

1 GUS W. FLANGAS, ESQ.
Nevada Bar No. 004989
2 Email: gwf@fdlawlv.com
JESSICA K. PETERSON, ESQ.
3 Nevada Bar No. 10670
Email: jkp@fdlawlv.com
4 FLANGAS LAW GROUP
3275 South Jones Blvd., Suite 105
5 Las Vegas, Nevada 89146
Telephone: (702) 307-9500
6 Facsimile: (702) 382-9452
Attorneys for Plaintiff
7

FILED
2020 OCT -1 PM 3:42

Electronically Filed
Oct 02 2020 02:04 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

8 **IN THE FIRST JUDICIAL DISTRICT COURT**

9 IN AND FOR STOREY, COUNTY, NEVADA

10 LANCE GILMAN, an individual,)

11 Plaintiff,)

12 vs.)

13 SAM TOLL, an individual; DOES I-V,
inclusive; and ROE ENTITIES VI-X,
14 inclusive,)

15 Defendants.)

Case No.: 18-TRT-00001-1e

Dept No.: II

NOTICE OF APPEAL

16 NOTICE IS HEREBY GIVEN that the Plaintiff, LANCE GILMAN, by and through his
17 attorneys, GUS W. FLANGAS, ESQ., and JESSICA K. PETERSON, ESQ., of the FLANGAS
18 LAW GROUP, hereby appeals to the Supreme Court of Nevada, the following Orders filed in this
19 action:

20 1. The Order filed on September 24, 2020 with Notice of Entry of Order filed on
21 September 26, 2020 granting Defendant Toll \$188,840.00 in attorneys fees.

22 DATED this 1st day of October, 2020

23 
GUS W. FLANGAS, ESQ.

Nevada Bar No. 04989

gwf@fdlawlv.com

JESSICA K. PETERSON, ESQ.

Nevada Bar No. 10670

jkp@fdlawlv.com

FLANGAS LAW GROUP

3275 South Jones Blvd., Suite 105

Las Vegas, Nevada 89146

Telephone: (702) 307-9500

Facsimile: (702) 382-9452

CERTIFICATE OF SERVICE

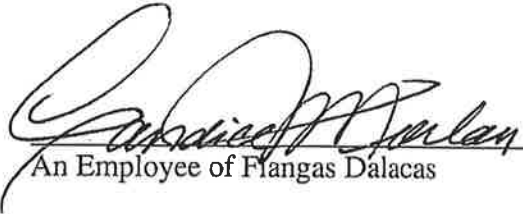
I hereby certify that I am an employee of the FLANGAS LAW GROUP, and that on this 1st day of October, 2020, I served a true and correct copy of **PLAINTIFF'S NOTICE OF APPEAL** as indicated below:

 X By depositing the same in the United States mail, first-class, postage prepaid, in a sealed envelope, at Las Vegas, Nevada pursuant to N.R.C.P. 5(b) addressed as follows

 X By electronic mail.

John L. Marshall
570 Marsh Avenue
Reno, NV 89509
Tel: 775-303-4882
johnladuemarshall@gmail.com

Luke A. Busby
Luke Andrew Busby, Ltd.
316 California St.
Reno, NV 89509
Tel: 775-453-0112
luke@lukeandrewbusbyltd.com
Attorneys for Defendant


An Employee of Flangas Dalacas

1 GUS W. FLANGAS, ESQ.
Nevada Bar No. 004989
2 Email: gwf@fdlawlv.com
JESSICA K. PETERSON, ESQ.
3 Nevada Bar No. 10670
Email: jkp@fdlawlv.com
4 FLANGAS LAW GROUP
3275 South Jones Blvd., Suite 105
5 Las Vegas, Nevada 89146
Telephone: (702) 307-9500
6 Facsimile: (702) 382-9452
Attorneys for Appellant
7

FILED
OCT -1 P. 3-42
BY: *Aduke*

8 **IN THE FIRST JUDICIAL DISTRICT COURT**

9 IN AND FOR STOREY, COUNTY, NEVADA

10 LANCE GILMAN, an individual,)

11 Plaintiff,)

12 vs.)

13 SAM TOLL, an individual; DOES I-V,
inclusive; and ROE ENTITIES VI-X,
14 inclusive,)

15 Defendants.)

Case No.: 18-TRT-00001-1e
Dept No.: II

CASE APPEAL STATEMENT

16 NOTICE IS HEREBY GIVEN that the Plaintiff, LANCE GILMAN, by and through his
17 attorneys, GUS W. FLANGAS, ESQ., and JESSICA K. PETERSON, ESQ., of the FLANGAS
18 LAW GROUP, hereby submit this case appeal statement.

19 1. Name of Appellate filing this case appeal statement: LANCE GILMAN.

20 2. Identify the judge issuing the decision, judgment, or order appealed from:
21 Honorable District Court Judge James E. Wilson, Jr.;

22 a. Order issued on September 24, 2020 with Notice of Entry of Order entered
23 thereon on September 26, 2020, which granted Defendant Toll \$188,840.00
24 in attorney fees.

25 3. Identify each appellant and the name and address of counsel for each appellant:
26 LANCE GILMAN c/o Gus W. Flangas, Esq., of the FLANGAS LAW GROUP located at 3275
27 South Jones Boulevard, Suite 105, Las Vegas, Nevada 89146.
28

1 4. Identify each respondent and the name and address of appellate counsel, if known,
2 for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much
3 and provide the name and address of that respondent's trial counsel): Luke Busby, Esq., located at
4 316 California Ave., Reno, NV 89509; John Marshall, Esq., 570 Marsh Avenue, Reno, NV 89509.

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

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

11 7. Indicate whether appellant is represented by appointed or retained counsel on appeal:
12 Yes, Appellant is represented by retained counsel on appeal.

13 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the
14 date of entry of the district court order granting such leave: Not applicable. Appellant did not apply
15 for and was not granted leave to proceed in forma pauperis in the district court.

16 9. Indicate the date the proceedings commenced in the district court (e.g., date
17 complaint, indictment, information, or petition was filed): Plaintiffs' Complaint was filed on
18 December 17, 2017.

19 10. Provide a brief description of the nature of the action and result in the district court,
20 including the type of judgment or order being appealed and the relief granted by the district court:
21 Defendant filed an Anti-Slapp Special Motion to Dismiss on February 1, 2018. The Court granted
22 the Anti- Slapp Special Motion to Dismiss in Part on April 9, 2018 ("Order"). In the Order the Court
23 found that Appellant failed to produce prima facie evidence that Toll published the "resident
24 communications" with actual malice. However, the Court allowed for discovery because "whether
25 Toll knew the resident statements were false or whether he acted with a high degree of awareness
26 of the probable falsity of the statement or had serious doubts as to the publications truth, is necessary
27 for Gilman to meet or oppose the burden under NRS 41.660(3)(b)." The Court then allowed
28 Appellant to take the deposition of Toll, who when asked how he arrived at his conclusion claimed

1 the Newspaper privilege. The Appellant then filed a Motion to Compel Defendant to disclose his
2 sources arguing that the StoryTeller was not a newspaper, and that Defendant was not a reporter and
3 thus could not claim the privilege. Alternatively Appellant argued that if he was permitted to claim
4 the privilege then he was barred from using the evidence he obtained from his confidential sources
5 to support his defense that he acted with a high degree of awareness of the probable falsity of his
6 statements. The District Court, initially found that Defendant was not a reporter for certain of the
7 time frame of when he made his statements and thus was not protected from disclosing his sources
8 during that time frame. The Court further found that the StoryTeller was not a blog. Defendant
9 appealed that Order to the Supreme Court, which issued an Opinion reversing the District Court and
10 issuing instructions to the District Court. The District Court subsequently granted the Anti- SLAPP
11 Special Motion to Dismiss on the Resident Communications, stating in pertinent part, "Toll testified
12 he believed Gilman does not live at the Mustang Ranch based upon the following information: the
13 zoning of the property; the unusual nature of Gilman's claimed residence given his wealth and
14 stature; the fact that numerous other persons claimed addresses at the Mustang Ranch were their
15 residence; the fact that Gilman owned other residential property in Washoe County; and that
16 *confidential sources told Toll that Gilman did not actually live at the Mustang Ranch.*"

17 Gilman has already filed an appeal as to the foregoing issues, arguing Defendant cannot use
18 the information obtained from his confidential sources as a basis for his claimed knowledge, and the
19 District Court ignored this established precedent.

20 Following the entry of the Order, Defendant sought and was awarded \$10,000.00 in statutory
21 damages, on the basis that the Court found that Appellant's suit lacked minimal merit. Gilman has
22 also filed an appeal as to the award of statutory damages because the Court abused it's discretion in
23 awarding statutory damages. The purpose of Gilman's suit was not to deter Toll from speaking out
24 on issues of public concern, rather it was to protect and uphold his reputation in the community,
25 which Toll damaged by accusing Gilman of committing perjury. Having an opinion or a belief that
26 someone does not live where they state they live and publishing that and allowing others to draw
27 their own conclusions, is very different than making the ultimate conclusion that someone has
28 committed perjury, a crime, and reporting that as a fact.


