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Electronically Filed  
Jan 14 2021 09:30 a.m.  
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Clerk of Supreme Court

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Attorneys for Plaintiffs

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

FORE STARS, LTD., a Nevada limited  
liability company; 180 LAND CO., LLC; A  
NEVADA LIMITED LIABILITY  
COMPANY; SEVENTY ACRES, LLC, a  
Nevada limited liability company,

Plaintiffs,

vs.

DANIEL OMERZA, DARREN BRESEE,  
STEVE CARIA, and DOES 1 THROUGH  
100,

Defendants.

Case No.: A-18-771224-C

Dept: II

**NOTICE OF APPEAL**

The Plaintiffs, Fore Stars, Ltd., 180 Land Co., LLC and Seventy Acres, LLC, by  
and through their counsel, hereby file this Notice of Appeal to the District Court's  
Order granting the Defendants' Special Motion to Dismiss pursuant to NRS 41.635, et  
seq., entered on December 10, 2020, the Notice of Entry of Order having been entered  
NOTICE OF APPEAL - 1

1 the same date. A true and correct copy of the Notice of Entry of Order, which includes  
2 the order itself, is attached hereto as Exhibit 1.

3 DATED: January 8, 2021. Respectfully submitted,

4 THE LAW OFFICES OF KRISTINA WILDEVELD & ASSOCIATES,  
5

6 */s/ Lisa A. Rasmussen*

7 LISA A. RASMUSSEN, ESQ.

8 NEVADA BAR NO. 7491

9 ATTORNEYS FOR PLAINTIFFS

10  
11 **CERTIFICATE OF SERVICE**

12  
13 I hereby certify that I served a copy of the foregoing via this court's Efile and  
14 Serve program on all parties receiving service in this case on this 8<sup>th</sup> day of January,  
15 2021, including, but not limited to:  
16

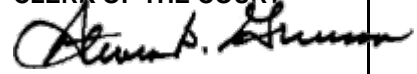
17 Mr. Mitchell Langberg, Esq.  
18 Counsel for the Defendants

19 */s/ Lisa A. Rasmussen*

20 Lisa A. Rasmussen, Esq.  
21  
22  
23  
24  
25  
26  
27  
28

Exhibit 1

Exhibit 1



1 **NEOJ**  
2 MITCHELL J. LANGBERG, ESQ., Bar No. 10118  
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9 *Counsel for Defendants,*  
10 DANIEL OMERZA, DARREN BRESEE, and  
11 STEVE CARIA

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 FORE STARS, LTD., a Nevada limited  
15 liability company; 180 LAND CO., LLC; a  
16 Nevada limited liability company;  
17 SEVENTY ACRES, LLC, a Nevada  
18 limited liability company,

19 Plaintiffs,

20 v.

21 DANIEL OMERZA, DARREN BRESEE,  
22 STEVE CARIA, and DOES 1 THROUGH  
23 100,

24 Defendants,

CASE NO.: A-18-771224-C  
DEPT NO.: II

**NOTICE OF ENTRY OF FINDINGS OF  
FACTS, CONCLUSIONS OF LAW, AND  
ORDER**

**ELECTRONIC FILING CASE**

25 PLEASE TAKE NOTICE that the Findings of Fact, Conclusions of Law, and Order was  
26 entered on December 10, 2020.

27 ...

28 ...

...

1 A true and correct copy of said Findings of Fact, Conclusions of Law, and Order is attached  
2 hereto.

3 DATED this 10th day of December, 2020.

4 BROWNSTEIN HYATT FARBER SCHRECK, LLP

5 BY: /s/ Mitchell J. Langberg

6 MITCHELL J. LANGBERG, ESQ., Bar No. 10118

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12 *Counsel for Defendants*

13 DANIEL OMERZA, DARREN BRESEE, and

14 STEVE CARIA

**CERTIFICATE OF SERVICE**

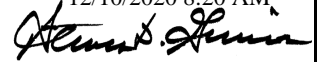
I HEREBY CERTIFY that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACTS, CONCLUSIONS OF LAW, AND ORDER** be submitted electronically for filing and/or service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 10th day of December, 2020, to the following:

Lisa A. Rasmussen, Esq.  
The Law Offices of Kristina Wildeveld & Associates  
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*Attorneys for Plaintiffs*  
FORE STARS, LTD., 180 LAND CO., LLC;  
and SEVENTY ACRES, LLC

/s/ DeEtra Crudup  
an employee of Brownstein Hyatt Farber Schreck, LLP

  
CLERK OF THE COURT

**FFCL**

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*Counsel for Defendants*

DANIEL OMERZA, DARREN BRESEE,  
and STEVE CARIA

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

FORE STARS, LTD., a Nevada limited  
liability company; 180 LAND CO., LLC; a  
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SEVENTY ACRES, LLC, a Nevada  
limited liability company,

Plaintiffs,

v.

DANIEL OMERZA, DARREN BRESEE,  
STEVE CARIA, and DOES 1 THROUGH  
100,

Defendants,

CASE NO.: A-18-771224-C

DEPT NO.: II

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

Date of Hearing: November 9, 2020

Time of Hearing: 9:30 am

WHEREAS this matter came on for hearing on the 9th of November, 2020 on *Defendants'*  
*Special Motion To Dismiss (Anti-SLAPP Motion) Plaintiff's Complaint Pursuant to NRS §41.635*  
*et seq.* Lisa Rasmussen, Esq. of the Law Offices of Kristina Wildeveld & Associates, appearing  
via telephone on behalf of the Plaintiffs, Fore Star Ltd, 180 Land Co., LLC, and Seventy Acres,  
LLC and Mitchell J. Langberg, Esq. of Brownstein Hyatt Farber Schreck, LLP, appearing via  
telephone on behalf of Defendants Daniel Omerza, Darren Bresee, and Steve Caria.

The Court having reviewed the pleadings and papers on file, having considered the oral  
argument of counsel, and good cause appearing, hereby FINDS, CONCLUDES and ORDERS:

**FINDINGS OF FACT**

1. Plaintiffs Fore Starts, Ltd., 180 Land Co., LLC, and Seventy Acres, LLC

1 ("Plaintiffs") filed a complaint against Daniel Omerza, Darren Bresse, and Steve Caria on March  
2 15, 2018 (the "Complaint").

3 2. The Complaint alleged causes of action for Equitable and Injunctive Relief,  
4 Intentional Interference with Prospective Economic Advantage, Negligent Interference with  
5 Prospective Economic Advantage, Conspiracy, Intentional Misrepresentation, and Negligent  
6 Misrepresentation ("Claims").

7 3. Generally, the Complaint alleged that the Defendants participated in the  
8 circulation, collection, and/or execution of allegedly false statements (the "Statements") to be  
9 delivered to the City of Las Vegas in an effort to oppose Plaintiffs' development of what is  
10 commonly referred to as the former Badlands golf course ("Badlands").

11 4. On April 13, 2018, among other things, Defendants filed their Special Motion to  
12 Dismiss (anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS §41.635 et. seq. (the "anti-  
13 SLAPP Motion"), which is the subject of these Findings of Fact and Conclusions of Law.

14 5. After extensive briefing and oral argument, the Court denied the anti-SLAPP  
15 Motion for various reasons as set forth in the record, including that Defendants did not  
16 demonstrate that they met their initial burden of establishing "by a preponderance of the evidence,  
17 that the claim is based upon a good faith communication in furtherance of the right to petition or  
18 the right to free speech in direct connection with an issue of public concern," pursuant to NRS  
19 41.660(3)(a) ("Prong 1").

20 6. Because the Court found that Defendants did not meet their Prong 1 burden, it did  
21 not consider Plaintiffs request for discovery pursuant to NRS 41.660(4) with respect to whether  
22 Plaintiffs had "demonstrated with prima facie evidence a probability of prevailing on the claim"  
23 pursuant to NRS 41.660(3)(b) ("Prong 2").

24 7. Defendants filed a timely notice of appeal.

25 8. After briefing, the Nevada Supreme Court decided the matter without oral  
26 argument.

27 9. The Nevada Supreme Court held that Defendants met their burden under Prong 1.

28 10. The Nevada Supreme Court also held that Plaintiffs did not meet their burden



1 under Prong 2.

2 11. However, the Nevada Supreme Court noted that the Court had not considered  
3 Plaintiffs' request for discovery pursuant to NRS 41.660(4).

4 12. Therefore, the Nevada Supreme Court remanded the matter back to this Court with  
5 express direction: "Accordingly, for the reasons set forth above, we vacate the portion of the  
6 district court's order denying appellants anti-SLAPP special motion to dismiss and remand to the  
7 district court for it to determine whether respondents are entitled to discovery under NRS  
8 41.660(4)."

9 13. On remand, the parties did not agree on whether discovery was appropriate under  
10 NRS 41.660(4) or even what the scope of the remand was.

11 14. Defendants contended that the order of remand required this Court to consider  
12 whether it would grant Plaintiffs discovery under the anti-SLAPP statute. It was Defendants'  
13 contention that no discovery should be permitted. But, if discovery would be permitted, it would  
14 have to be limited to Prong 2 issues for which Plaintiffs made a showing of necessity.  
15 Defendants further contended that if the Court determined discovery was not appropriate, the  
16 anti-SLAPP motion should be granted because the Nevada Supreme Court had already concluded  
17 that Defendants had met their Prong 1 burden and Defendants had not met their Prong 2 burden.

18 15. Moreover, Defendants contend that if the Court allowed discovery, the only issue  
19 that would be left to determine was whether, in light of that discovery, Plaintiffs could now meet  
20 their burden under Prong 2.

21 16. On the other hand, Plaintiffs contended that they were entitled to conduct  
22 discovery on both Prong 1 and Prong 2. Plaintiffs further contended that the Nevada Supreme  
23 Court's decision and remand order required this Court to reconsider both Prong 1 and Prong 2 of  
24 the anti-SLAPP analysis.

25 17. At a post remand hearing, the parties offered argument about the appropriateness  
26 of discovery. Plaintiffs' counsel requested to brief the issue, promising to identify the discovery  
27 requested and the grounds supporting that request: "Let me do some additional briefing just on  
28 what discovery is requested, why it's relevant, and how it comports with the Nevada Supreme

1 Court's ruling."

2 18. The Court allowed the parties to brief their positions on discovery.

3 19. After briefing, the Court granted some limited discovery that was intended to be  
4 circumscribed by the scope allowed by the anti-SLAPP statute and what Plaintiffs had requested  
5 in their briefing.

6 20. After issuing its order allowing limited discovery, the parties had additional  
7 disputes about the scope of discovery ordered by the Court.

8 21. The dispute was litigated by way of further motion practice and the Court issued  
9 orders clarifying that discovery would only to that related to Prong 2 of the anti-SLAPP analysis  
10 and only on the topics of "what documents Defendants relied on, what information Defendants  
11 relied on, or whether that information was provided to Defendants by third persons" all with  
12 respect to the Statements. In its order, the Court explained that NRS 41.660(4) requires Plaintiffs  
13 to make a showing of necessity for limited discovery and these topics were the only topics on  
14 which Plaintiffs even attempted to make such a showing.

15 22. After completion of the limited discovery, the Court also allowed supplemental  
16 briefing.

