


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THE SCHNITZER LAW FIRM
9205 W. Russell Road, Suite 240
Las Vegas, Nevada 89148
Telephone: (702) 960-4050
Attorneys for Plaintiff



1 **ORDER**

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10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 ERIC RICE, Individually; JEFFERSON TEMPLE
13 as Special Administrator of the Estate of
14 RAHEEM RICE; BRYAN LOVETT.

15 Plaintiffs,

16 vs.

17 ZHENG TRUST c/o FENEX CONSULTING; LI
18 JUN ZHENG, individually; SHENANDOAH
19 SOUTHWEST, INC. a Nevada Corporation;
20 JASPER HAN, individually; AIRBNB, INC., a
21 Foreign Corporation; ROA HOA; ROE
22 SECURITY COMPANY; DOE PARTY HOST;
23 ROE PROPERTY MANAGEMENT COMPANY;
24 DOES XI through XX, inclusive and ROE
25 CORPORATIONS XI through XX, inclusive,

26 Defendants.

Case No: A-19-801549-C
Dept. No: 26

**ORDER DENYING AIRBNB, INC.'S
MOTION TO COMPEL
ARBITRATION AND STAY ALL
PROCEEDINGS**

27 This matter came before the above-captioned Court on February 12, 2020 on Defendant
28 AIRBNB INC's Motion to Compel Arbitration and Stay All Proceedings Pursuant to the Federal
Arbitration Act, 9 U.S.C. §§3 and 4 against Plaintiff Eric Rice and Jefferson Temple as Special
Administrator of the Estate of Raheem Rice, and Motion to Stay All Proceedings against Bryan
Lovett.

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The Court, having considered the moving papers and arguments of counsel, finds and orders as follows:

1. The motion to compel arbitration as to Jefferson Temple as Special Administrator of the Estate of Raheem Rice is denied. The Court finds the there is no enforceable arbitration agreement under the Airbnb Terms of Service (which included an agreement to arbitrate claims against Airbnb) as the cause of action arises under the wrongful death statute;

2. The motion to compel arbitration as to Eric Rice, individually, is denied. The Court finds the there is no enforceable arbitration agreement under the Airbnb Terms of Service (which included an agreement to arbitrate claims against Airbnb) as his cause of action arises under the wrongful death statute, and is derivative of the death of Raheem Rice;

3. Because the Court denies Airbnb, Inc.’s motion to compel arbitration as to Eric Rice and Jefferson Temple as Special Administrator of the Estate of Raheem Rice, the Court also denies Airbnb, Inc.’s motion pursuant to 9 U.S.C. §3 to stay all proceedings as to all parties.

IT IS SO ORDERED.

DATED this 27th day of May 2020.

Counsel for Plaintiff to prepare the Notice of Entry of Order.



DISTRICT COURT JUDGE

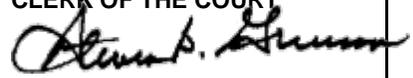
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CERTIFICATE OF SERVICE

I hereby certify that on or about the date signed, a copy of this Order was electronically served to all registered parties in the Eighth Judicial District Court's electronic filing program per the attached Service Contacts list and/or placed in the attorney's folder maintained by the Clerk of the Court and/or transmitted via facsimile and/or mailed, postage prepaid, by United States mail to the proper parties.

/s/ Linda Denman

Linda Denman
Judicial Executive Assistant
To Judge Gloria Sturman
Department 26



1 **NEOJ**
2 Jeff Silvestri, Esq. (NSBN 5779)
3 Jason B. Sifers, Esq. (NSBN 14273)
4 McDONALD CARANO LLP
5 2300 West Sahara Avenue, Suite 1200
6 Las Vegas, Nevada 89102
7 Telephone: (702) 873-4100
8 Facsimile: (702) 873-9966
9 jsilvestri@mcdonaldcarano.com
10 jsifers@mcdonaldcarano.com

11 *Attorneys for Defendant, AIRBNB, INC.*

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 ERIC RICE, individually; JEFFERSON
15 TEMPLE as Special Administrator of the Estate
16 of RAHEEM RICE; BRYAN LOVETT,

17 Plaintiffs,

18 v.

19 ZHENG TRUST c/o FENEX CONSULTING;
20 LI JUN ZHENG, individually; SHENANDOAH
21 SOUTHWEST, INC., a Nevada Corporation;
22 JASPER HAN, individually; AIRBNB, INC.,
23 a Foreign Corporation; ROE HOA; ROE
24 SECURITY COMPANY; DOE PARTY HOST;
25 ROE PROPERTY MANAGEMENT
26 COMPANY; DOES XI through XX, inclusive
27 and ROE CORPORATIONS XI through XX,
28 inclusive,

Defendants.