1 After the award of statutory damages Toll filed a Motion for Attorneys Fees and Costs
2 seeking \$226,620.00 in attorney fees and \$3,147.91 in costs. The Court only granted \$188,840.00
3 in fees and did not grant costs. However, the amount awarded were for fees that were not directly
4 related to the Anti-SLAPP Motion and or were still excessive in light of the product produced.
5 Therefore, the Court abused its discretion in awarding the fees. Gilman is not appealing the Court's
6 decision denying Toll his costs.

7 11. Indicate whether the case has previously been the subject of an appeal to or original
8 writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of
9 the prior proceeding: Yes, Defendant Toll filed a Petition for Writ of Prohibition or Mandamus to
10 the Nevada Supreme Court on March 18, 2019. Plaintiff, Appellant herein, filed an Appeal that
11 is docketed as Supreme Court Case No. 81583. Plaintiff, also filed an Appeal for the statutory
12 damage award that is docketed as Supreme Court Case No. 81726.

13 12. Indicate whether this appeal involves child custody or visitation: This appeal does not
14 involve child custody or visitation.

15 13. If this is a civil case, indicate whether this appeal involves the possibility of
16 settlement: Appellant is not opposed to settlement discussions.

17 Dated this 1st day of October, 2020.

18
19
20 
GUS W. FLANGAS, ESQ.

Nevada Bar No. 04989

gwf@fdlawlv.com

JESSICA K. PETERSON, ESQ.

Nevada Bar No. 10670

jkp@fdlawlv.com

FLANGAS LAW GROUP

3275 South Jones Blvd., Suite 105

Las Vegas, Nevada 89146

Telephone: (702) 307-9500

Facsimile: (702) 382-9452

Attorneys for Appellant

1 CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee of the FLANGAS DALACAS LAW GROUP, and
3 that on this 1st day of October, 2020 served a true and correct copy of CASE APPEAL
4 STATEMENT as indicated below:

5 X By depositing the same in the United States mail, first-class, postage prepaid,
6 in a sealed envelope, at Las Vegas, Nevada pursuant to N.R.C.P. 5(b)
7 addressed as follows

8 X By electronic mail.

9
10 John L. Marshall
11 570 Marsh Avenue
12 Reno, NV 89509
13 Tel: 775-303-4882
14 johnladuemarshall@gmail.com

15 Luke A. Busby
16 Luke Andrew Busby, Ltd.
17 316 California Ave. Ste. 82
18 Reno, NV 89509
19 Tel: 775-453-0112
20 luke@lukeandrewbusbyltd.com
21 *Attorneys for Defendant*

22
23
24
25
26
27
28

An Employee of Flangas Dalacas

Judge: WILSON JR, JAMES E

Case No. 18 TRT 00001 1E
Ticket No.
CTN:

GILMAN, LANCE

By:

TOLL, SAM

DRSPND

-vs-

By:

Dob: Sex:
Lic: Sid:Plate#:
Make:
Year: Accident:
Type:
Venue:
Location:

GILMAN, LANCE

PLNTPET

Bond: Set:
Type: Posted:

Charges:

Ct.

Offense Dt: Cvr:
Arrest Dt:
Comments:

Sentencing:

No.	Filed	Action	Operator	Fine/Cost	Due
1	10/01/20	CASE APPEAL STATEMENT Attorney: Jessica K. Peterson (10670)	1EADUKE	0.00	0.00
2	10/01/20	NOTICE OF APPEAL FILED Attorney: Jessica K. Peterson (10670)	1EADUKE	24.00	24.00
3	09/28/20	NOTICE OF ENTRY OF ORDER Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
4	09/24/20	ORDER ON MOTION FOR ATTORNEY'S FEES AND COSTS	1EADUKE	0.00	0.00
5	08/27/20	CASE APPEAL STATEMENT	1EVSTEPHEN	0.00	0.00
6	08/27/20	NOTICE OF APPEAL FILED Filed by Defendant Receipt: 6546 Date: 09/08/2020	1EVSTEPHEN	24.00	0.00
7	08/21/20	SUBMISSION OF PROPOSED ORDER REGARDING DEFENDANT'S MOTION FOR COSTS Attorney: Gus W. Flangas (4989)	1EVSTEPHEN	0.00	0.00
8	08/20/20	ORDER FOR PROPOSED ORDER	1EADUKE	0.00	0.00
9	08/13/20	REQUEST FOR SUBMISSION OF MOTION FOR ATTORNEY'S FEES AND COSTS Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
10	08/12/20	PLAINTIFF'S SUPPLEMENTAL POINTS AND AUTHORITIES ON DEFENDANT'S MOTION FOR COSTS Attorney: Gus W. Flangas (4989)	1EADUKE	0.00	0.00
11	08/04/20	CASE APPEAL STATEMENT Attorney: Gus W. Flangas (4989)	1EADUKE	0.00	0.00
12	08/03/20	NOTICE OF ENTRY OF ORDER Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
13	07/30/20	NOTICE OF ENTRY OF ORDER Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
14	07/29/20	ORDER ALLOWING GILMAN TO FILE A SUR-REPLY RE: THE MOTION FOR COSTS	1EADUKE	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
15	07/29/20	ORDER AWARDING TOLL \$10,000.00 IN STATUTORY DAMAGES	1EADUKE	0.00	0.00
16	07/27/20	SUBMISSION OF PROPOSED ORDER REGARDING TOLL'S MOTION FOR ATTORNEYS FEES AND COSTS Attorney: Gus W. Flangas (4989)	1EADUKE	0.00	0.00
17	07/23/20	ORDER FOR PROPOSED ORDER	1EADUKE	0.00	0.00
18	07/23/20	SUBMISSION OF PROPOSED ORDERS Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
19	07/20/20	REQUEST FOR SUBMISSION OF MOTION FOR ATTORNEY'S FEES AND COSTS Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
20	07/17/20	DEFENDANT SAM TOLL'S REPLY TO OPPOSITION TO MOTION FOR ATTORNEY'S FEES AND COSTS Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
21	07/14/20	OPPOSITION TO MOTION FOR ATTORNEY'S FEES AND COSTS (X2) Attorney: Gus W. Flangus (4989)	1EADUKE	0.00	0.00
22	07/13/20	DEFENDANT SAM TOLL'S RESPONSE IN OPPOSITION TO BRIEF ON COURT'S ORDER REQUIRING THE PLAINTIFF TO SHOW CAUSE WHY HE SHOULD NOT BE ORDERED TO PAY \$10,000 IN STATUTORY DAMAGES Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
23	07/09/20	NOTICE OF APPEAL FILED Attorney: Gus W. Flangas (004989) Receipt: 6509 Date: 08/11/2020	1EADUKE	24.00	0.00
24	07/09/20	STIPULATION AND ORDER GRANTING EXTENSION OF TIME TO FILE OPPOSITION TO MOTION FOR ATTORNEYS FEES AND COSTS -STIPULATION FOR EXTENSION OF TIME- Attorney: Gus W. Flangas (4989)	1EADUKE	0.00	0.00
25	06/29/20	BRIEF ON COURT'S ORDER REQUIRING THE PLAINTIFF TO SHOW CAUSE WHY HE SHOULD NOT BE ORDERED TO PAY \$10,000.00 IN STATUTORY DAMAGES Attorney: Gus W. Flangas (4989)	1EADUKE	0.00	0.00
26	06/23/20	DEFENDANT SAM TOLL'S MOTION FOR ATTORNEY'S FEES AND COSTS Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
27	06/17/20	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1EADUKE	0.00	0.00
28	06/17/20	NOTICE OF ENTRY OF ORDER Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
29	06/15/20	ORDER GRANTING TOLL'S ANTI-SLAPP SPECIAL MOTION TO DISMISS	1EADUKE	0.00	0.00
30	05/18/20	REQUEST FOR SUBMISSION Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
31	05/15/20	REPLY TO DEFENDANT'S OPPOSITION TO PLAINTIFF'S SUPPLEMENTAL POINTS AND AUTHORITIES ON THE SPECIAL MOTION TO DISMISS Attorney: Gus W. Flangas (004989)	1EADUKE	0.00	0.00
32	05/15/20	SUBMISSION OF PLAINTIFF'S PROPOSED ORDER REGARDING THE " ANTI-SLAPP SPECIAL MOTION TO DISMISS PER NRS 41.660" WHICH WAS FILED BY THE DEFENDANT Attorney: Gus W. Flangaas (004989)	1EADUKE	0.00	0.00
33	05/13/20	FILE TO JUDGE	1EADUKE	0.00	0.00
34	04/27/20	OPPOSING SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
35	04/15/20	PLAINTIFF'S SUPPLEMENTAL POINTS AND AUTHORITIES ON THE SPECIAL MOTION TO DISMISS Attorney: Gus Flangus (4989)	1EADUKE	0.00	0.00
36	04/07/20	NOTICE OF ENTRY OF ORDER	1EADUKE	0.00	0.00
37	04/07/20	STIPULATION FOR EXTENSION OF TIME Attorney: Gus W. Flangas (4989)	1EADUKE	0.00	0.00
38	03/23/20	NOTICE OF ENTRY OF ORDER Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
39	03/19/20	ORDER AFTER REMAND	1EADUKE	0.00	0.00
40	03/09/20	PLAINTIFF'S SUBMISSION OF HIS DRAFT ORDER Attorney: Gus W. Flangas (4989)	1EADUKE	0.00	0.00
41	03/09/20	NOTICE OF SUPPLEMENTAL AUTHORITY Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
42	03/06/20	SUBMISSION FOR PROPOSED ORDER Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
43	03/02/20	ORDER FOR PROPOSED ORDER	1EADUKE	0.00	0.00
44	02/21/20	REQUEST FOR SUBMISSION Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
45	02/13/20	REPLY BRIEF ON MOTION TO COMPEL AFTER ISSUANCE OF WRIT OF PROHIBITION Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
46	02/07/20	RESPONSE TO OPENING BRIEF ON MOTION TO COMPEL AFTER ISSUANCE OF WRIT OF PROHIBITION MOTION FOR LEAVE TO TAKE THE DEPOSITIONS OF DEFENDANT'S EXPERTS WHO SUBMITTED AFFIDAVITS IN SUPPORT OF DEFENDANT'S OPENING BRIEF Attorney: Gus W. Flangas, Esq. (004989)	1EADUKE	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
47	01/27/20	FILING OF ORIGINAL DECLARATION Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
48	01/23/20	OPENING BRIEF ON MOTION TO COMPEL AFTER ISSUANCE OF WRIT OF PROHIBITION Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
49	01/22/20	ORDER	1EADUKE	0.00	0.00
50	01/21/20	SUBMISSION OF DRAFT ORDER Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
51	01/06/20	TELEPHONE CONFERENCE MEMO TO COMMENCE JANUARY 9, 2020 AT 2:00 PM	1EADUKE	0.00	0.00
52	01/06/20	STATUS CHECK SCHEDULED: Event: STATUS CHECK (STOREY) Date: 01/06/2020 Time: 2:00 pm Judge: WILSON JR, JAMES E Location: STOREY CASES HEARD IN CARSON CITY Result: HEARING HELD	1EADUKE	0.00	0.00
53	12/18/19	REQUEST FOR STATUS CONFERENCE Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
54	12/10/19	WRIT OF PROHIBITION-SUPREME COURT	1EADUKE	0.00	0.00
55	04/10/19	NOTICE OF ENTRY OF ORDER IN DISTRICT COURT GRANTING STAY OF DISCOVERY	1EADUKE	0.00	0.00
56	04/05/19	REQUEST FOR SUBMISSION OF MOTION FOR CLARIFICATION OF MARCH 18, 2019 ORDER DENYING MOTION TO DISMISS Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
57	04/04/19	ORDER-MOTION GRANTED FROM SUPREME COURT	1EADUKE	0.00	0.00
58	03/28/19	NOTICE OF UNAVAILABILITY OF COUNSEL Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
59	03/27/19	FILE TO JUDGE	1EADUKE	0.00	0.00
60	03/25/19	FILE RETURNED FROM JUDGE	1EADUKE	0.00	0.00
61	03/21/19	ORDER GRANTING STAY OF DISCOVERY	1EADUKE	0.00	0.00
62	03/21/19	MOTION FOR CLARIFICATION OF MARCH 18, 2019 ORDER DENYING MOTION TO DISMISS Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
63	03/21/19	NOTICE OF ENTRY OF ORDER Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
64	03/20/19	LIMITED OPPOSITION TO MOTION TO STAY DISCOVERY & COUNTERMOTION TO EXPAND THE SCOPE OF DISCOVERY GUS W. FLANGAS, ESQ, SBN 004989 JESSICA K. PETERSON, ESQ, SBN 10670	1EADUKE	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
65	03/19/19	REQUEST FOR SUBMISSION OF MOTION STAY OF DISCOVERY PENDING PETITION FOR WRIT OF PROHIBITION OF MANDAMUS TO THE NEVADA SUPREME COURT Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
66	03/19/19	REPLY BRIEF IN SUPPORT OF MOTION FOR STAY OF DISCOVERY PENDING PETITION FOR WRIT OF PROHIBITION OR MANDAMUS TO THE NEVADA SUPREME COURT Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
67	03/18/19	ORDER DENYING MOTION TO DISMISS	1EADUKE	0.00	0.00
68	03/18/19	NOTICE OF ENTRY OF ORDER Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
69	03/18/19	NOTICE OF FILING OF PETITION FOR EXTRAORDINARY WRIT Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
70	03/14/19	ORDER SHORTENING TIME	1EADUKE	0.00	0.00
71	03/12/19	ERRATA TO OPPOSITION TO MOTION TO DISMISS & TERMINATION OF PROCEEDINGS GUS W FLANGAS, SBN 4989 JESSICA K PETERSON, SBN 10670	1EADUKE	0.00	0.00
72	03/11/19	OPPOSITION TO MOTION TO DISMISS AND TERMINATION OF PROCEEDINGS FLANGAS, GUS W. SBN 004989 PETERSON, JESSICA K. SBN 10670	1EADUKE	0.00	0.00
73	03/11/19	SECOND REQUEST FOR SUBMISSION OF MOTION FOR SUBMISSION OF MOTION TO DISMISS AND TERMINATION OF PROCEEDINGS Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
74	03/11/19	MOTION FOR STAY OF DISCOVERY PENDING PETITION FOR WRIT OF PROHIBITION OR MANDAMUS TO THE NEVADA SUPREME COURT ON ORDER SHORTENING TIME Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
75	03/11/19	REPLY IN SUPPORT OF MOTION FOR SUBMISSION OF MOTION TO DISMISS AND TERMINATION OF PROCEEDINGS Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
76	03/11/19	NOTICE OF ENTRY OF ORDER Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
77	03/11/19	MOTION FOR ORDER SHORTENING TIME TO RESPOND TO MOTION FOR STAY OF DISCOVERY PENDING PETITION FOR WRIT OF PROHIBITION OR MANDAMUS TO THE NEVADA SUPREME COURT Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
78	03/07/19	REQUEST FOR SUBMISSION OF MOTION FOR SUBMISSION OF MOTION TO DISMISS AND TERMINATION OF PROCEEDINGS JOHN L.MARSHLL SBN 6733 LUKE ANDREW BUSBY , SBN 10319	1EADUKE	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
79	03/04/19	ORDER ON PLAINTIFF'S MOTION TO COMPEL, FOR SANCTIONS, TO EXTEND DISCOVERY PERIOD, AND FOR SUMMARY JUDGMENT AND ORDER VACATING HEARING	1EADUKE	0.00	0.00
80	03/04/19	SECOND REQUEST FOR SUBMISSION Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
81	02/28/19	FILE RETURNED FROM JUDGE	1EADUKE	0.00	0.00
82	02/26/19	NOTICE OF ENTRY OF ORDER LUKE ANDREW BUSBY, LTD SBN 10319	1EADUKE	0.00	0.00
83	02/26/19	HEARING SCHEDULED: Event: EVIDENTIARY HEARING (STOREY) Date: 03/15/2019 Time: 8:30 am Judge: WILSON JR, JAMES E Location: DEPT II - STOREY COUNTY Result: VACATED PROCEEDINGS	1EADUKE	0.00	0.00
84	02/25/19	ORDER SHORTENING TIME	1EADUKE	0.00	0.00
85	02/25/19	MOTION FOR ORDER SHORTENING TIME TO RESPOND TO MOTION FOR SUBMISSION OF MOTION TO DISMISS AND TERMINATION OF PROCEEDINGS ATTORNEY: JOHN L. MARSHALL, SBN 6733 LUKE A. BUSBY, SBN 10319	1EADUKE	0.00	0.00
86	02/25/19	MOTION FOR SUBMISSION DF MOTION TO DISMISS AND TERMINATION OF PROCEEDINGS ON ORDER SHORTENING TIME ATTORNEY: JOHN L. MARSHALL SBN 6733 LUKE A. BUSBY SBN 10319	1EADUKE	0.00	0.00
87	02/21/19	TELEPHONE CONFERENCE MEMO	1EADUKE	0.00	0.00
88	01/11/19	AMENDED ORDER AFTER HEARING	1EADUKE	0.00	0.00
89	01/11/19	ORDER AFTER HEARING	1EADUKE	0.00	0.00
90	12/19/18	HEARING DATE MEMO 02/22/19	1EADUKE	0.00	0.00
91	12/19/18	DECLARATION OF COUNSEL PERTAINING TO THE NEED FOR A CONTINUANCE OF HEARING GUS W. FLANGAS, ESQ. NEVADA BAR 004989	1EADUKE	0.00	0.00
92	12/19/18	EVIDENTIARY HEARING ON MOTION TO COMPEL JESSICA PETERSON ESQ., PLAINTIFF'S COUNSEL	1EADUKE	0.00	0.00
93	12/19/18	HEARING SCHEDULED: Event: EVIDENTIARY HEARING (STOREY) Date: 02/22/2019 Time: 9:00 am Judge: WILSON, JAMES E. JR. Location: DEPT II - STOREY COUNTY Plaintiffs counsel: Jessica Peterson, Esq. Defendants counsel: Luke Busby, Esq.	1EADUKE	0.00	0.00