17 23. In their briefing, Plaintiffs contended that the Court was required to reconsider  
18 whether Defendants met their Prong 1 burden. Further, Plaintiffs argued that even if Defendants  
19 met their Prong 1 burden, Plaintiffs had satisfied their burden on Prong 2. Finally, Plaintiffs  
20 argued that the discovery they were granted was too narrow.

21 24. With respect to Prong 2, the only one of the Claims that Plaintiffs addressed in  
22 their supplemental briefing was the claim for Conspiracy.

23 25. Moreover, with respect to the claim for Conspiracy, Plaintiffs did not offer any  
24 admissible evidence or make any argument regarding alleged damages resulting from the  
25 purported conspiracy.

26 26. The Court heard oral argument on the anti-SLAPP Motion on November 9, 2020.

27 **CONCLUSIONS OF LAW**

28 27. NRS 41.635, et. seq. comprises Nevada's anti-SLAPP statute.

28. The following rulings by the Nevada Supreme Court constitute law of the case with respect to the anti-SLAPP Motion:

(a) "In sum, we conclude that the district court erred by finding that appellants had not met their burden under NRS 41.660(3)(a) to establish by a preponderance of the evidence that respondents' claims are grounded on appellants' good faith communications in furtherance of their petitioning rights on an issue of public concern." *Omerza v. Fore Stars, Ltd*, 455 P.3d 841, \*3 (Nev. 2020).

(b) "We therefore conclude that the district court erred in determining that respondents met their step-two burden of demonstrating with prima facie evidence a probability of prevailing on their claims." *Id.* at \*4 (Nev. 2020).

29. Thus, the Nevada Supreme Court clearly found that Defendants had met their Prong 1 burden and Plaintiffs had not met their Prong 2 burden.

30. The Nevada Supreme Court's order of remand was equally clear: "Accordingly, for the reasons set forth above, we vacate the portion of the district court's order denying appellants' anti-SLAPP special motion to dismiss and remand to the district court for it to determine whether respondents are entitled to discovery under NRS 41.660(4)." *Id.* at \*4 (Nev. 2020).

31. Pursuant to the "mandate rule," a court must effectuate a higher court's ruling on remand. *Estate of Adams By & Through Adams v. Fallini*, 132 Nev. 814, 819, 386 P.3d 621, 624 (2016). The law-of-the-case doctrine directs a court not to "re-open questions decided (i.e., established as law of the case) by that court or a higher one in earlier phases." *Id.*

32. Therefore, as a matter of law, this Court's task on remand was to determine whether Plaintiffs were entitled to discovery under NRS 41.600(4).

33. Pursuant to NRS 41.600(4), "[u]pon a showing by a party that information necessary to meet or oppose the burden pursuant to paragraph (b) of subsection 3 is in the possession of another party or a third party and is not reasonably available without discovery, the court shall allow limited discovery for the purpose of ascertaining such information."

34. Paragraph (b) of subsection 3 of the anti-SLAPP statute is the Prong 2 portion of

1 the anti-SLAPP analysis that requires a plaintiff to demonstrate with prima facie evidence a  
2 probability of prevailing on its claim.

3 35. Therefore, as a matter of law, discovery is only allowed with respect to Prong 2 of  
4 the anti-SLAPP analysis. No discovery is allowed with respect to Prong 1 of the anti-SLAPP  
5 analysis.

6 36. Even with respect to Prong 2, NRS 41.600(4) only allows a party discovery if the  
7 party has: 1) made a showing, 2) that information to meet or oppose the Prong 2 burden, 3) is in  
8 the possession of another, and 4) is not available without discovery. Then, a court may allow  
9 limited discovery, but only for the purpose of ascertaining such information.

10 37. Therefore, as a matter of law, this Court could only grant discovery to the extent  
11 Plaintiffs made a showing of necessity as set forth in NRS 41.600(4). As noted in the factual  
12 findings, the Court granted Plaintiffs the discovery they expressly requested as that is the only  
13 discovery for which Plaintiffs even attempted to make a showing.

14 38. Though Plaintiffs argue in their supplemental opposition to the anti-SLAPP  
15 Motion that they were not allowed adequate discovery, the discovery permitted was appropriate  
16 and, in light of Plaintiffs' request, all that was allowed under NRS 41.600(4).

17 39. The Court notes that in their supplemental opposition, Plaintiffs complain that  
18 Defendants did not adequately respond to the discovery permitted. Defendants dispute that  
19 contention. Because Plaintiffs never filed a motion to compel, there is no basis to conclude that  
20 Defendants failed to comply with their discovery obligations pursuant to the Court's order and  
21 any argument to the contrary has been waived.

22 40. Having considered the appropriateness of discovery pursuant to the Nevada  
23 Supreme Court's remand order and having allowed limited discovery pursuant to the anti-SLAPP  
24 statute, the only matter left for this Court is to determine whether Plaintiffs have now met their  
25 Prong 2 burden in light of any new evidence they offer post-discovery.

26 41. First, Defendants argue that no matter what evidence Plaintiffs could have offered,  
27 Plaintiffs Claims cannot be supported because the litigation privilege is a complete defense and is  
28 dispositive of the Prong 2 issues.

42. The Court agrees that the alleged facts that underlie Plaintiffs claims are subject to the absolute litigation privilege and provide an complete defense to the Claims.

43. Nevada recognizes "the long-standing common law rule that communications uttered or published in the course of judicial proceedings are absolutely privileged so long as they are in some way pertinent to the subject of controversy." *Circus Circus Hotels, Inc. v. Witherspoon*, 99 Nev. 56, 60 (1983) (citation omitted). This rule includes "statements made in the course of quasi-judicial proceedings." *Knox v. Dick*, 99 Nev. 514, 518 (1983) (citation omitted); *see also Circus Circus*, 99 Nev. at 61 ("the absolute privilege attached to judicial proceedings has been extended to quasi-judicial proceedings before executive officers, boards, and commissions") (citations omitted).

44. Critically, the statement at issue does not have to be made during any actual proceedings. *See Fink v. Oshins*, 118 Nev. 428, 433 (2002) ("the privilege applies not only to communications made during actual judicial proceedings, but also to communications preliminary to a proposed judicial proceeding") (footnote omitted). "[B]ecause the scope of the absolute privilege is broad, a court determining whether the privilege applies should resolve any doubt in favor of a broad application." *Clark County Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 382 (2009) (citation omitted) (*citing Fink, supra*).

45. The Nevada Supreme Court already determined that the statements underlying each of Plaintiffs' claims were made in good faith in connection with issues under consideration by a legislative body. That was the City Council's consideration of "amendment to the Master Plan/General Plan affecting Peccole Ranch." *Omerza*, 455 P.3d 841, \*1 (Nev. 2020).

46. Those City Council proceedings were quasi-judicial. Unified Development Code (UDC) section 19.16.030, *et. seq.* addresses amendments to the General Plan. It provides an extensive set of standards establishing how the City Council must exercise judgment and discretion, hear and determine facts, and render a reasoned written decision. In the course of those proceedings, the Council has the power to order the attendance of witnesses and the production of documents. Las Vegas City Charter §2.080(1)(d),(2)(a). This entire process meets the judicial function test for "determining whether an administrative proceeding is quasi-judicial."

1 *State ex rel. Bd. of Parole Comm'rs v. Morrow*, 127 Nev. 265, 273 (2011).

2 47. Moreover, Plaintiffs admitted it was a quasi-judicial proceeding at a May 9, 2018  
3 hearing before the City Council. *See*, Defendants' Request for Judicial Notice filed on May 9,  
4 2018, Exh. 1, p. 16, lines 415-420 (Mr. Hutchison (as counsel for these Developers) explaining  
5 that the proceeding are quasi-judicial).

6 48. The absolute litigation privilege applies without regard to how Plaintiffs styled  
7 their claims. "An absolute privilege bars any civil litigation based on the underlying  
8 communication." *Hampe v. Foote*, 118 Nev. 405, 409, 47 P.3d 438, 440 (2002), overruled in part  
9 on other grounds by *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 n. 6, 181 P.3d  
10 670, 672 n.6 (2008).

11 49. Because the Supreme Court already determined that the Defendants' activities  
12 were made in connection with the City Council proceedings, and because those activities were  
13 quite obviously an attempt to solicit witnesses testimony to submit in the form of written  
14 statements, Defendants' statements were all made in connection with, and preliminary to, a quasi-  
15 judicial proceeding and, therefore, were protected by the absolute litigation privilege.

16 50. For the first time at the hearing on the anti-SLAPP Motion, Plaintiffs' counsel cited  
17 to a case decided by the Nevada Supreme Court on July 9, 2020, four months before the hearing  
18 and more than three months before Plaintiffs filed their supplemental opposition to the anti-  
19 SLAPP motion.

20 51. Nonetheless, the Court has considered Plaintiffs' offer of *Spencer v. Klementi*, 466  
21 P.3d 1241 (Nev. 2020), for the proposition that the privilege does not apply to quasi-judicial  
22 proceedings where due process protections similar to those provided in a court of law are not  
23 present. This Court believes that *Spencer* is distinguishable from the current matter. *Spencer*  
24 involved a defamation suit arising out of defamatory comments made to a public body during a  
25 public comment session. The speaker was not under oath. No opportunity to respond was  
26 provided. No cross-examination was allowed. Importantly, the holding in the decision was  
27 expressly limited to defamation suits: "We therefore take this opportunity to clarify that a quasi-  
28 judicial proceeding in the context of defamation suits is one that provides basic due-process

1 protections similar to those provided in a court of law." *Id.* at 1247. Therefore, the *Oshins* case  
2 controls.

3 52. Because it applies, the litigation privilege is an absolute bar to all of Plaintiffs'  
4 claims. Therefore, for that reason alone, Plaintiffs' claims fail on Prong 2 and the anti-SLAPP  
5 Motion should be granted.

6 53. As a separate and additional basis for dismissing Plaintiffs' claims pursuant to the  
7 anti-SLAPP statute, even if the litigation privilege did not apply, Plaintiffs have failed to meet  
8 their burden under Prong 2.

9 54. Mindful that the Nevada Supreme Court already determined that Plaintiffs' failed  
10 to meet their burden under Prong 2 based on the evidence and argument offered prior to the  
11 appeal, the Court now considers whether Plaintiffs have offered any new evidence or legal  
12 argument in an attempt to meet their burden on remand.

13 55. The civil conspiracy claim is the only claim for which Plaintiffs have made any  
14 new argument.

15 56. The Nevada Supreme Court explained that the Developer was required to  
16 "demonstrate that the claim is supported by a prima facie showing of facts" that is supported by  
17 "competent, admissible evidence." *Omerza*, 455 P.3d 841 at \*4. This is the same standard as a  
18 court applies in a summary judgment motion. *Id.*

19 57. An actionable civil conspiracy "consists of a combination of two or more persons  
20 who, by some concerted action, intend to accomplish an unlawful objective for the purpose of  
21 harming another, and damage results from the act or acts." *Consol. Generator-Nevada, Inc. v.*  
22 *Cummins Engine Co.*, 114 Nev. 1304, 1311 (1998) (affirming summary judgment for defendant  
23 on the plaintiff's conspiracy claim because there was no evidence that the two defendants had  
24 agreed and intended to harm the plaintiff).