CASE NO.: A-19-801549-C
DEPT. NO.: XXVI

**NOTICE OF ENTRY OF ORDER
DENYING AIRBNB, INC.'S
MOTION TO COMPEL
ARBITRATION AND STAY ALL
PROCEEDINGS AS TO CLAIMS OF
ERIC RICE, INDIVIDUALLY, AND
JEFFERSON TEMPLE AS SPECIAL
ADMINISTRATOR OF THE ESTATE
OF RAHEEM RICE**

PLEASE TAKE NOTICE an **ORDER DENYING AIRBNB, INC.'S MOTION TO
COMPEL ARBITRATION AND STAY ALL PROCEEDINGS AS TO CLAIMS OF ERIC
RICE, INDIVIDUALLY, AND JEFFERSON TEMPLE AS SPECIAL ADMINISTRATOR
OF THE ESTATE OF RAHEEM RICE** was entered in the above-captioned case on the
28th day of May, 2020, a copy of which is attached hereto.

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DATED this 15th day of June, 2020.

MCDONALD CARANO LLP

By: /s/ Jeff Silvestri

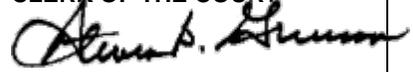
Jeff Silvestri, Esq. (NSBN 5779)
Jason B. Sifers, Esq. (NSBN 14273)
2300 West Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102

Attorneys for Defendant, AIRBNB, INC.

CERTIFICATE OF SERVICE

1
2 I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on or
3 about the 15th day of June, 2020, a true and correct copy of the foregoing **NOTICE OF ENTRY**
4 **OF ORDER DENYING AIRBNB, INC.’S MOTION TO COMPEL ARBITRATION AND**
5 **STAY ALL PROCEEDINGS AS TO CLAIMS OF ERIC RICE, INDIVIDUALLY, AND**
6 **JEFFERSON TEMPLE AS SPECIAL ADMINISTRATOR OF THE ESTATE OF**
7 **RAHEEM RICE** was electronically served with the Clerk of the Court via the Clark County
8 District Court Electronic Filing Program which will provide copies to all counsel of record
9 registered to receive such electronic notification.

10
11 /s/ CaraMia Gerard
12 An employee of McDonald Carano LLP
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1 **ORDER**

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10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 ERIC RICE, Individually; JEFFERSON TEMPLE
13 as Special Administrator of the Estate of
14 RAHEEM RICE; BRYAN LOVETT.

15 Plaintiffs,

16 vs.

17 ZHENG TRUST c/o FENEX CONSULTING; LI
18 JUN ZHENG, individually; SHENANDOAH
19 SOUTHWEST, INC. a Nevada Corporation;
20 JASPER HAN, individually; AIRBNB, INC., a
21 Foreign Corporation; ROA HOA; ROE
22 SECURITY COMPANY; DOE PARTY HOST;
23 ROE PROPERTY MANAGEMENT COMPANY;
24 DOES XI through XX, inclusive and ROE
25 CORPORATIONS XI through XX, inclusive,

26 Defendants.

Case No: A-19-801549-C
Dept. No: 26

**ORDER DENYING AIRBNB, INC.'S
MOTION TO COMPEL
ARBITRATION AND STAY ALL
PROCEEDINGS**

27 This matter came before the above-captioned Court on February 12, 2020 on Defendant
28 AIRBNB INC's Motion to Compel Arbitration and Stay All Proceedings Pursuant to the Federal
Arbitration Act, 9 U.S.C. §§3 and 4 against Plaintiff Eric Rice and Jefferson Temple as Special
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The Court, having considered the moving papers and arguments of counsel, finds and orders as follows:

1. The motion to compel arbitration as to Jefferson Temple as Special Administrator of the Estate of Raheem Rice is denied. The Court finds there is no enforceable arbitration agreement under the Airbnb Terms of Service (which included an agreement to arbitrate claims against Airbnb) as the cause of action arises under the wrongful death statute;

2. The motion to compel arbitration as to Eric Rice, individually, is denied. The Court finds there is no enforceable arbitration agreement under the Airbnb Terms of Service (which included an agreement to arbitrate claims against Airbnb) as his cause of action arises under the wrongful death statute, and is derivative of the death of Raheem Rice;

3. Because the Court denies Airbnb, Inc.'s motion to compel arbitration as to Eric Rice and Jefferson Temple as Special Administrator of the Estate of Raheem Rice, the Court also denies Airbnb, Inc.'s motion pursuant to 9 U.S.C. §3 to stay all proceedings as to all parties.

IT IS SO ORDERED.

DATED this 27th day of May 2020.

Counsel for Plaintiff to prepare the Notice of Entry of Order.



DISTRICT COURT JUDGE

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CERTIFICATE OF SERVICE

I hereby certify that on or about the date signed, a copy of this Order was electronically served to all registered parties in the Eighth Judicial District Court's electronic filing program per the attached Service Contacts list and/or placed in the attorney's folder maintained by the Clerk of the Court and/or transmitted via facsimile and/or mailed, postage prepaid, by United States mail to the proper parties.

/s/ Linda Denman

Linda Denman
Judicial Executive Assistant
To Judge Gloria Sturman
Department 26