Result: VACATED PROCEEDINGS

No.	Filed	Action	Operator	Fine/Cost	Due
94	12/18/18	DECLARATION OF COUNSEL PERTAINING TO THE NEED FOR A CONTINUANCE OF HEARING GUS W. FLANGAS, ESQ. BAR NO 004989	1EADUKE	0.00	0.00
95	12/13/18	TELEPHONE CONFERENCE MEMO-REGARDING UPCOMING HEARING ON DECEMBER 20,2018	1EADUKE	0.00	0.00
96	12/13/18	TELEPHONE CONFERENCE REGARDING UPCOMING HEARING ON DECEMBER 20, 2018 JESSICA PETERSON, ESQ. PLAINTIFFS COUNSEL Attorney: BUSBY, LUKE ANDREW (10319)	1EADUKE	0.00	0.00
97	12/13/18	FILE TO JUDGE-REMAINDER OF FILE SENT TO JUDGE	1EADUKE	0.00	0.00
98	08/29/18	HEARING SCHEDULED: Event: EVIDENTIARY HEARING (STOREY) Date: 12/20/2018 Time: 8:30 am Judge: WILSON JR, JAMES E Location: DEPT II - STOREY COUNTY Result: VACATED PROCEEDINGS	1EADUKE	0.00	0.00
99	08/22/18	SUPPLEMENTAL POINTS AND AUTHORITIES PURSUANT THE COURT'S AUGUST 8, 2018 ORDER JOHN L. MARSHALL SBN 6733 LUKE ANDREW BUSBY, LTD. BAR NO 10319	1EADUKE	0.00	0.00
100	08/10/18	NOTICE TO APPEAR TELEPHONICALLY FOR SETTING	1EADUKE	0.00	0.00
101	08/08/18	ORDER RE EVIDENTIARY HEARING ON MOTION TO COMPEL	1EADUKE	0.00	0.00
102	07/20/18	FILE TO JUDGE	1EVSTEPHEN	0.00	0.00
103	07/16/18	DISCLOSURE OF EXPARTE COMMUNICATION	1EVSTEPHEN	0.00	0.00
104	07/16/18	DISCLOSURE OF EXPARTE COMMUNICATION	1EVSTEPHEN	0.00	0.00
105	07/13/18	JOINT HEARING STATEMENT Attorney: MARSHALL, JOHN L. SBN 6733	1EADUKE	0.00	0.00
106	06/26/18	ORDER DENYING REQUEST FOR SUBMISSION	1EVSTEPHEN	0.00	0.00
107	06/26/18	ORDER FOR EVIDENTIARY HEARING ON MOTION TO COMPEL	1EVSTEPHEN	0.00	0.00
108	06/22/18	OPPOSITION TO MOTION FOR ORAL ARGUEMENT	1EWBACUS	0.00	0.00
109	06/18/18	PLAINTIFFS MOTION FOR ORAL ARGUMENT	1EWBACUS	0.00	0.00
110	06/08/18	FILE TO JUDGE	1EWBACUS	0.00	0.00
111	06/07/18	REPLY TO OPPOSITION TO PLAINTIFFS MOTION TO COMPEL MOTION FOR SACTIONS MOTION TO EXTEND TIME PERIOD FOR DISCOVERY AND IN THE ALTERNATIVE MOTION FOR PATIAL SUMMARY JUDGMENT	1EWBACUS	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
112	06/04/18	REQUEST FOR SUBMISSION OF SUPPLEMENTAL OPPOSITION AND SUPPLEMENTAL REPLY TO ANTI-SLAPP SPECIAL MOTION TO DISMISS	1EWBACUS	0.00	0.00
113	06/04/18	REPLY TO SUPPLEMENTAL OPPOSITION TO ANTI-SLAPP MOTION TO DISMISS	1EWBACUS	0.00	0.00
114	05/26/18	PLAINTIFFS SUPPLEMENTAL OPPOSITION TO THE DEFENDANTS ANTI SLAPP MOTION	1EWBACUS	0.00	0.00
115	05/22/18	OPPOSITION TO PLAINTIFFS MOTION TO COMPEL MOTION FOR SANCTIONS MOTION TO EXTEND THE TIME PERIOD FOR DISCOVERY AND IN THE ALTERNATIVE MOTION FOR PARTIAL SUMMARY JUDGMENT	1EWBACUS	0.00	0.00
116	05/11/18	PLAINTIFFS MOTION TO COMPEL MORION FOR SANCTIONS MOTION TO EXTEND THE TIME PERIOD FOR DISCOVERY AND IN THE ALTERNATIVE MOTION FOR PARTIAL SUMMARY JUDGMENT	1EWBACUS	0.00	0.00
117	04/20/18	NOTICE OF ENTRY OF ORDER	1EWBACUS	0.00	0.00
118	04/09/18	ORDER GRANTING ANTI SLAPP SPECIAL MOTION TO DISMISS IN PART ALLOWING LIMITED DISCOVERY AND STAYING FURTHER PROCEEDINGS	1EWBACUS	0.00	0.00
119	02/26/18	REQUEST FOR SUBMISSION	1EWBACUS	0.00	0.00
120	02/26/18	DEFENDANTS REPLY TO OPPOSITION TO ANTI SLAPP SPECIAL MOTION TO DISMISS	1EWBACUS	0.00	0.00
121	02/22/18	OPPOSITION TO ANTI SLAPP SPECIAL MOTION TO DISMISS PER NRS 41.660	1EWBACUS	0.00	0.00
122	02/01/18	ANTI SLAPP SPECIAL MOTION TO DISMISS PER NRS 41.660	1EVDIXON	0.00	0.00
123	01/26/18	ORDER CHANGING VENUE Receipt: 5497 Date: 01/30/2018	1EWBACUS	155.00	0.00
Total:				227.00	24.00
Totals By: COST				227.00	24.00
INFORMATION				0.00	0.00
*** End of Report ***					

DISTRICT COURT CIVIL COVER SHEET

~~WASHOE~~ Storey County, Nevada

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

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

Plaintiff(s) (name/address/phone): LANCE GILMAN	Defendant(s) (name/address/phone): SAM TOLL
Attorney (name/address/phone): Gus W. Flangas FLANGAS DALACAS LAW GROUP 3275 S. Jones Blvd., Ste. 105 Las Vegas, Nevada 89146 Tel: 702-307-9500	Attorney (name/address/phone): <div style="text-align: center; font-size: 2em; font-weight: bold;"># 252</div>

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

Civil Case Filing Types

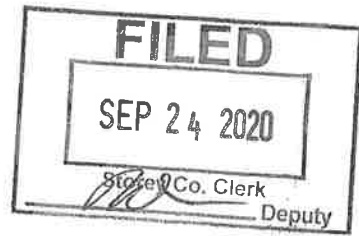
Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer (UD) <input type="checkbox"/> Other Landlord/Tenant (LT) Title to Property <input type="checkbox"/> Judicial Foreclosure (FC) <input type="checkbox"/> Other Title to Property (OT) Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain (CD) <input type="checkbox"/> Other Real Property (RO)	Negligence <input type="checkbox"/> Auto (VP) <input type="checkbox"/> Premises Liability (SF) <input type="checkbox"/> Other Negligence (NO) Malpractice <input type="checkbox"/> Medical/Dental (MD) <input type="checkbox"/> Legal (LG) <input type="checkbox"/> Accounting (AG) <input type="checkbox"/> Other Malpractice (MG)	Torts Other Torts <input type="checkbox"/> Product Liability (PL) <input type="checkbox"/> Intentional Misconduct (IM) <input type="checkbox"/> Employment Tort (WT) <input type="checkbox"/> Insurance Tort (IN) <input checked="" type="checkbox"/> Other Tort (TO)
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration (SU) <input type="checkbox"/> General Administration (FA) <input type="checkbox"/> Special Administration (SL) <input type="checkbox"/> Set Aside (SE) <input type="checkbox"/> Trust/Conservatorship (TN) <input type="checkbox"/> Other Probate (OP) Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 (CQ) <input type="checkbox"/> Other Construction Defect (CF) Contract Case <input type="checkbox"/> Uniform Commercial Code (UN) <input type="checkbox"/> Building and Construction (BC) <input type="checkbox"/> Insurance Carrier (BF) <input type="checkbox"/> Commercial Instrument (CI) <input type="checkbox"/> Collection of Accounts (CT) <input type="checkbox"/> Employment Contract (EC) <input type="checkbox"/> Other Contract (CO)	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case (FO) <input type="checkbox"/> Petition to Seal Records (PS) <input type="checkbox"/> Mental Competency (MT) Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle (DM) <input type="checkbox"/> Worker's Compensation (SI) <input type="checkbox"/> Other Nevada State Agency (ON) Appeal Other <input type="checkbox"/> Appeal from Lower Court (CA) <input type="checkbox"/> Other Judicial Review/Appeal (AO)
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus (HB) <input type="checkbox"/> Writ of Mandamus (WM) <input type="checkbox"/> Writ of Quo Warrant (WQ) <input type="checkbox"/> Writ of Prohibition (WP) <input type="checkbox"/> Other Civil Writ (WO)		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim (CM) <input type="checkbox"/> Foreign Judgment (FJ) <input type="checkbox"/> Other Civil Matters (GC)