25 58. The evidence must be "of an explicit or tacit agreement between the alleged  
26 conspirators." *Guilfoyle v. Olde Monmouth Stock Transfer Co.*, 130 Nev. 801, 813, 335 P.3d 190,  
27 198 (2014) (upholding district court's grant of summary judgment where plaintiff "has presented  
28 no circumstantial evidence from which to infer an agreement between [defendants] to harm"

1 plaintiff). Here, Plaintiffs did not offer any admissible evidence of an agreement to do something  
2 unlawful.

3 59. A conspiracy claim also fails where the plaintiff cannot show that he suffered any  
4 actual harm. *Sutherland v. Gross*, 105 Nev. 192, 197 (1989); *see also Aldabe v. Adams*, 81 Nev.  
5 280, 286 (1965), overruled on other grounds by *Siragusa v. Brown*, 114 Nev. 1384 (1998) (“The  
6 damage for which recovery may be had in a civil action is not the conspiracy itself but the injury  
7 to the plaintiff produced by specific overt acts.”).

8 60. “The gist of a civil conspiracy is not the unlawful agreement but the damage  
9 resulting from that agreement or its execution. The cause of action is not created by the  
10 conspiracy but by the wrongful acts done by the defendants to the injury of the plaintiff.”  
11 *Eikelberger v. Tolotti*, 96 Nev. 525, 528 (1980).

12 61. Plaintiffs' Claims were all based on Defendants circulating the Statements to  
13 community members to oppose the Developer's efforts to change the land use restrictions on the  
14 Badlands. But, because the City Council proceedings did not advance and Plaintiffs appealed  
15 (successfully) Judge Crockett's decision, the City Council's prior decisions to allow development  
16 without a modification to the Peccole Ranch Master Plan were affirmed.

17 62. Therefore, Plaintiffs offered no admissible evidence of damages suffered even if it  
18 had proven a conspiracy existed.

19 63. Also, Plaintiffs offered no evidence to support any of their other claims, even  
20 though the Supreme Court already said their prior showing was insufficient. Where a plaintiff  
21 cannot demonstrate an unlawful act because it cannot prevail on the other claims it has alleged to  
22 form the basis for the underlying wrong, dismissal of the civil conspiracy claim is appropriate.  
23 *Goldman v. Clark Cty. Sch. Dist.*, 471 P.3d 753 (Nev. 2020) (unpublished) (citing *Consol.*  
24 *Generator-Nevada, Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1311 (1998)).

25 64. Plaintiffs have failed to show an agreement to achieve an unlawful objective and  
26 failed to show any damage. Therefore, Plaintiffs have failed to meet their Prong 2 anti-SLAPP  
27 burden.

28 65. Because Plaintiffs have failed to meet their burden under Prong 2 of the anti-



SLAPP analysis, Defendants' anti-SLAPP motion is well taken and will be granted.

66. Pursuant to NRS 41.670(1)(a), when a court grants an anti-SLAPP motion, it "shall award reasonable costs and attorney's fees." Pursuant to NRS 41.670(1)(b), the court also "may award" "an amount of up to \$10,000 to the person against whom the action was brought." Defendants may request those fees, costs, and additional amounts by separate motion.

**ORDER**

WHEREFORE, IT IS HEREBY ORDERED that:

1. Defendants' Special Motion to Dismiss is hereby GRANTED, and

2. Defendants may seek attorneys' fees, costs, additional amounts by way of separate motion.

Dated this 10th day of December, 2020



DATED: \_\_\_\_\_

25B E0E 21B7 81BF  
Richard F. Scotti  
District Court Judge  
DISTRICT COURT JUDGE

*Respectfully Submitted:*


*Approved as to form and content:*

DATED this 2nd day of December, 2020.

DATED this \_\_\_\_ day of December, 2020.

BROWNSTEIN HYATT FARBER  
SCHRECK, LLP

LAW OFFICES OF KRISTINA  
WILDEVELD & ASSOCIATES  
**Counsel have disagreements regarding the  
contents of this order.**

BY:   
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*Counsel for Defendants Daniel Omerza,  
Darren Bresee and Steve Caria*

*Counsel for Plaintiffs  
Fore Stars, Ltd., 180 Land Co., LLC,  
Seventy Acres, LLC*

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4		
5		
6	Fore Stars, Ltd., Plaintiff(s)	CASE NO: A-18-771224-C
7	vs.	DEPT. NO. Department 2
8	Daniel Omerza, Defendant(s)	
9		

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the  
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
case as listed below:

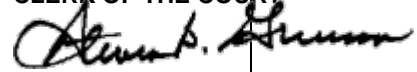
14 Service Date: 12/10/2020

15 Elizabeth Ham	EHam@ehbcompanies.com
16 Todd Davis	tdavis@ehbcompanies.com
17 Jennifer Knighton	jknighton@ehbcompanies.com
18 Mitchell Langberg	mlangberg@bhfs.com
19 Lisa Rasmussen	Lisa@Veldlaw.com
20 Kristina Wildeveld	Kristina@Veldlaw.com
21 Jessica Malone	Jessica@Veldlaw.com
22 Mitchell Langberg	mlangberg@bhfs.com
23 Lisa Rasmussen	Lisa@Veldlaw.com
24 Lisa Rasmussen	Lisa@Veldlaw.com
25 Mitchell Langberg	mlangberg@bhfs.com
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Patricia Berg

Patty@Veldlaw.com



Lisa A. Rasmussen, Esq.  
Nevada Bar No. 7491  
**The Law Offices of Kristina  
Wildeveld & Associates**  
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Email: [Lisa@LRasmussenLaw.com](mailto:Lisa@LRasmussenLaw.com)

Attorneys for Plaintiffs

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

FORE STARS, LTD., a Nevada limited  
liability company; 180 LAND CO., LLC; A  
NEVADA LIMITED LIABILITY  
COMPANY; SEVENTY ACRES, LLC, a  
Nevada limited liability company,

Plaintiffs,

vs.

DANIEL OMERZA, DARREN BRESEE,  
STEVE CARIA, and DOES 1 THROUGH  
100,

Defendants.

Case No.: A-18-771224-C

Dept: XIX

**CASE APPEAL STATEMENT**

The Plaintiffs, Fore Stars, Ltd., 180 Land Co., LLC and Seventy Acres, LLC, by  
and through their counsel, hereby submit this Case Appeal Statement in accordance  
with NRAP 3(f) as follows:

...

CASE APPEAL STATEMENT - 1

1           **1. Name of appellants filing this case appeal statement:**

2           Plaintiffs Fore Stars, LTD; 180 Land Co. LLC; Seventy Acres, LLC

3           **2. The Judge issuing the decision, judgment or order appealed from:**

4           The Honorable Richard F. Scotti

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

- 7           a. Fore Stars, LTD, a Nevada limited liability company;  
8           b. 180 Land Co, LLC, a Nevada limited liability company; and  
9           c. Seventy Acres, LLC, a Nevada limited liability company.

10  
11           Lisa Rasmussen, Esq. (NV Bar 7491)  
12           The Law Offices of Kristina Wildeveld & Associates  
13           550 E. Charleston Blvd., Suite A  
14           Las Vegas, NV 89104  
15           (702) 222-0007  
16           [Lisa@Veldlaw.com](mailto:Lisa@Veldlaw.com)

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

- 19           a. Daniel Omerza;  
20           b. Darren Bresee; and  
21           c. Steve Caria

22           Mitchell J. Langberg, Esq. (NV Bar No. 10118)  
23           Brownstein, Hyatt Farber Schreck, LLP  
24           100 North City Parkway, Suite 1600  
25           Las Vegas, NV 89106-4614  
26           (702) 382-2101  
27           Email: [mlangberg@bhfs.com](mailto:mlangberg@bhfs.com)

1           **5. Indicate whether any attorney identified above in response to question 3**  
2           **or 4 is not licensed to practice law in Nevada and, if so, whether the**  
3           **district court granted that attorney permission to appear under SCR 42.**

4           None/NA

5           **6. Indicate whether appellants were represented by appointed or retained**  
6           **counsel in the district court:**

7           Appellants were represented by retained counsel in the district court.

8           **7. Indicate whether appellants are represented by appointed or retained**  
9           **counsel on appeal:**

10          Appellants are represented by retained counsel on appeal.

11          **8. Indicate whether appellants were granted leave to proceed in forma**  
12          **pauperis, and the date of entry of the district court order granting such**  
13          **leave:**

14          No/NA

15          **9. Indicate the date the proceedings commenced in the district court (e.g.,**  
16          **date of complaint, indictment, information or petition):**

17          Plaintiffs' Complaint was filed on March 15, 2018 in the Eighth Judicial  
18          District Court.

19          **10. Provide a brief description of the nature of the action and results in the**  
20          **district court, including the type of judgment or order being appealed and**  
21          **the relief granted by the district court:**

22          Plaintiffs are limited liability companies whose assets are parcels of land that  
23          previously comprised the Badlands Golf Course and the parcels are adjacent  
24          to the Queensridge residential community. Plaintiffs alleged generally that  
25          defendants made false statements and encouraged, aided, abetted and  
26          caused others to make false statements to the City of Las Vegas in order to  
27          prevent development on the Plaintiff parcels, and that their conduct resulted  
28

1 in damages to Plaintiffs. Plaintiffs sought injunctive relief and monetary  
2 recompense in their complaint. Defendants filed a Special Motion to  
3 Dismiss pursuant to Nevada's anti-SLAPP statute (NRS 41.635, et seq). The  
4 district court denied the motion, defendants appeal that order in 2018, the  
5 Nevada Supreme Court reversed in 2020 and ultimately granted the Special  
6 Motion to Dismiss. Plaintiffs appeal the latter determination herein.

7  
8 **11. Indicate whether the case has previously been the subject of an appeal to**  
9 **or original writ proceeding in the Supreme Court and, if so, the caption**  
10 **and the Supreme Court docket number of the prior proceeding:**

11 Yes, as noted, there is a prior appeal on the same matter as follows:

12 Daniel Omerza, et al v. Fore Stars, Ltd, et al

13 NSC Docket No. 76273

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

15 No/NA

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

18 There is always the possibility of settlement and Plaintiffs would not  
19 foreclose that possibility. Defendants' position is unknown.

20  
21 DATED: January 8, 2021. Respectfully submitted,

22 THE LAW OFFICES OF KRISTINA WILDEVELD & ASSOCIATES,

23  
24 */s/ Lisa A. Rasmussen*

25 LISA A. RASMUSSEN, ESQ.

26 NEVADA BAR NO. 7491

27 ATTORNEYS FOR PLAINTIFFS

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Mr. Mitchell Langberg, Esq.  
Counsel for the Defendants

Lisa A. Rasmussen, Esq.



**CASE SUMMARY****CASE NO. A-18-771224-C**

**Fore Stars, Ltd., Plaintiff(s)**  
**vs.**  
**Daniel Omerza, Defendant(s)**

§  
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 §

Location: **Department 19**  
 Judicial Officer: **Eller, Crystal**  
 Filed on: **03/15/2018**  
 Case Number History:  
 Cross-Reference Case Number: **A771224**  
 Supreme Court No.: **76273**

**CASE INFORMATION**Case Type: **Other Civil Matters**Case Status: **03/15/2018 Open****DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number A-18-771224-C  
 Court Department 19  
 Date Assigned 01/04/2021  
 Judicial Officer Eller, Crystal

**PARTY INFORMATION**

<b>Plaintiff</b>	<b>180 Land Co., LLC</b>	<i>Lead Attorneys</i> <b>Rasmussen, Lisa A.</b> <i>Retained</i> 702-222-0007(W)
	<b>Fore Stars, Ltd.</b>	<b>Rasmussen, Lisa A.</b> <i>Retained</i> 702-222-0007(W)
	<b>Seventy Acres, LLC</b>	<b>Rasmussen, Lisa A.</b> <i>Retained</i> 702-222-0007(W)
<b>Defendant</b>	<b>Bresee, Darren</b>	<b>Langberg, Mitchell J.</b> <i>Retained</i> 702-382-2101(W)
	<b>Caria, Steve</b>	<b>Langberg, Mitchell J.</b> <i>Retained</i> 702-382-2101(W)
	<b>Omerza, Daniel</b>	<b>Langberg, Mitchell J.</b> <i>Retained</i> 702-382-2101(W)

**DATE****EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

03/15/2018



Initial Appearance Fee Disclosure

Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC

*Initial Appearance Fee Disclosure*

03/15/2018



Complaint

Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co.,

# CASE SUMMARY

CASE NO. A-18-771224-C

LLC  
*Complaint*

03/16/2018	 Summons Electronically Issued - Service Pending Party: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Summons</i>
03/16/2018	 Summons Electronically Issued - Service Pending Party: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Summons</i>
03/16/2018	 Summons Electronically Issued - Service Pending Party: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Summons</i>
03/26/2018	 Affidavit of Service Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Affidavit of Service</i>
03/26/2018	 Summons Filed by: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Summons</i>
03/26/2018	 Summons Filed by: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Summons</i>
03/26/2018	 Summons Filed by: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Summons</i>
03/27/2018	 Affidavit of Service Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Affidavit of Service</i>
03/27/2018	 Affidavit of Service Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Affidavit of Service</i>
04/06/2018	 Notice of Appearance Party: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>Notice of Appearance</i>
04/06/2018	 Initial Appearance Fee Disclosure Filed By: Defendant Caria, Steve; Defendant Bresee, Darren <i>Initial Appearance Fee Disclosure</i>
04/13/2018	 Request for Judicial Notice <i>Defendants' Request for Judicial Notice In Support of (1) Defendants' Special Motion to</i>

# CASE SUMMARY

CASE NO. A-18-771224-C

*Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 et. seq. and (2) Defendants' Motion to Dismiss Pursuant to NRCP 12(b)(5)*

04/13/2018



Motion to Dismiss

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Defendants' Motion to Dismiss Pursuant to NRCP 12(b)(5)*

04/13/2018



Motion

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Defendants' Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 et. seq.*

04/17/2018



Notice of Department Reassignment

*Notice of Department Reassignment*

04/19/2018



Peremptory Challenge

Filed by: Plaintiff Fore Stars, Ltd.  
*Peremptory Challenge of Judge*

04/20/2018



Notice of Department Reassignment

*Notice of Department Reassignment*

05/01/2018



Stipulation and Order

Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Stipulation and Order Continuing Hearing Dates for Defendants' Motion to Dismiss and Special Motion to Dismiss (Anti-SLAPP Motion) and Related Briefing Deadlines*

05/02/2018



Notice of Entry of Stipulation and Order

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Notice of Entry of Stipulation and Order Continuing Hearing Dates for Defendants' Motion to Dismiss and Special Motion to Dismiss (Anti-SLAPP Motion) and Related Briefing Deadlines*

05/04/2018



Opposition

Filed By: Plaintiff Fore Stars, Ltd.  
*Plaintiffs' Opposition to Defendants' Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 Et Seq.*

05/07/2018



Opposition

Filed By: Plaintiff Fore Stars, Ltd.  
*Plaintiffs' Opposition to Defendants' Motion to Dismiss Pursuant to NRCP 12(b)(5)*

05/09/2018



Reply in Support

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Defendants' Reply In Support of Special Motion To Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 Et. Seq.*

05/09/2018



Reply in Support

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Defendants' Reply Brief In Support of Motion to Dismiss Pursuant to NRCP 12(B)(5)*

05/09/2018



Request for Judicial Notice

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Defendants' Request for Judicial Notice In Support of (1) Defendants' Reply In Support of Special Motion To Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 Et. Seq. and (2) Defendants' Reply In Support of Motion To Dismiss Pursuant to NRCP*

# CASE SUMMARY

CASE NO. A-18-771224-C

12(B)(5)

05/11/2018



Supplement

Filed by: Plaintiff Fore Stars, Ltd.

*Plaintiffs' First Supplement to their Opposition to Defendants' Special Motion to Dismiss*

05/11/2018



Supplement

Filed by: Plaintiff Fore Stars, Ltd.

*Plaintiffs' Second Supplement to their Opposition to Defendants' Special Motion to Dismiss*

05/11/2018



Notice of Association of Counsel

Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC

*Notice of Association of Counsel*

05/14/2018



Notice

Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC

*Plaintiffs' Notice of Submitting A Physical Thumb Drive Containing the Video File (.MOV) Labelled "Omerza Video" Attached to "Plaintiffs' First Supplement to Their Opposition to Defendants' Special Motion to Dismiss (Anti-Slapp Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 ET SEQ." to the Court's Exhibit Vault*

05/17/2018



Recorders Transcript of Hearing

*All Pending Motions 5-14-18*

05/23/2018



Supplemental Brief

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Defendants' Supplemental Brief In Support of Special Motion To Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 Et. Seq.*

05/23/2018



Supplement

Filed by: Plaintiff Fore Stars, Ltd.

*Plaintiffs' Supplement in Support of Opposition to Defendants' Special Motion to Dismiss (Anti-SLAPP)*

05/25/2018



Motion to Strike

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Defendants' Motion to Strike Portions of Plaintiffs' Supplement in Support of Opposition to Defendants' Special Motion to Dismiss or in the Alternative, for Further Supplemental Briefing*

05/30/2018



Notice of Early Case Conference

Filed By: Plaintiff Fore Stars, Ltd.

*Notice of Early Case Conference*

06/11/2018



Errata

Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC

*Errata to Complaint*

06/12/2018



Notice

Filed By: Plaintiff Fore Stars, Ltd.

*Notice of Vacating Early Case Conference*

06/12/2018



Amended Notice

**CASE SUMMARY**

**CASE NO. A-18-771224-C**

Filed By: Plaintiff Fore Stars, Ltd.  
*Amended Notice of Early Case Conference*

06/14/2018



**Opposition**

Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC

*Plaintiffs' Opposition to Defendants' Motion to Strike Portions of Plaintiff's Supplement in Support of Opposition to Defendants' Special Motion to Dismiss or in the Alternative for Further Supplemental Briefing*

06/20/2018



**Findings of Fact, Conclusions of Law and Order**

Filed By: Plaintiff Fore Stars, Ltd.

*Findings of Fact, Conclusions of Law, and Order*

06/21/2018



**Notice of Entry of Findings of Fact, Conclusions of Law**

Filed By: Plaintiff Fore Stars, Ltd.

*Notice of Entry of Findings of Fact, Conclusions of Law, and Order*

06/27/2018



**Case Appeal Statement**

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Case Appeal Statement*

06/27/2018



**Notice of Appeal**

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Notice of Appeal*

06/28/2018



**Posting of Appeal Bond**

Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Notice of Posting Bond on Appeal*

09/14/2018



**Motion**

Filed By: Plaintiff Fore Stars, Ltd.

*Plaintiffs' Motion for Order Allowing Commencement of Discovery*

10/01/2018



**Opposition to Motion**

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Defendants' Opposition to Plaintiffs' Motion for Order Allowing Commencement of Discovery and Defendants' Request for Sanctions Pursuant to EDCR 7.60(b)*

10/12/2018



**Reply in Support**

Filed By: Plaintiff Fore Stars, Ltd.

10/17/2018



**Supplement**

Filed by: Plaintiff Fore Stars, Ltd.

*Plaintiffs' Supplemental Exhibit in Further Support of Their Motion for Order Allowing Commencement of Discovery*

10/18/2018



**Supplemental**

Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Defendants' Supplemental Exhibits In Further Support of Their Opposition To Plaintiffs' Motion for Order Allowing Commencement of Discovery And Defendants Request for Sanctions Pursuant to EDCR 7.60(b)*

10/31/2018



**Recorders Transcript of Hearing**

*Recorders Transcript of Hearing - Plaintiffs' Motion for Order Allowing Commencement of*

# CASE SUMMARY

CASE NO. A-18-771224-C

*Discovery - heard on Oct. 19, 2018*

01/03/2019	 Objection to Discovery Commissioners Report and Recommend Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>Defendants' Objections to Discovery Commissioner's Report and Recommendation</i>
01/30/2019	 Response Filed by: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>PLAINTIFFS RESPONSE TO DEFENDANTS OBJECTIONS TO DISCOVERY COMMISSIONER S REPORT AND RECOMMENDATIONS</i>
02/04/2019	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Fore Stars, Ltd. <i>Discovery Commissioner's Report and Recommendations</i>
03/22/2019	 Notice of Withdrawal <i>The Jimmerson Law Firm, P.C.'s Notice of Withdrawal as Co-Counsel of Record</i>
04/11/2019	 Order Denying Motion Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>Order Denying Plaintiff's Motion to Commence Discovery</i>
04/11/2019	 Notice of Entry of Order Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>Notice of Entry of Order Denying Plaintiffs' Motion To Commence Discovery</i>
09/11/2019	 Order Scheduling Status Check <i>Order Scheduling Status Check Re: Joint Case Conference Report</i>
09/12/2019	 Order Scheduling Status Check <i>Order Scheduling Status Check RE: Joint Case Conference Report/Special Motion Appeal</i>
03/02/2020	 Change of Status Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>Status Update Regarding Supreme Court Appeal</i>
03/02/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
04/01/2020	 NV Supreme Court Clerks Certificate/Judgment -Remanded <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Vacated and Remand</i>
04/28/2020	 Notice of Appearance Party: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Notice of Apperance of Counsel for Plaintiffs</i>
05/06/2020	 Brief Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Plaintiffs' Brief in Support of Limited Discovery</i>
05/11/2020	 Brief Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren

# CASE SUMMARY

CASE NO. A-18-771224-C

*Defendants' Brief in Opposition to Request for Limited Discovery*

05/29/2020



Request

Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Defendant's Request for Clarification Re May 29, 2020 Order*

06/15/2020



Recorders Transcript of Hearing

Party: Defendant Omerza, Daniel  
*Recorders Transcript of Video Conference Hearing: Status Check: Supreme Court Appeal 4.29.20*

07/02/2020



Motion for Protective Order

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Defendants' Motion For Protective Order Limiting Discovery on Order Shortening Time*

07/07/2020



Response

Filed by: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC  
*Plaintiff's Response to Motion for Protective Order*

07/09/2020



Reply in Support

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Defendant's Reply In Support of Motion For Protective Order Limiting Discovery*

07/17/2020



Memorandum

*07/29/20 Blue Jeans Hearing Information for Department 2*

08/03/2020



Order Granting Motion

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Order Granting Defendants' Motion For Protective Order Limited Discovery*

08/04/2020



Certificate of Service

08/05/2020



Notice of Entry of Order

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Notice of Entry of Order Granting Defendants' Motion for Protective Order Limiting Discovery*

09/30/2020



Notice of Hearing

*Notice of Hearing on Motion to Dismiss*

10/06/2020



Stipulation

Filed by: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC  
*Stipulation Regarding Briefing Deadlines*