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

December 7, 2017

Date

Signature of initiating party or representative



IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR STOREY COUNTY

-oOo-

LANCE GILMAN,

Plaintiff,

v.

SAM TOLL,

Defendant.

CASE NO. 18 TRT 00001 1E

DEPT. 2

ORDER ON MOTION FOR ATTORNEY'S FEES AND COSTS

Before the Court is Sam Toll's Motion for Attorney's Fees and Costs and all papers filed regarding that motion.

Under NRS 41.670(1)(a), if the court grants a special motion to dismiss filed under NRS 41.660 the court shall award reasonable costs and attorney's fees to the person against whom the action was brought.

ATTORNEY FEES

Hourly Rate

John Marshall, Esq. seeks approval for an hourly rate of \$450 an hour, and Luke Busby, Esq. seeks approval for an hourly rate of \$350 an hour.

1 To determine a reasonable hourly rate, the Court must consider the following
2 factors: (1) the qualities of the advocate: their ability, training, education, experience,
3 professional standing and skill; (2) the character of the work done: its difficulty,
4 intricacy, importance, the time and skill required, the responsibility imposed and the
5 prominence and character of the parties when they affect the importance of the
6 litigation; (3) the work actually performed by the lawyers: the skill, time and attention
7 given to the work; and (4) the result: whether the attorney was successful and what
8 benefits were derived. *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349, 455 P.2d
9 31. The Court will also consider whether the requested hourly rates are in-line with
10 local attorney hourly rates. The Court will address each of these factors in order.

11
12 *(1) The qualities of the advocate; their ability, training, education, experience,*
13 *professional standing and skill*

14 Toll's counsels' qualifications and experience are established in the resumes
15 they attached to their motion. Both attorneys have extensive legal experience, including
16 in complex litigation and matters affecting the public interest, they have good legal
17 ability and skill, and the professional standing of each is good.

18
19 *(2) The character of the work done: its difficulty, intricacy, importance, the*
20 *time and skill required, the responsibility imposed and the prominence and*
21 *character of the parties when they affect the importance of the litigation*

22 Litigating an Anti-SLAPP special motion to dismiss is difficult and intricate
23 because of the number of issues that need to be addressed. The Court's order granting
24 in part and denying in part the special motion to dismiss was 41 pages.

25 Viable special motions to dismiss in Anti-SLAPP cases are important because
26 they protect "[g]ood faith communication in furtherance of the right to petition or the
27 right to free speech in direct connection with an issue of public concern" NRS 41.637.

1 Properly prepared special motions to dismiss in Anti-SLAPP cases, require
2 considerable time and skill. The special motion in this case was properly prepared.

3 This case involves a high profile businessman who is also a county commissioner
4 suing a small town blogger to stop the blogger's criticism of the commissioner. The
5 prominence and character of the parties affect the importance of this litigation.

6
7 *(3) The work actually performed by the lawyers: the skill, time and attention*
8 *given to the work*

9 Toll's counsel successfully litigated the special motion to dismiss. The filed anti-
10 SLAPP papers are voluminous. The Court's file consists of nine volumes. Toll's counsel
11 displayed good skill and attention to the work in their filed papers.

12
13 *(4) The result: whether the attorney was successful and what benefits were*
14 *derived*

15 Toll's counsel were successful, the special motion was granted. The benefits are
16 preserving Toll's right to generate good faith communications in furtherance of his
17 rights to petition and free speech, and specific and general deterrence to those who
18 consider interfering with a reporter's right to generate good faith communications in
19 furtherance of his rights to petition and free speech.

20
21 *(5) Whether the requested hourly rates are in-line with local attorney hourly*
22 *rates*

23 Toll's counsel attached to their motion declarations of Reno attorneys that attest
24 that the hourly rates sought are reasonable and customary. Based upon that evidence
25 and the Court's experience in handling motions for attorney fees, the Court concludes
26 the requested hourly rates are in-line with local attorney hourly rates.

1 *Conclusion on hourly rates*

2 Having considered the factors, facts, and circumstances the Court concludes
3 John Marshall, Esq.'s hourly rate of \$450 an hour, and Luke Busby, Esq.'s hourly rate
4 of \$350 an hour are reasonable and justified.

5
6 **Time**

7 In deciding what constitutes a "reasonable fee" in the context of anti-SLAPP
8 litigation it has been said:

9
10 "[a] reasonable [attorney's] fee is one that is not excessive or extreme, but rather
11 moderate or fair. The mere fact that a party and a lawyer contracted for or
12 incurred a particular amount of attorney's fees does not conclusively prove that
13 a fee paid by the lawyer's client is reasonable. When a party seeks to shift fees
14 from its client to the opposing party, the party seeking fees must prove that the
15 amount of the fees it is requesting is reasonable. That said, when awarding
16 attorney's fees, the factfinder should exclude "[c]harges for duplicative,
excessive, or inadequately documented work[.]" See *Toledo v. KBMT Operating*
Co., LLC, 581 S.W.3d 324, 329-31 (Tex. App. 2019); *In re Leonard Jed Co.*, 118
B.R. 339, 347 (Bankr.D.Md. 1990) ("excessive use of office conferences and
unnecessary duplication of effort will result in reduction of fees when they are
unreasonable").

17 Toll cited *Graham-Sult v. Clainos*, 756 F.3d 724, 752 (9th Cir. 2014) for the
18 proposition that it is appropriate to award all attorneys fees incurred in connection with
19 the entire case even if some work is not directly related to the anti-SLAPP Motion.
20 *Graham* recognized the general rule is that the anti-SLAPP attorney fee provision
21 applies only to the anti-SLAPP motion and not to the entire action. *Id.* Toll has not
22 provided evidence or argument that justify deviating from the general rule.

23
24 In *569 E. Cty. Blvd. LLC v. Backcountry Against The Dump, Inc.*, 6 Cal.App.5th
25 426, 212 Cal. Rptr. 3d 304, (2016). The California Court of Appeals held that "a fee
26 award under the anti-SLAPP statute may not include matters unrelated to the anti-
27

1 SLAPP motion, such as . . . summary judgment research, “because such matters are not
2 “incurred in connection with the anti-SLAPP motion.” *Backcountry*, supra at 310-11.
3 The Ninth Circuit cited favorably to *Backcountry* in the case of *Century Sur. Co. v.*
4 *Prince*, 782 F. App’x 553, 558 (9th Cir. 2019) and denied attorneys fees for work that
5 was not related to the anti-SLAPP Motion (only attorneys’ fees and costs directly
6 attributable to the anti-SLAPP motion(s) are recoverable). Just recently, the United
7 States District Court for the State of Nevada required the attorneys seeking their fees to
8 revise their billing statements to remove any entries not directly related to the anti-
9 SLAPP motion. *Walker v. Intelli-heart Servs., Inc.*, No. 318CV00132MMDCLB, 2020
10 WL 1694771, at *2 (D. Nev. Apr. 7, 2020).

12 Based on the foregoing, the fees that can be awarded to Defendant must be
13 reasonable, adequately documented, and relate directly to the anti-SLAPP motion, and
14 not be excessive or duplicative.