10/07/2020



Stipulation and Order

Filed by: Attorney Rasmussen, Lisa A.; Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC  
*Stipulation and Order Regarding Briefing Deadlines*

10/07/2020















Memorandum

*10/26/20 Blue Jeans Hearing Information for Department 2*

# CASE SUMMARY

CASE NO. A-18-771224-C

10/14/2020	 Supplement to Opposition Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Supplement to Opposition to Special Motion to Dismiss (Anti-SLAPP)</i>
10/14/2020	 Exhibits Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Exhibits 1 through 3</i>
10/14/2020	 Exhibits Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Exhibits 4 through 6</i>
10/14/2020	 Exhibits Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Exhibits 7 through 13</i>
10/14/2020	 Exhibits Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Exhibits 14 through 19</i>
10/14/2020	 Errata Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Errata to Supplemental Opposition to Special Motion to Dismiss</i>
10/15/2020	 Motion to Strike Filed By: Defendant Caria, Steve; Defendant Bresee, Darren <i>Motion to Strike and for Imposition of Sanction and Request for Order Shortening Time</i>
10/15/2020	 Stipulation and Order Filed by: Plaintiff Fore Stars, Ltd.; Plaintiff 180 Land Co., LLC <i>Stipulation Regarding Briefing deadlines (Second Stipulation)</i>
10/20/2020	 Opposition and Countermotion Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC <i>Opposition to Motion to Strike &amp; for Sanctions / Countermotion for Sanctions</i>
10/21/2020	 Reply Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>Defendants' Reply In Support of Motion To Strike and for Sanctions; Opposition to Countermotion</i>
10/30/2020	 Supplemental Brief Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>Defendants' Supplemental Brief In Support of Special Motion To Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 Et. Seq.</i>
10/30/2020	 Declaration Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren



# CASE SUMMARY

CASE NO. A-18-771224-C

*Declaration of Mitchell J. Langberg In Support of Defendants' Supplemental Brief In Support of Special Motion To Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 Et. Seq.*

11/04/2020



Stipulation and Order

Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Stipulation and Order Re Defendant Supplemental Re in Support of Anti- Slap*

11/04/2020



Notice of Entry of Stipulation and Order

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Notice of Entry of Stipulation and Order Re Defendants' Supplemental Reply In Support of Anti-SLAPP*

11/05/2020



Memorandum

*11/09/20 Blue Jeans Hearing Information for Department 2*

11/30/2020



Stipulation and Order

Filed by: Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC  
*STIPULATION REGARDING DEADLINE TO SUBMIT PROPOSED ORDER; ORDER THEREON*

12/03/2020



Objection

Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC  
*Objection to Defendants' Proposed Order and Submission of Plaintiffs' Proposed Order*

12/10/2020



Findings of Fact, Conclusions of Law and Judgment

Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Findings of Fact Conclusions of Law and Order*

12/10/2020



Notice of Entry of Order

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Notice of Entry of Findings of Facts, Conclusions of Law, and Order*

12/24/2020



Motion to Reconsider

Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC  
*Motion to Reconsider Court's Order Dated December 10, 2020 Order*

12/29/2020



Clerk's Notice of Hearing

*Notice of Hearing*

12/31/2020



Motion for Attorney Fees

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren  
*Defendants' Motion for Attorneys' Fees and Additional Monetary Relief Pursuant to NRS 41.670 and NRS 18.010(2)*

01/04/2021

Case Reassigned to Department 19

*Judicial Reassignment to Judge Crystal Eller*

01/05/2021



Clerk's Notice of Hearing

*Clerk's Notice of Hearing*

01/07/2021



Opposition to Motion

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren

# CASE SUMMARY

CASE NO. A-18-771224-C

*Defendants' Opposition To Plaintiffs' Motion for Reconsideration of Court's Order Dated December 10, 2020*

01/08/2021



**Notice of Appeal**

Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC

*Notice of Appeal*

01/08/2021



**Case Appeal Statement**

Filed By: Plaintiff Fore Stars, Ltd.; Plaintiff Seventy Acres, LLC; Plaintiff 180 Land Co., LLC

*Case Appeal Statement*

## **DISPOSITIONS**

04/01/2020

**Clerk's Certificate** (Judicial Officer: Scotti, Richard F.)

Debtors: Daniel Omerza (Defendant), Steve Caria (Defendant), Darren Bresee (Defendant)

Creditors: Seventy Acres, LLC (Plaintiff), 180 Land Co., LLC (Plaintiff), Daniel Omerza (Defendant), Steve Caria (Defendant), Darren Bresee (Defendant)

Judgment: 04/01/2020, Docketed: 04/02/2020

Comment: Supreme Court No. 76273; Denied

12/10/2020

**Order of Dismissal** (Judicial Officer: Scotti, Richard F.)

Debtors: Fore Stars, Ltd. (Plaintiff), Seventy Acres, LLC (Plaintiff), 180 Land Co., LLC (Plaintiff)

Creditors: Daniel Omerza (Defendant), Steve Caria (Defendant), Darren Bresee (Defendant)

Judgment: 12/10/2020, Docketed: 12/11/2020

Comment: Certain Claims

## **HEARINGS**

04/16/2018



**Minute Order** (1:00 PM) (Judicial Officer: Kishner, Joanna S.)

Minute Order - No Hearing Held;

Journal Entry Details:

*Although the Court could and would rule fairly and without bias, recusal is appropriate in the present case in accordance with Canon 2.11(A)(3) of the Nevada Code of Judicial Conduct in order to avoid the appearance of impartiality or implied bias as the Court could be viewed to have information relating to the facts and/or circumstances regarding the underlying issues. Thus, the Court recuses itself from the matter and requests that it be randomly reassigned in accordance with appropriate procedures.;*

05/14/2018



**Motion to Dismiss** (9:00 AM) (Judicial Officer: Scotti, Richard F.)

**05/14/2018, 05/23/2018**

*Defendants' Motion to Dismiss Pursuant to NRCP 12(b)(5)*

Matter Continued;

Matter Continued;

DENIED WITHOUT PREJUDICE - Defendants Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint

Journal Entry Details:

*These matters are continued to the May 30, 2018 Chambers Calendar. CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Natalie Ortega, to all registered parties for Odyssey File & Serve. ndo/5/23/18 ;*

Matter Continued;

Matter Continued;

DENIED WITHOUT PREJUDICE - Defendants Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint

05/14/2018

**Motion** (9:00 AM) (Judicial Officer: Scotti, Richard F.)

**05/14/2018, 05/23/2018**

*Defendants' Special Motion to Dismiss (Anti-Slapp Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 Et. Seq*

# CASE SUMMARY

CASE NO. A-18-771224-C

Matter Continued;

05/14/2018



**All Pending Motions** (9:00 AM) (Judicial Officer: Scotti, Richard F.)

Matter Heard;

Journal Entry Details:

*Arguments by Mr. Langberg and Mr. Jimmerson. Court DIRECTED, counsel to submit a 2 page Supplemental Briefing by close of business day Wednesday 05/23/18, if counsel believes there is additional information. COURT ORDERED, matter CONTINUED to 05/23/18 Chamber Calendar. CONTINUED TO: 05/23/18 (CHAMBER CALENDAR);*

05/29/2018



**Minute Order** (10:41 AM) (Judicial Officer: Scotti, Richard F.)

*Defendants Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint*

Minute Order - No Hearing Held; Defendants' Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint

Journal Entry Details:

*The Court DENIES without prejudice Defendants Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint pursuant to NRS 41.635 et. Seq. Nevada s anti-SLAPP statute does not apply to fraudulent conduct, which Plaintiffs have alleged. Even if it did so apply, at this early stage in the litigation and given the numerous allegations of fraud, the Court is not convinced by a preponderance of the evidence that Defendants conduct constituted good faith communications in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern, as described in NRS 41.637. The Court also DENIES Defendants Motion to Dismiss Pursuant to NRCP 12(b)(5). Plaintiffs have stated valid claims for relief. Plaintiffs shall prepare the proposed Order, adding appropriate context and authorities. The 5/30/2018 Chambers Hearing on this matter hereby VACATED. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl;*

06/27/2018

**CANCELED Motion to Strike** (3:00 AM) (Judicial Officer: Scotti, Richard F.)

*Vacated - per Clerk*

*Defendant's Motion to Strike Portions of Plaintiff's Supplement in Support of Opposition to Defendant's Special Motion to Dismiss or in the Alternative for Further Supplemental Briefing*

10/19/2018



**Motion for Order** (9:00 AM) (Judicial Officer: Truman, Erin)

*Plaintiffs' Motion for Order Allowing Commencement of Discovery*

Granted in Part; Plaintiffs' Motion for Order Allowing Commencement of Discovery







Journal Entry Details:

*Mr. Jimmerson addressed Judge Scotti's ruling and the Court found that Defts' anti-slapp Motion did not apply to intentional torts pled by Plaintiffs in the case, and the Motion to Dismiss on the basis of anti-slapp was Denied. There is an immediate right to Appeal which Defts availed themselves to. Mr. Jimmerson attempted to file an Early Case Conference, however, counsel have returned before the Commissioner to begin discovery. Defts have failed to filed an Answer, but Mr. Jimmerson doesn't intent to default Defts. The case needs to go forward and begin discovery. Argument by Mr. Jimmerson. Mr. Langberg discussed whether or not the anti-slapp Statute applies to the tort causes of action that Plaintiffs asserted. Defts filed a Writ of Mandamus, however, it was not brought on the same grounds as the anti-slapp. Mr. Langberg stated the Statute says if an anti-slapp Motion is filed, discovery is stayed pending a ruling on the Motion. Argument by Mr. Langberg. Commissioner stated based on the Supreme Court Denial of the Petition for Writ, the case is ready to be Answered, and 16.1 should be complied with. Mr. Langberg stated the Appeal is still pending. There was a Writ as to the Denial of the 12(b)(5) Motion because there is no Appeal from that. Mr. Langberg stated there is an automatic Appeal on Denial of an anti-slapp Motion, the Appeal is still pending, and the Opening Brief is due 10-22-18. Upon Commissioner's inquiry, Mr. Jimmerson stated there are no exigent circumstances that would warrant discovery before 16.1 is complied with. Given the fact that the Appeal is still pending, and an Answer is not yet required, COMMISSIONER RECOMMENDED, there is no reasonable basis for discovery to go forward at this point, and counsel will wait until the Supreme Court hears the issue. Following that the Answer will be due, and 16.1 will be complied with. Mr. Jimmerson stated there will be a 18 month to 2 year delay. Arguments by counsel. Mr. Langberg read the Statute into the record. Commissioner doesn't believe the case is stayed under the authority cited by Mr. Langberg. The Court determined that it doesn't apply to the causes of action, therefore, COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; discovery needs to go forward and within 30 days of Judge Scotti's ruling on the forthcoming Objection counsel should comply with 16.1*

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-18-771224-C**

	<i>and file the JCCR. Mr. Langberg requested an extension to object to the Report and Recommendation. Colloquy. Mr. Jimmerson to prepare the Report and Recommendations, and Mr. Langberg to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.;</i>
12/20/2018	<b>CANCELED Status Check: Compliance</b> (3:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i> <i>Status Check: Compliance (10-19-18 Report and Recommendation)</i>
02/20/2019	 <b>Hearing</b> (9:00 AM) (Judicial Officer: Scotti, Richard F.) <i>re DCRR (set by telephone conference 02/04/19)</i> Matter Heard; Journal Entry Details: <i>Arguments by counsel whether anti-slap statute applies and whether motion was filed in good faith. COURT ORDERED, matter UNDER ADVISEMENT. Court needs to review the Patton v. Lee case and whether it has jurisdiction, as well as the case law just presented. ;</i>
03/15/2019	 <b>Minute Order</b> (10:00 AM) (Judicial Officer: Scotti, Richard F.) Minute Order - No Hearing Held; Journal Entry Details: <i>The Court DENIES Plaintiff's Motion to Commence Discovery, pursuant to NRS 41.660(3)(e). The Court had denied Defendants Special Motion to Dismiss, in part, on the grounds that Defendants did not meet their threshold burden of establishing, by a preponderance of the evidence, that the Land owners claims against them are based on their good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. . See Plaintiff's Motion at p. 6 (quoting NRS 41.660(3)(a). Under these circumstances the statute mandates that the Court stay discovery pending an appeal of an Order denying the Special Motion to Dismiss. Defendants to prepare the Order. CLERK'S NOTE: A copy of this Minute Order has been distributed to the following: James Jimmerson, Esq. (JJJ@jimmersonlawfirm.com) and Mitchell Langberg, Esq. (mlangberg@bhfs.com). //ev 3/15/19;</i>
08/21/2019	 <b>Status Check</b> (3:00 AM) (Judicial Officer: Scotti, Richard F.) <i>ISC - Supreme Court Appeal</i> Matter Heard; Journal Entry Details: <i>Matter heard.;</i>
10/02/2019	 <b>Status Check</b> (9:00 AM) (Judicial Officer: Scotti, Richard F.) Stayed; Journal Entry Details: <i>Mr. Langberg conveyed Elizabeth Ghanem emailed him that morning and advised this matter was pending in Supreme Court and she had a conflict, and the matter was still before the Supreme Court regarding the denial of the Motion to Dismiss. COURT ORDERED, Stay CONTINUED. Mr. Langberg advised discovery never commenced. COURT ORDERED, parties to SUBMIT a one-page status update 30 days after the Supreme Court rules on the Appeal from the denial of the Motion to Dismiss.;</i>
03/25/2020	 <b>Status Check</b> (3:00 AM) (Judicial Officer: Scotti, Richard F.) <i>Remittitur</i> Matter Heard; Journal Entry Details: <i>Matter heard.;</i>
03/26/2020	<b>CANCELED Status Check</b> (3:00 AM) (Judicial Officer: Scotti, Richard F.) <i>Vacated</i> <i>ISC - Supreme Court Appeal</i>
04/06/2020	 <b>Motion</b> (3:00 AM) (Judicial Officer: Scotti, Richard F.) <i>Status Update Regarding Supreme Court Appeal</i>

# CASE SUMMARY

CASE NO. A-18-771224-C

Granted;

Journal Entry Details:

*The Court GRANTS the Motion for a Status Update and hereby SETS a Status Check for Wednesday, April 29, 2020 at 9AM. Further, in light of the continued ban on in-person hearings, the Court directs the parties to make the appropriate arrangements necessary to appear remotely through the available audio (CourtCall) or audiovisual (Blue Jeans) platforms in preparation for this hearing. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve and mailed to the following: Seventy Acres LLC 1215 S. Fort Apache Rd. Ste 120 Las Vegas, NV 89117 180 Land Co 1215 S. Fort Apache Rd. Ste 120 Las Vegas, NV 89117 Daniel Omerza 800 Petit Chalet Court Las Vegas, NV 89145 //ev 4/20/20;*

04/29/2020



**Status Check** (9:00 AM) (Judicial Officer: Scotti, Richard F.)

Status Check: Supreme Court Appeal

Matter Heard;

Journal Entry Details:

*Lisa Rasmussen, Esq. also present on behalf of Plaintiffs. Court provided a brief overview of the history of the case. Arguments by counsel regarding additional supplemental briefing and additional discovery. Court stated counsel would be given an opportunity to provide additional briefing limited to 5 pages regarding why additional discovery was needed. COURT ORDERED, Plaintiff to provide supplemental briefing by May 6, Defendants' Opposition to the Motion due May 11, and Reply, if needed, due May 13. Court inquired if there were any issues left to decide other than limited discovery. Ms. Rasmussen stated the Supreme Court focused on one prong and not the other, and additional briefing may be needed regarding the second prong. Court stated in the event limited discovery was denied, ruling on the Motion to Dismiss would proceed. Court stated any emergency requests would be considered, and a decision would be provided by May 18, 2020 regarding the Motion for Limited Discovery. 5/13/20 STATUS CHECK: OPTIONAL REPLY (CHAMBERS) 5/18/20 MOTION FOR LIMITED DISCOVERY (CHAMBERS) 5/25/20 DECISION: MOTION TO DISMISS (CHAMBERS);*

05/13/2020



**Status Check** (3:00 AM) (Judicial Officer: Scotti, Richard F.)

Status Check: Optional Reply

Matter Heard;

Journal Entry Details:

Matter heard.;

05/18/2020

**Motion** (3:00 AM) (Judicial Officer: Scotti, Richard F.)

Motion for Limited Discovery

Granted in Part;

05/27/2020

**CANCELED Decision** (3:00 AM) (Judicial Officer: Scotti, Richard F.)

Vacated

Decision: Motion to Dismiss

05/29/2020



**Minute Order** (10:00 AM) (Judicial Officer: Scotti, Richard F.)

Minute Order - No Hearing Held;

Journal Entry Details:

*The Court GRANTS in part, and DENIES in part, Plaintiff's request for limited discovery. Plaintiff may serve one set of requests for production of documents, with no more than a total of fifteen (15) requests for documents to be allocated among the defendants, as Plaintiff sees fit; Defendants shall have two weeks to respond to such requests. Further, Plaintiff may take the depositions of the three defendants, each limited to four (4) hours. This limited discovery period commences immediately, and concludes on Friday, July 17, 2020, absent stipulation of the parties. The defendants have the option of appearing for deposition in person, or appearing by audio/visual means (at their own arrangements). The depositions may be set on two week s notice, at the time and place noticed by Plaintiff after good faith attempt to meet and confer on the same. Any discovery dispute shall be brought before this Court upon request for an Order Shortening Time. Plaintiff may file a supplemental brief in opposition to the Motion to Dismiss by Wednesday, July 22, 2020. Plaintiff may file a supplemental reply by Monday, July 27, 2020. The Court will conduct a Hearing on the Defendants Motion to Dismiss on Wednesday, July 29, 2020. The parties may modify this schedule by written stipulation approved by the Court. 7/29/20 9:30 AM DEFENDANTS' MOTION TO DISMISS CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth*



# CASE SUMMARY

CASE NO. A-18-771224-C

Vargas, to all registered parties for Odyssey File & Serve. //ev 5/29/20;

06/05/2020



**Minute Order** (12:00 PM) (Judicial Officer: Scotti, Richard F.)

Minute Order - No Hearing Held;

Journal Entry Details:

*With regard to this Court's May 29, 2020 Minute Order, granting in part and denying in Part Plaintiff's request for limited discovery, the Court issues this clarification: The discovery permitted by the prior order must relate to the second prong of the anti-SLAPP analysis, and is limited to the matters identified in Plaintiff's papers, or the matters identified by the Plaintiff at the April 29th hearing. CLERK'S NOTE: A copy of this Minute Order was electronically served to all registered parties by the Courtroom Clerk, Elizabeth Vargas via Odyssey Efile and Serve. //ev 6/5/20;*

07/13/2020



**Motion for Protective Order** (9:00 AM) (Judicial Officer: Scotti, Richard F.)

*Defendants' Motion For Protective Order Limiting Discovery on Order Shortening Time*

Motion Granted;

Journal Entry Details:

*Court stated procedural aspect of Plaintiff's response to the motion, noting they expressed concerns that this Court issued a minute order providing clarification of its prior discovery order before having had a chance to receive and review Plaintiff's Response to Defendant's written request for clarification. This matter came back after a remand from the Nevada Supreme Court where it appeared to the Court that the Supreme Court had resolved prong 1 and was remanding back to this Court for appropriate proceedings regarding prong 2, whether limited discovery should go forward and resolve the issue of the litigation privilege. Following arguments by counsel regarding their respective positions, Court advised it was not one hundred percent convinced that prong 1 was completely disposed of by the Nevada Supreme Court, after hearing Ms. Rasmussen paraphrasing the order. Court advised it needs to go back and review the Supreme Court order. COURT ORDERED, matter TAKEN UNDER ADVISEMENT; discovery STAYED pending ruling on motion for protective order and if Court needs additional briefing regarding the litigation privilege issue, it will inform the parties by minute order.;*

07/21/2020



**Minute Order** (3:00 PM) (Judicial Officer: Scotti, Richard F.)

Minute Order - No Hearing Held;

Journal Entry Details:

*The Court GRANTS Defendants Motion for Protective Order Limiting Discovery. Discovery is limited to the second prong of the anti-SLAPP analysis. Discovery is limited to what is identified by Plaintiffs on p.5, lines 15-21 of Plaintiffs Brief in Support of Request for Limited Discovery (5-6-20). The Defendants shall prepare the proposed Order, consistent with the relief sought in their motion. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Carolyn Jackson, to all registered parties for Odyssey File & Serve. /cj 07/21/20;*

07/29/2020



**Motion to Dismiss** (9:30 AM) (Judicial Officer: Scotti, Richard F.)

*Defendants' Motion to Dismiss*

Matter Continued; Date to be determined

Journal Entry Details:

*Court noted this matter was set for a continued hearing on the Motion to Dismiss. Mr. Langberg stated he believes on the 21st the Court issued a minute order on their Motion for Protective Order defining the scope of discovery. The parties should conduct the discovery the Court ordered, noting they have been working on a formal order. Mr. Langberg stated he does not believe they have any dispute about what the Court ordered to occur however, there is a disagreement as to the findings that led to that decision. Court advised it would be its preference if the parties could work out and decrease the number of findings and get to the heart of the matter on the scope of discovery. Ms. Rasmussen stated by minimizing the findings in the proposed order that will probably resolve all their issues and they should be able to get the proposed order over to the Court today. Ms. Rasmussen stated they did their own proposed briefing schedule which takes them out into October; it allows the Court to set a date for the continued hearing. COURT ORDERED, hearing for Motion to Dismiss CONTINUED, to a date to be determined. COURT FURTHER ORDERED, matter SET for status check. 9/28/20 STATUS CHECK: STATUS OF CASE (CHAMBERS) ;*