15 Having carefully considered the pleadings and papers filed by the parties, the
16 quality of the legal product, the importance of the issue, and the result obtained, the
17 Court concludes the hours claimed by Toll included matters not related to the special
18 motion to dismiss, and some claimed hours were excessive and not reasonable. Toll
19 will be awarded fees for all time claimed by Toll and not objected to by Gilman plus the
20 time set forth in the following table which addresses each entry objected to by Gilman.
21

Date	Description of Work	Time Keeper	Hours Awarded	Objection/ Court’s Decision
12/18/17	Email client	JLM	Ø	Not related to anti-SLAPP motion/ agree

1	12/22/17	Mtg with client	JLM	Ø	Not related to anti-SLAPP motion/ agree
2					
3	12/27/17	Draft and revise Answer + Motion to Change Venue	JLM	Ø	Not related to anti-SLAPP motion/ agree
4					
5	12/22/17	Initial meeting with Toll	LAB	Ø	Not related to anti-SLAPP motion/ agree
6					
7					
8	12/28/17	Draft and revise Answer + Motion to Change Venue	JLM	Ø	Not related to anti-SLAPP motion/ agree
9					
10	12/23/17	Research and draft of Motion to Change Venue	LAB	Ø	Not related to anti-SLAPP motion/ agree
11					
12	12/23/17	Draft Affidavit of Sam Toll re: Motion to Change Venue	LAB	Ø	Not related to anti-SLAPP motion/ agree
13					
14	12/23/17	Draft Answer to Complaint	LAB	Ø	Not related to anti-SLAPP motion/ agree
15					
16					
17	12/26/17	Meeting with Toll and retainer agreement	LAB	Ø	Not related to anti-SLAPP motion/ agree
18					
19	12/28/17	Finalize and file answer	LAB	Ø	Not related to anti-SLAPP motion/ agree
20					
21	1/12/18	Request to submit venue motion	LAB	Ø	Not related to anti-SLAPP motion/ agree
22					
23					
24	12/31/17-2/1/18	Draft Special Motion to Dismiss	LAB JLM	40.0 15.0	Excessive time; duplicative/ Toll failed to show 60+ hours is reasonable; 55 hours is reasonable
25					
26					
27					

1	2/21/18	Review opposition to anti-SLAPP motion	JLM	1.0	Duplicative/disagree
2					
3	2/21/18	Review opposition to anti-SLAPP motion	LAB	2.1	Duplicative/disagree
4					
5	2/21/18-2/26/2018	Work on Reply to Opposition to anti-SLAPP motion	LAB JLM	24.0 12.0	Excessive; duplicative/ Toll failed to show 43+ hours is reasonable; 36 hours is reasonable
6					
7					
8					
9	4/9/2018	Review Order	LAB JLM	1.3 1.0	Duplicative/disagree
10					
11	4/19/18	Meet client re order and discovery	LAB	1.2	Not related to anti-SLAPP motion/disagree
12					
13	4/23/18	Call with Mike Sullivan re: Gilman v. Antinoro	LAB	Ø	Not related to anti-SLAPP motion/ Toll failed to show related to anti-SLAPP motion
14					
15					
16					
17	4/28/18-5/4/18	Toll depo prep	LAB	6.1	Not related to anti-SLAPP motion/disagree
18					
19	4/28/18	Shield law research	LAB	2.3	Not related to anti-SLAPP motion/disagree
20					
21	5/10/18-5/17/18	Prep and attend Osborne deposition and review transcripts	JLM	4.3	Not related to anti-SLAPP motion/disagree
22					
23					
24					
25	5/10/18-5/22/18	Review of Motion for Sanctions; work on opposition to	LAB	Ø	Not related to anti-SLAPP motion/agree
26					
27					

	Motion for Sanctions			
5/19/18	Work on opposition to motion to compel	JLM	4.5	Duplicative; not reasonable/ disagree
6/15/18-6/20/18	Review of Motion for Oral Argument and prepare opposition	LAB JLM	1.0 2.0	Excessive hours; unreasonable/ agree in part
6/27/18-2/22/29	Evidentiary hearing prep	LAB	57.5	Not related to anti-SLAPP motion/ disagree
6/27/18	Review court order; conference between counsel	JLM LAB	1.5 2.1	Block billed, duplicative and interoffice conference/ disagree
6/27/18 and 6/29/18	Counsel conference	LAB JLM	0.5 0.5	Interoffice conference, duplicative/ Agree in part 0.4 not allowed
8/17/18	Counsel conference	JLM	0.8	Interoffice conference; block billed/ disagree
11/30/18	Counsel conference re hearing prep and strategy	JLM LAB	2.4 2.4	Duplicative, interoffice conference/ disagree
2/14/19	Counsel conference re hearing prep	JLM LAB	1.0 1.0	Duplicative, interoffice conference/ disagree; LAB billed 0.3 more and that is excluded from award
2/20/19	Counsel conference re hearing prep	JLM LAB	2.0 2.0	Interoffice meeting; duplicative/ LAB billed 0.4 more and that is

				excluded from award
2/21/19	Counsel conference re hearing prep	JLM LAB	1.5 1.5	Duplicative/ disagree
3/8/19- 3/17/19	Draft writ petition	JLM LAB	12.0 48.0	Not directly related to anti-SLAPP motion/disagree Duplicative/ Disagree Excessive hours/ Toll failed to show claimed hours are reasonable; 60 hours is reasonable
5/6/19	Review and outline opposition to writ	JLM	2.3	Not directly related to anti-SLAPP motion, duplicative/ disagree
5/9/19	Review writ answer	LAB	2.0	Not directly related to anti-SLAPP motion, duplicative/ disagree
5/28/19- 6/2/19	Draft writ reply brief	JLM	25.9	Not related to anti-SLAPP motion, duplicative/ disagree
5/10/19- 5/29/19	Work on writ reply brief	LAB	15.7	Not related to anti-SLAPP motion, duplicative/ disagree
8/16/19- 9/5/19	Prep for oral argument	JLM	27.3	Not related to anti-SLAPP motion, duplicative/ disagree

8/25/19-9/3/19	Case outline/prep	LAB	14.5	Not related to anti-SLAPP motion, duplicative/disagree
6/21/20	Work on App for Attorney Fees	JLM	2.5	Duplicative/Disagree Excessive/agree: Toll failed to show hours reasonable; 2.5 hours is reasonable
6/19/20-6/21/20	Work on App for Attorney Fees	LAB	2.5	Duplicative/Disagree Excessive/agree: Toll failed to show hours reasonable; 2.5 hours is reasonable

Toll will be awarded attorney fees for John Marshall's services at \$450 per hour for 164.1 hours for a total of \$73,340.

Toll will be awarded attorney fees for Luke Busby's services at \$350/hour for 330 hours for a total of \$115,500. The total attorney fee award is \$188,840.

COSTS

Toll failed to file with his memorandum of costs, any substantiating documentation of the claimed costs. Gilman cited *Cadle Company v. Woods & Erickson, LLP*, 131 Nev. 114, 345 P. 3d 1049 (2015), for the proposition that for a court to award costs it must have justifying documentation, which by necessity means more than a memorandum of costs. The Supreme Court in *Cadle* refused to award certain costs because there was no evidence for the Court to determine that the costs were reasonable, necessary, and actually incurred.

1 In four lines in his reply devoted to the costs issue Toll simply offered some
2 receipts. He failed to address the arguments raised in Gilman's opposition.

3 Toll's receipts and affidavit that indicating the costs were necessarily incurred
4 did not establish that the claimed costs were reasonable, necessary, and actually
5 incurred. Toll's request for costs will be denied.

6
7 **THE COURT ORDERS:**

8 Toll is awarded \$188,840 in attorney fees.

9 Toll's request for costs is denied.

10 September 24, 2020.

11 
12 James E. Wilson Jr.
13 District Court Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7

2
3
4
5
6
7
8
9
0
1

5
6
7
8

5
67
8

01

1 Nevada, for mailing.

2

3

4

Billie Shadron
Judicial Assistant

1 JOHN L. MARSHALL
2 SBN 6733
3 570 Marsh Avenue
4 Reno, Nevada 89509
5 Telephone: (775) 303-4882
6 johnmarshall@charter.net

7 Luke Andrew Busby, Ltd.
8 Nevada State Bar No. 10319
9 316 California Ave #82
10 Reno, NV 89509
11 775-453-0112
12 luke@lukeandrewbusbyltd.com

13 *Attorneys for the Defendant*

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR STOREY COUNTY

LANCE GILMAN,

Plaintiff,

vs.

SAM TOLL,

Defendant.

Case No. 18-trt-00001-1e

Dept. No. II

NOTICE OF ENTRY OF ORDER

Please Take Notice: On September 24, 2020 the Court entered an Order on Motion for Attorney's Fees and Costs in the above captioned matter, a true and correct copy of which is attached hereto as Exhibit 1.

///

///

///

///

NRS 239B.030(4) AFFIRMATION

I certify that the attached filing includes no social security numbers or other personal information.

Respectfully submitted this Saturday, September 26, 2020:

By: _____


JOHN L. MARSHALL
SBN 6733

570 Marsh Avenue
Reno, Nevada 89509
Telephone: (775) 303-4882
johnmarshall@charter.net

Luke Andrew Busby, Ltd.
Nevada State Bar No. 10319
316 California Ave #82
Reno, NV 89509
775-453-0112
luke@lukeandrewbusbyltd.com
Attorneys for the Defendant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit List

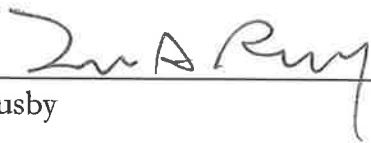
1. Order on Motion for Attorney's Fees and Costs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that on the date indicated below I served the foregoing document on the following parties via US Mail, postage prepaid, and/or electronic service.

GUS W. FLANGAS
JESSICA K. PETERSON
Flangas Dalacas Law Group
3275 South Jones Blvd. Suite 105
Las Vegas, NV 89146
702-307-9500
F - 702-382-9452

By: 
Luke Busby

Dated: 9-26-20

Exhibit 1

Exhibit 1



IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR STOREY COUNTY

-oOo-

LANCE GILMAN,

Plaintiff,

v.

SAM TOLL,

Defendant.

CASE NO. 18 TRT 00001 1E

DEPT. 2

ORDER ON MOTION FOR ATTORNEY'S FEES AND COSTS

Before the Court is Sam Toll's Motion for Attorney's Fees and Costs and all papers filed regarding that motion.

Under NRS 41.670(1)(a), if the court grants a special motion to dismiss filed under NRS 41.660 the court shall award reasonable costs and attorney's fees to the person against whom the action was brought.

ATTORNEY FEES

Hourly Rate

John Marshall, Esq. seeks approval for an hourly rate of \$450 an hour, and Luke Busby, Esq. seeks approval for an hourly rate of \$350 an hour.

1 To determine a reasonable hourly rate, the Court must consider the following
2 factors: (1) the qualities of the advocate: their ability, training, education, experience,
3 professional standing and skill; (2) the character of the work done: its difficulty,
4 intricacy, importance, the time and skill required, the responsibility imposed and the
5 prominence and character of the parties when they affect the importance of the
6 litigation; (3) the work actually performed by the lawyers: the skill, time and attention
7 given to the work; and (4) the result: whether the attorney was successful and what
8 benefits were derived. *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349, 455 P.2d
9 31. The Court will also consider whether the requested hourly rates are in-line with
10 local attorney hourly rates. The Court will address each of these factors in order.

11
12 *(1) The qualities of the advocate; their ability, training, education, experience,*
13 *professional standing and skill*

14 Toll's counsels' qualifications and experience are established in the resumes
15 they attached to their motion. Both attorneys have extensive legal experience, including
16 in complex litigation and matters affecting the public interest, they have good legal
17 ability and skill, and the professional standing of each is good.

18
19 *(2) The character of the work done: its difficulty, intricacy, importance, the*
20 *time and skill required, the responsibility imposed and the prominence and*
21 *character of the parties when they affect the importance of the litigation*

22 Litigating an Anti-SLAPP special motion to dismiss is difficult and intricate
23 because of the number of issues that need to be addressed. The Court's order granting
24 in part and denying in part the special motion to dismiss was 41 pages.

25 Viable special motions to dismiss in Anti-SLAPP cases are important because
26 they protect "[g]ood faith communication in furtherance of the right to petition or the
27 right to free speech in direct connection with an issue of public concern" NRS 41.637.

1 Properly prepared special motions to dismiss in Anti-SLAPP cases, require
2 considerable time and skill. The special motion in this case was properly prepared.

3 This case involves a high profile businessman who is also a county commissioner
4 suing a small town blogger to stop the blogger's criticism of the commissioner. The
5 prominence and character of the parties affect the importance of this litigation.
6

7 *(3) The work actually performed by the lawyers: the skill, time and attention*
8 *given to the work*

9 Toll's counsel successfully litigated the special motion to dismiss. The filed anti-
10 SLAPP papers are voluminous. The Court's file consists of nine volumes. Toll's counsel
11 displayed good skill and attention to the work in their filed papers.
12

13 *(4) The result: whether the attorney was successful and what benefits were*
14 *derived*

15 Toll's counsel were successful, the special motion was granted. The benefits are
16 preserving Toll's right to generate good faith communications in furtherance of his
17 rights to petition and free speech, and specific and general deterrence to those who
18 consider interfering with a reporter's right to generate good faith communications in
19 furtherance of his rights to petition and free speech.
20

21 *(5) Whether the requested hourly rates are in-line with local attorney hourly*
22 *rates*

23 Toll's counsel attached to their motion declarations of Reno attorneys that attest
24 that the hourly rates sought are reasonable and customary. Based upon that evidence
25 and the Court's experience in handling motions for attorney fees, the Court concludes
26 the requested hourly rates are in-line with local attorney hourly rates.
27

1 *Conclusion on hourly rates*

2 Having considered the factors, facts, and circumstances the Court concludes
3 John Marshall, Esq.'s hourly rate of \$450 an hour, and Luke Busby, Esq.'s hourly rate
4 of \$350 an hour are reasonable and justified.

5
6 **Time**

7 In deciding what constitutes a "reasonable fee" in the context of anti-SLAPP
8 litigation it has been said:

9
10 "[a] reasonable [attorney's] fee is one that is not excessive or extreme, but rather
11 moderate or fair. The mere fact that a party and a lawyer contracted for or
12 incurred a particular amount of attorney's fees does not conclusively prove that
13 a fee paid by the lawyer's client is reasonable. When a party seeks to shift fees
14 from its client to the opposing party, the party seeking fees must prove that the
15 amount of the fees it is requesting is reasonable. That said, when awarding
16 attorney's fees, the factfinder should exclude "[c]harges for duplicative,
excessive, or inadequately documented work[.]" See *Toledo v. KBMT Operating*
Co., LLC, 581 S.W.3d 324, 329-31 (Tex. App. 2019); *In re Leonard Jed Co.*, 118
B.R. 339, 347 (Bankr.D.Md. 1990) ("excessive use of office conferences and
unnecessary duplication of effort will result in reduction of fees when they are
unreasonable").

17 Toll cited *Graham-Sult v. Clainos*, 756 F.3d 724, 752 (9th Cir. 2014) for the
18 proposition that it is appropriate to award all attorneys fees incurred in connection with
19 the entire case even if some work is not directly related to the anti-SLAPP Motion.
20 *Graham* recognized the general rule is that the anti-SLAPP attorney fee provision
21 applies only to the anti-SLAPP motion and not to the entire action. *Id.* Toll has not
22 provided evidence or argument that justify deviating from the general rule.

23
24 In *569 E. Cty. Blvd. LLC v. Backcountry Against The Dump, Inc.*, 6 Cal.App.5th
25 426, 212 Cal. Rptr. 3d 304, (2016). The California Court of Appeals held that "a fee
26 award under the anti-SLAPP statute may not include matters unrelated to the anti-
27

SLAPP motion, such as . . . summary judgment research, “because such matters are not “incurred in connection with the anti-SLAPP motion.” *Backcountry*, supra at 310-11. The Ninth Circuit cited favorably to *Backcountry* in the case of *Century Sur. Co. v. Prince*, 782 F. App’x 553, 558 (9th Cir. 2019) and denied attorneys fees for work that was not related to the anti-SLAPP Motion (only attorneys’ fees and costs directly attributable to the anti-SLAPP motion(s) are recoverable). Just recently, the United States District Court for the State of Nevada required the attorneys seeking their fees to revise their billing statements to remove any entries not directly related to the anti-SLAPP motion. *Walker v. Intelli-heart Servs., Inc.*, No. 318CV00132MMDCLB, 2020 WL 1694771, at *2 (D. Nev. Apr. 7, 2020).

Based on the foregoing, the fees that can be awarded to Defendant must be reasonable, adequately documented, and relate directly to the anti-SLAPP motion, and not be excessive or duplicative.

Having carefully considered the pleadings and papers filed by the parties, the quality of the legal product, the importance of the issue, and the result obtained, the Court concludes the hours claimed by Toll included matters not related to the special motion to dismiss, and some claimed hours were excessive and not reasonable. Toll will be awarded fees for all time claimed by Toll and not objected to by Gilman plus the time set forth in the following table which addresses each entry objected to by Gilman.