# CASE SUMMARY

CASE NO. A-18-771224-C

09/28/2020	 <b>Status Check</b> (3:00 AM) (Judicial Officer: Scotti, Richard F.) <i>Status Check: Status of Case</i> Matter Heard; Journal Entry Details: <i>Matter heard.;</i>
10/22/2020	<b>Motion to Strike</b> (3:00 AM) (Judicial Officer: Scotti, Richard F.) <i>Defendants' Motion to Strike and for Imposition of Sanctions (on OST)</i> Matter Heard;
10/22/2020	<b>Opposition and Countermotion</b> (3:00 AM) (Judicial Officer: Scotti, Richard F.) <i>Opposition to Motion to Strike &amp; for Sanctions / Countermotion for Sanctions</i> Matter Heard;
10/22/2020	 <b>All Pending Motions</b> (3:00 AM) (Judicial Officer: Scotti, Richard F.) Matter Heard; Journal Entry Details: <i>DEFENDANTS' MOTION TO STRIKE AND FOR IMPOSITION OF SANCTIONS (ON OST)...OPPOSITION TO MOTION TO STRIKE &amp; FOR SANCTIONS / COUNTERMOTION FOR SANCTIONS The Court will issue a Minute Order resolving this matter.;</i>
10/26/2020	 <b>Minute Order</b> (3:00 AM) (Judicial Officer: Scotti, Richard F.) Minute Order - No Hearing Held; Journal Entry Details: <i>The Court DENIES Defendants Motion to Strike and for Imposition of Sanctions. The Court places no restriction on the content Plaintiff may include in its Brief. Plaintiff did not violate EDCR 7.60(b). The Court, further, DENIES Plaintiff's Countermotion because Defendants motion was meritless, but not frivolous. Plaintiff to prepare and submit the Order, pursuant to the electronic submission requirements of AO 20-17. CLERK'S NOTE: This Minute Order was e-mailed by Courtroom Clerk, Grecia Snow to: Lisa Rasmussen Esq., at Lisa@Veldlaw.com, Mitchell J. Langberg Esq., at mlangber@bhfs.com, and Elizabeth M. Ghanem Esq., at eghanem@gs-lawyers.com. 10/26/20 gs;</i>
11/09/2020	 <b>Motion to Dismiss</b> (9:30 AM) (Judicial Officer: Scotti, Richard F.) <i>Anti-Slapp</i> Granted; Journal Entry Details: <i>Court noted it read the motion, support briefs, and orders. Arguments by counsel. COURT took matter UNDER ADVISEMENT, stated it would issue a minute order. Ms. Rasmussen stated it filed a support brief and Mr. Langberg moved to strike, requested Court review the Motion to strike and respond.;</i>
11/09/2020	 <b>Minute Order</b> (12:16 PM) (Judicial Officer: Thompson, Charles) Minute Order - No Hearing Held; Journal Entry Details: <i>On June 20, 2018, Judge Scotti entered Findings of Fact, Conclusions of Law and an Order denying this motion. Defendants appealed and on January 23, 2020, the Nevada Supreme Court entered an Order vacating Judge Scotti's order and remanding with an opportunity for Plaintiffs to conduct limited discovery. Plaintiffs first argue that they may revisit step one of the anti-SLAPP analysis. On July 13, 2020, Judge Scotti entered a minute order including the following: This matter came back after a remand from the Nevada Supreme Court where it appeared to the Court that the Supreme Court had resolved prong 1 and was remanding back to this Court for appropriate proceedings regarding prong 2, whether limited discovery should go forward and resolve the issue of the litigation privilege. Following arguments by counsel regarding their respective positions, Court advised it was not one hundred percent convinced that prong 1 was completely disposed of by the Nevada Supreme Court, after hearing Ms. Rasmussen paraphrasing the order. Court advised it needs to go back and review the Supreme Court order. On July 21, 2020, after reviewing the Supreme Court Order, Judge Scotti entered a minute order which contained the following: Discovery is limited to the second prong of the anti-SLAPP analysis. It is clear from this minute order that Judge Scotti believed that prong 1 was resolved and that the limited discovery was only allowed with regard to prong 2. This</i>

## CASE SUMMARY

CASE NO. A-18-771224-C

Court agrees with Judge Scotti. It is clear from the Supreme Court's order filed January 23, 2020, that the Defendants met their burden at step one of the anti-SLAPP analysis. In other words, the Court found that the Defendant's communications were in furtherance of their right to petition the government in connection with an issue of public concern and that the communications were in good faith. The Court then held that the Plaintiffs had not met their step-two burden of demonstrating with prima facie evidence a probability of prevailing on their claims. However, they believed that the Plaintiffs should be permitted limited discovery to see if they could meet that step-two burden. Thereafter, Judge Scotti entered an order prescribing the limited discovery that would be permitted. Plaintiffs complain that the order was too limited. I believe that the judge appropriately exercised his discretion in this regard. Also, I do not sit as an appellate court over Judge Scotti. Thus, I decline to find that his Order was in any way in error. Defendants first argue that the litigation privilege is dispositive of the prong 2 issue. I find that the argument has merit. First, the City Council proceedings were quasi-judicial and the privilege does apply to quasi-judicial proceedings. Also, the privilege applies even though the communications are not directed at the Council itself. *Fink v. Oshins*, 118 Nev. 428 (2002). In accordance with the holding in *Oshins*, communications between the residents would be included. Today, Ms. Rasmussen cited *Spencer v. Klementi*, 466 P.3d 1241 (Nev. 2020), for the proposition that the privilege does not apply to quasi-judicial proceedings where due process protections similar to those provided in a court of law are not present. This Court believes that *Spencer* is distinguishable from the current matter. *Spencer* involved a defamation suit arising out of defamatory comments made to a public body during a public comment session. The speaker was not under oath. No opportunity to respond was provided. No cross-examination was allowed and the holding in the decision appears to be expressly limited to defamation suits. I believe that the *Oshins* case is more on point. The civil conspiracy claim is the only claim that Plaintiff has argued meets the prong two test. However, a civil conspiracy must be to accomplish some unlawful objective where damage results. There was no unlawful objective here. Further, no damage to Plaintiffs may be claimed because the proceeding never occurred. Even if the litigation privilege is not dispositive of the prong two issue, I find that Plaintiff has failed to demonstrate with prima facie evidence a probability of prevailing on any of their claims. For the reasons set forth in Defendants Supplemental Brief filed October 30, 2020, the Motion to Dismiss is GRANTED. Mr. Langberg is directed to prepare a proposed appropriate order with findings. Further, he is directed to submit the Order, pursuant to the electronic submission requirements of AO 20-17. CLERK'S NOTE: The above minute order has been distributed to: Lisa Rasmussen: Lisa@VeldLaw.Com, Mitchell Langberg: mlangber@bhfs.com. 11/10 km;

01/25/2021 **Motion For Reconsideration (3:00 AM)** (Judicial Officer: Eller, Crystal)  
Motion to Reconsider Court's Order Dated December 10, 2020 Order

02/08/2021 **Motion for Attorney Fees (9:00 AM)** (Judicial Officer: Eller, Crystal)  
Defendants' Motion for Attorneys' Fees and Additional Monetary Relief Pursuant to NRS 41.670 & NRS 18.010(2)

## DATE

## FINANCIAL INFORMATION

**Defendant** Caria, Steve

Total Charges

24.00

Total Payments and Credits

24.00

**Balance Due as of 1/11/2021****0.00****Defendant** Omerza, Daniel

Total Charges

283.00

Total Payments and Credits

283.00

**Balance Due as of 1/11/2021****0.00****Plaintiff** Fore Stars, Ltd.

Total Charges

804.00

Total Payments and Credits

804.00

**Balance Due as of 1/11/2021****0.00****Defendant** Omerza, Daniel

Appeal Bond Balance as of 1/11/2021

**500.00**



**CASE SUMMARY**

**CASE NO. A-18-771224-C**

# DISTRICT COURT CIVIL COVER SHEET

County, Nevada

A-18-771224-C

Case No. \_\_\_\_\_

(Assigned by Clerk's Office)

Department 31

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

Plaintiff(s) (name/address/phone): <div style="text-align: center;">Fore Stars, Ltd., a Nevada Limited Liability Company</div> <div style="text-align: center;">1215 S. Fort Apache Rd., Suite 120</div> <div style="text-align: center;">Las Vegas, NV 89117</div> <div style="text-align: center;">(702) 940-6930</div>	Defendant(s) (name/address/phone): <div style="text-align: center;">Daniel Omerza and Steve Caria</div> <div style="text-align: center;">800 Petit Chalet Court</div> <div style="text-align: center;">Las Vegas, NV 89145</div>
Attorney (name/address/phone): <div style="text-align: center;">James J. Jimmerson, Esq. (702) 388-7171</div> <div style="text-align: center;">Jimmerson Law Firm, P.C.</div> <div style="text-align: center;">415 S. 6th Street, Suite 100</div> <div style="text-align: center;">Las Vegas, NV 89101</div>	Attorney (name/address/phone): 

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

### Civil Case Filing Types

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

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

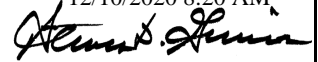
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Date

/s/James J. Jimmerson

Signature of initiating party or representative

*See other side for family-related case filings.*

  
CLERK OF THE COURT

**FFCL**

MITCHELL J. LANGBERG, ESQ., Bar No. 10118

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*Counsel for Defendants*

DANIEL OMERZA, DARREN BRESEE,  
and STEVE CARIA

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

FORE STARS, LTD., a Nevada limited  
liability company; 180 LAND CO., LLC; a  
Nevada limited liability company;  
SEVENTY ACRES, LLC, a Nevada  
limited liability company,

Plaintiffs,

v.

DANIEL OMERZA, DARREN BRESEE,  
STEVE CARIA, and DOES 1 THROUGH  
100,

Defendants,

CASE NO.: A-18-771224-C

DEPT NO.: II

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

Date of Hearing: November 9, 2020

Time of Hearing: 9:30 am

WHEREAS this matter came on for hearing on the 9th of November, 2020 on *Defendants'*  
*Special Motion To Dismiss (Anti-SLAPP Motion) Plaintiff's Complaint Pursuant to NRS §41.635*  
*et seq.* Lisa Rasmussen, Esq. of the Law Offices of Kristina Wildeveld & Associates, appearing  
via telephone on behalf of the Plaintiffs, Fore Star Ltd, 180 Land Co., LLC, and Seventy Acres,  
LLC and Mitchell J. Langberg, Esq. of Brownstein Hyatt Farber Schreck, LLP, appearing via  
telephone on behalf of Defendants Daniel Omerza, Darren Bresee, and Steve Caria.

The Court having reviewed the pleadings and papers on file, having considered the oral  
argument of counsel, and good cause appearing, hereby FINDS, CONCLUDES and ORDERS:

**FINDINGS OF FACT**

1. Plaintiffs Fore Starts, Ltd., 180 Land Co., LLC, and Seventy Acres, LLC

1 ("Plaintiffs") filed a complaint against Daniel Omerza, Darren Bresse, and Steve Caria on March  
2 15, 2018 (the "Complaint").

3 2. The Complaint alleged causes of action for Equitable and Injunctive Relief,  
4 Intentional Interference with Prospective Economic Advantage, Negligent Interference with  
5 Prospective Economic Advantage, Conspiracy, Intentional Misrepresentation, and Negligent  
6 Misrepresentation ("Claims").

7 3. Generally, the Complaint alleged that the Defendants participated in the  
8 circulation, collection, and/or execution of allegedly false statements (the "Statements") to be  
9 delivered to the City of Las Vegas in an effort to oppose Plaintiffs' development of what is  
10 commonly referred to as the former Badlands golf course ("Badlands").

11 4. On April 13, 2018, among other things, Defendants filed their Special Motion to  
12 Dismiss (anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS §41.635 et. seq. (the "anti-  
13 SLAPP Motion"), which is the subject of these Findings of Fact and Conclusions of Law.