Date	Description of Work	Time Keeper	Hours Awarded	Objection/ Court’s Decision
12/18/17	Email client	JLM	Ø	Not related to anti-SLAPP motion/ agree

1	12/22/17	Mtg with client	JLM	Ø	Not related to anti-SLAPP motion/ agree
2					
3	12/27/17	Draft and revise Answer + Motion to Change Venue	JLM	Ø	Not related to anti-SLAPP motion/ agree
4					
5	12/22/17	Initial meeting with Toll	LAB	Ø	Not related to anti-SLAPP motion/ agree
6					
7					
8	12/28/17	Draft and revise Answer + Motion to Change Venue	JLM	Ø	Not related to anti-SLAPP motion/ agree
9					
10	12/23/17	Research and draft of Motion to Change Venue	LAB	Ø	Not related to anti-SLAPP motion/ agree
11					
12	12/23/17	Draft Affidavit of Sam Toll re: Motion to Change Venue	LAB	Ø	Not related to anti-SLAPP motion/ agree
13					
14	12/23/17	Draft Answer to Complaint	LAB	Ø	Not related to anti-SLAPP motion/ agree
15					
16					
17	12/26/17	Meeting with Toll and retainer agreement	LAB	Ø	Not related to anti-SLAPP motion/ agree
18					
19	12/28/17	Finalize and file answer	LAB	Ø	Not related to anti-SLAPP motion/ agree
20					
21	1/12/18	Request to submit venue motion	LAB	Ø	Not related to anti-SLAPP motion/ agree
22					
23					
24	12/31/17-2/1/18	Draft Special Motion to Dismiss	LAB JLM	40.0 15.0	Excessive time; duplicative/ Toll failed to show 60+ hours is reasonable; 55 hours is reasonable
25					
26					
27					

2/21/18	Review opposition to anti-SLAPP motion	JLM	1.0	Duplicative/ disagree
2/21/18	Review opposition to anti-SLAPP motion	LAB	2.1	Duplicative/ disagree
2/21/18-2/26/2018	Work on Reply to Opposition to anti-SLAPP motion	LAB JLM	24.0 12.0	Excessive; duplicative/ Toll failed to show 43+ hours is reasonable; 36 hours is reasonable
4/9/2018	Review Order	LAB JLM	1.3 1.0	Duplicative/ disagree
4/19/18	Meet client re order and discovery	LAB	1.2	Not related to anti-SLAPP motion/ disagree
4/23/18	Call with Mike Sullivan re: Gilman v. Antinoro	LAB	Ø	Not related to anti-SLAPP motion/ Toll failed to show related to anti-SLAPP motion
4/28/18-5/4/18	Toll depo prep	LAB	6.1	Not related to anti-SLAPP motion/ disagree
4/28/18	Shield law research	LAB	2.3	Not related to anti-SLAPP motion/ disagree
5/10/18-5/17/18	Prep and attend Osborne deposition and review transcripts	JLM	4.3	Not related to anti-SLAPP motion/ disagree
5/10/18-5/22/18	Review of Motion for Sanctions; work on opposition to	LAB	Ø	Not related to anti-SLAPP motion/ agree

	Motion for Sanctions			
5/19/18	Work on opposition to motion to compel	JLM	4.5	Duplicative; not reasonable/ disagree
6/15/18-6/20/18	Review of Motion for Oral Argument and prepare opposition	LAB JLM	1.0 2.0	Excessive hours; unreasonable/ agree in part
6/27/18-2/22/29	Evidentiary hearing prep	LAB	57.5	Not related to anti-SLAPP motion/ disagree
6/27/18	Review court order; conference between counsel	JLM LAB	1.5 2.1	Block billed, duplicative and interoffice conference/ disagree
6/27/18 and 6/29/18	Counsel conference	LAB JLM	0.5 0.5	Interoffice conference, duplicative/ Agree in part 0.4 not allowed
8/17/18	Counsel conference	JLM	0.8	Interoffice conference; block billed/ disagree
11/30/18	Counsel conference re hearing prep and strategy	JLM LAB	2.4 2.4	Duplicative, interoffice conference/ disagree
2/14/19	Counsel conference re hearing prep	JLM LAB	1.0 1.0	Duplicative, interoffice conference/ disagree; LAB billed 0.3 more and that is excluded from award
2/20/19	Counsel conference re hearing prep	JLM LAB	2.0 2.0	Interoffice meeting; duplicative/ LAB billed 0.4 more and that is

				excluded from award
2/21/19	Counsel conference re hearing prep	JLM LAB	1.5 1.5	Duplicative/ disagree
3/8/19- 3/17/19	Draft writ petition	JLM LAB	12.0 48.0	Not directly related to anti-SLAPP motion/disagree Duplicative/ Disagree Excessive hours/ Toll failed to show claimed hours are reasonable; 60 hours is reasonable
5/6/19	Review and outline opposition to writ	JLM	2.3	Not directly related to anti-SLAPP motion, duplicative/ disagree
5/9/19	Review writ answer	LAB	2.0	Not directly related to anti-SLAPP motion, duplicative/ disagree
5/28/19- 6/2/19	Draft writ reply brief	JLM	25.9	Not related to anti-SLAPP motion, duplicative/ disagree
5/10/19- 5/29/19	Work on writ reply brief	LAB	15.7	Not related to anti-SLAPP motion, duplicative/ disagree
8/16/19- 9/5/19	Prep for oral argument	JLM	27.3	Not related to anti-SLAPP motion, duplicative/ disagree

8/25/19- 9/3/19	Case outline/prep	LAB	14.5	Not related to anti-SLAPP motion, duplicative/ disagree
6/21/20	Work on App for Attorney Fees	JLM	2.5	Duplicative/ Disagree Excessive/agree: Toll failed to show hours reasonable; 2.5 hours is reasonable
6/19/20- 6/21/20	Work on App for Attorney Fees	LAB	2.5	Duplicative/ Disagree Excessive/agree: Toll failed to show hours reasonable; 2.5 hours is reasonable

Toll will be awarded attorney fees for John Marshall's services at \$450 per hour for 164.1 hours for a total of \$73,340.

Toll will be awarded attorney fees for Luke Busby's services at \$350/hour for 330 hours for a total of \$115,500. The total attorney fee award is \$188,840.

COSTS

Toll failed to file with his memorandum of costs, any substantiating documentation of the claimed costs. Gilman cited *Cadle Company v. Woods & Erickson, LLP*, 131 Nev. 114, 345 P. 3d 1049 (2015), for the proposition that for a court to award costs it must have justifying documentation, which by necessity means more than a memorandum of costs. The Supreme Court in *Cadle* refused to award certain costs because there was no evidence for the Court to determine that the costs were reasonable, necessary, and actually incurred.

1 In four lines in his reply devoted to the costs issue Toll simply offered some
2 receipts. He failed to address the arguments raised in Gilman's opposition.

3 Toll's receipts and affidavit that indicating the costs were necessarily incurred
4 did not establish that the claimed costs were reasonable, necessary, and actually
5 incurred. Toll's request for costs will be denied.

6
7 **THE COURT ORDERS:**

8 Toll is awarded \$188,840 in attorney fees.

9 Toll's request for costs is denied.

10 September 24, 2020.

11 
12 James E. Wilson Jr.
13 District Court Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the First Judicial District Court of Nevada;
3 that on the 24 day of September 2020, I served a copy of this document by placing
4 a true copy in an envelope addressed to:

5 Gus Flangas, Esquire
6 Jessica K. Peterson, Esquire
7 3275 South Jones Blvd.,
8 Suite. 105
Las Vegas, NV 89146

John L. Marshall, Esquire
570 Marsh Avenue
Reno, NV 89509

Luke Andrew Busby, Esq.
316 California Avenue
Reno, NV 85909

9 the envelope sealed and then deposited in the Court's central mailing basket in the
10 court clerk's office for delivery to the USPS at 1111 South Roop Street, Carson City,
11 Nevada, for mailing.

12 
13 Billie Shadron
14 Judicial Assistant
15
16
17
18
19
20
21
22
23
24
25
26
27

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 18 TRT 00001 1E

TITLE: LANCE GILMAN VS SAM TOLL

January 9, 2020—JAMES E. WILSON, JR. – HONORABLE
A Duke, Clerk – Not Reported

STATUS CHECK

Present: Counsel appeared telephonically for both parties. Mr. Flangas, for Pltf., Lance Gilman; Mr. Marshall and Mr. Busby, for Deft., Sam Toll

Statements were made by both Court and Counsel.

After Court receives purposed order, Judge will sign or resolve issues regarding the order. Judge requested Points and Authorities to determine if Deft., qualifies for protection under the New Shield Statute. Mr. Flangas agreed with Points and Authorities, but requests an oral argument on any motion prior to any evidentiary or hearing.

ORDER: Mr. Busby to prepare Order vacating the Order granting Motion to Compel. Drafted Order will be sent to Mr. Flangas by Jan. 16, 2020. Counsel to work out changes on purposed order amongst themselves, opposing counsel will submit purposed order on Jan. 24, 2020.

ORDER: Mr. Busby to prepare an Order for Points and Authorities. Both orders can be on one order. Defense to file Points and Authorities first, by January 23, 2020. Mr. Flangas will reply within 14 days, by February 6, 2020. Any opposition will need to file no later than February 13, 2020.

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.