14 5. After extensive briefing and oral argument, the Court denied the anti-SLAPP  
15 Motion for various reasons as set forth in the record, including that Defendants did not  
16 demonstrate that they met their initial burden of establishing "by a preponderance of the evidence,  
17 that the claim is based upon a good faith communication in furtherance of the right to petition or  
18 the right to free speech in direct connection with an issue of public concern," pursuant to NRS  
19 41.660(3)(a) ("Prong 1").

20 6. Because the Court found that Defendants did not meet their Prong 1 burden, it did  
21 not consider Plaintiffs request for discovery pursuant to NRS 41.660(4) with respect to whether  
22 Plaintiffs had "demonstrated with prima facie evidence a probability of prevailing on the claim"  
23 pursuant to NRS 41.660(3)(b) ("Prong 2").

24 7. Defendants filed a timely notice of appeal.

25 8. After briefing, the Nevada Supreme Court decided the matter without oral  
26 argument.

27 9. The Nevada Supreme Court held that Defendants met their burden under Prong 1.

28 10. The Nevada Supreme Court also held that Plaintiffs did not meet their burden

1 under Prong 2.

2 11. However, the Nevada Supreme Court noted that the Court had not considered  
3 Plaintiffs' request for discovery pursuant to NRS 41.660(4).

4 12. Therefore, the Nevada Supreme Court remanded the matter back to this Court with  
5 express direction: "Accordingly, for the reasons set forth above, we vacate the portion of the  
6 district court's order denying appellants anti-SLAPP special motion to dismiss and remand to the  
7 district court for it to determine whether respondents are entitled to discovery under NRS  
8 41.660(4)."

9 13. On remand, the parties did not agree on whether discovery was appropriate under  
10 NRS 41.660(4) or even what the scope of the remand was.

11 14. Defendants contended that the order of remand required this Court to consider  
12 whether it would grant Plaintiffs discovery under the anti-SLAPP statute. It was Defendants'  
13 contention that no discovery should be permitted. But, if discovery would be permitted, it would  
14 have to be limited to Prong 2 issues for which Plaintiffs made a showing of necessity.  
15 Defendants further contended that if the Court determined discovery was not appropriate, the  
16 anti-SLAPP motion should be granted because the Nevada Supreme Court had already concluded  
17 that Defendants had met their Prong 1 burden and Defendants had not met their Prong 2 burden.

18 15. Moreover, Defendants contend that if the Court allowed discovery, the only issue  
19 that would be left to determine was whether, in light of that discovery, Plaintiffs could now meet  
20 their burden under Prong 2.

21 16. On the other hand, Plaintiffs contended that they were entitled to conduct  
22 discovery on both Prong 1 and Prong 2. Plaintiffs further contended that the Nevada Supreme  
23 Court's decision and remand order required this Court to reconsider both Prong 1 and Prong 2 of  
24 the anti-SLAPP analysis.

25 17. At a post remand hearing, the parties offered argument about the appropriateness  
26 of discovery. Plaintiffs' counsel requested to brief the issue, promising to identify the discovery  
27 requested and the grounds supporting that request: "Let me do some additional briefing just on  
28 what discovery is requested, why it's relevant, and how it comports with the Nevada Supreme

1 Court's ruling."

2 18. The Court allowed the parties to brief their positions on discovery.

3 19. After briefing, the Court granted some limited discovery that was intended to be  
4 circumscribed by the scope allowed by the anti-SLAPP statute and what Plaintiffs had requested  
5 in their briefing.

6 20. After issuing its order allowing limited discovery, the parties had additional  
7 disputes about the scope of discovery ordered by the Court.

8 21. The dispute was litigated by way of further motion practice and the Court issued  
9 orders clarifying that discovery would only to that related to Prong 2 of the anti-SLAPP analysis  
10 and only on the topics of "what documents Defendants relied on, what information Defendants  
11 relied on, or whether that information was provided to Defendants by third persons" all with  
12 respect to the Statements. In its order, the Court explained that NRS 41.660(4) requires Plaintiffs  
13 to make a showing of necessity for limited discovery and these topics were the only topics on  
14 which Plaintiffs even attempted to make such a showing.

15 22. After completion of the limited discovery, the Court also allowed supplemental  
16 briefing.

17 23. In their briefing, Plaintiffs contended that the Court was required to reconsider  
18 whether Defendants met their Prong 1 burden. Further, Plaintiffs argued that even if Defendants  
19 met their Prong 1 burden, Plaintiffs had satisfied their burden on Prong 2. Finally, Plaintiffs  
20 argued that the discovery they were granted was too narrow.

21 24. With respect to Prong 2, the only one of the Claims that Plaintiffs addressed in  
22 their supplemental briefing was the claim for Conspiracy.

23 25. Moreover, with respect to the claim for Conspiracy, Plaintiffs did not offer any  
24 admissible evidence or make any argument regarding alleged damages resulting from the  
25 purported conspiracy.

26 26. The Court heard oral argument on the anti-SLAPP Motion on November 9, 2020.

27 **CONCLUSIONS OF LAW**

28 27. NRS 41.635, et. seq. comprises Nevada's anti-SLAPP statute.

28. The following rulings by the Nevada Supreme Court constitute law of the case with respect to the anti-SLAPP Motion:

(a) "In sum, we conclude that the district court erred by finding that appellants had not met their burden under NRS 41.660(3)(a) to establish by a preponderance of the evidence that respondents' claims are grounded on appellants' good faith communications in furtherance of their petitioning rights on an issue of public concern." *Omerza v. Fore Stars, Ltd*, 455 P.3d 841, \*3 (Nev. 2020).

(b) "We therefore conclude that the district court erred in determining that respondents met their step-two burden of demonstrating with prima facie evidence a probability of prevailing on their claims." *Id.* at \*4 (Nev. 2020).

29. Thus, the Nevada Supreme Court clearly found that Defendants had met their Prong 1 burden and Plaintiffs had not met their Prong 2 burden.

30. The Nevada Supreme Court's order of remand was equally clear: "Accordingly, for the reasons set forth above, we vacate the portion of the district court's order denying appellants' anti-SLAPP special motion to dismiss and remand to the district court for it to determine whether respondents are entitled to discovery under NRS 41.660(4)." *Id.* at \*4 (Nev. 2020).

31. Pursuant to the "mandate rule," a court must effectuate a higher court's ruling on remand. *Estate of Adams By & Through Adams v. Fallini*, 132 Nev. 814, 819, 386 P.3d 621, 624 (2016). The law-of-the-case doctrine directs a court not to "re-open questions decided (i.e., established as law of the case) by that court or a higher one in earlier phases." *Id.*

32. Therefore, as a matter of law, this Court's task on remand was to determine whether Plaintiffs were entitled to discovery under NRS 41.600(4).

33. Pursuant to NRS 41.600(4), "[u]pon a showing by a party that information necessary to meet or oppose the burden pursuant to paragraph (b) of subsection 3 is in the possession of another party or a third party and is not reasonably available without discovery, the court shall allow limited discovery for the purpose of ascertaining such information."

34. Paragraph (b) of subsection 3 of the anti-SLAPP statute is the Prong 2 portion of

1 the anti-SLAPP analysis that requires a plaintiff to demonstrate with prima facie evidence a  
2 probability of prevailing on its claim.

3 35. Therefore, as a matter of law, discovery is only allowed with respect to Prong 2 of  
4 the anti-SLAPP analysis. No discovery is allowed with respect to Prong 1 of the anti-SLAPP  
5 analysis.

6 36. Even with respect to Prong 2, NRS 41.600(4) only allows a party discovery if the  
7 party has: 1) made a showing, 2) that information to meet or oppose the Prong 2 burden, 3) is in  
8 the possession of another, and 4) is not available without discovery. Then, a court may allow  
9 limited discovery, but only for the purpose of ascertaining such information.

10 37. Therefore, as a matter of law, this Court could only grant discovery to the extent  
11 Plaintiffs made a showing of necessity as set forth in NRS 41.600(4). As noted in the factual  
12 findings, the Court granted Plaintiffs the discovery they expressly requested as that is the only  
13 discovery for which Plaintiffs even attempted to make a showing.

14 38. Though Plaintiffs argue in their supplemental opposition to the anti-SLAPP  
15 Motion that they were not allowed adequate discovery, the discovery permitted was appropriate  
16 and, in light of Plaintiffs' request, all that was allowed under NRS 41.600(4).

17 39. The Court notes that in their supplemental opposition, Plaintiffs complain that  
18 Defendants did not adequately respond to the discovery permitted. Defendants dispute that  
19 contention. Because Plaintiffs never filed a motion to compel, there is no basis to conclude that  
20 Defendants failed to comply with their discovery obligations pursuant to the Court's order and  
21 any argument to the contrary has been waived.

22 40. Having considered the appropriateness of discovery pursuant to the Nevada  
23 Supreme Court's remand order and having allowed limited discovery pursuant to the anti-SLAPP  
24 statute, the only matter left for this Court is to determine whether Plaintiffs have now met their  
25 Prong 2 burden in light of any new evidence they offer post-discovery.

26 41. First, Defendants argue that no matter what evidence Plaintiffs could have offered,  
27 Plaintiffs Claims cannot be supported because the litigation privilege is a complete defense and is  
28 dispositive of the Prong 2 issues.



42. The Court agrees that the alleged facts that underlie Plaintiffs claims are subject to the absolute litigation privilege and provide an complete defense to the Claims.

43. Nevada recognizes "the long-standing common law rule that communications uttered or published in the course of judicial proceedings are absolutely privileged so long as they are in some way pertinent to the subject of controversy." *Circus Circus Hotels, Inc. v. Witherspoon*, 99 Nev. 56, 60 (1983) (citation omitted). This rule includes "statements made in the course of quasi-judicial proceedings." *Knox v. Dick*, 99 Nev. 514, 518 (1983) (citation omitted); *see also Circus Circus*, 99 Nev. at 61 ("the absolute privilege attached to judicial proceedings has been extended to quasi-judicial proceedings before executive officers, boards, and commissions") (citations omitted).

44. Critically, the statement at issue does not have to be made during any actual proceedings. *See Fink v. Oshins*, 118 Nev. 428, 433 (2002) ("the privilege applies not only to communications made during actual judicial proceedings, but also to communications preliminary to a proposed judicial proceeding") (footnote omitted). "[B]ecause the scope of the absolute privilege is broad, a court determining whether the privilege applies should resolve any doubt in favor of a broad application." *Clark County Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 382 (2009) (citation omitted) (*citing Fink, supra*).

45. The Nevada Supreme Court already determined that the statements underlying each of Plaintiffs' claims were made in good faith in connection with issues under consideration by a legislative body. That was the City Council's consideration of "amendment to the Master Plan/General Plan affecting Peccole Ranch." *Omerza*, 455 P.3d 841, \*1 (Nev. 2020).

46. Those City Council proceedings were quasi-judicial. Unified Development Code (UDC) section 19.16.030, *et. seq.* addresses amendments to the General Plan. It provides an extensive set of standards establishing how the City Council must exercise judgment and discretion, hear and determine facts, and render a reasoned written decision. In the course of those proceedings, the Council has the power to order the attendance of witnesses and the production of documents. Las Vegas City Charter §2.080(1)(d),(2)(a). This entire process meets the judicial function test for "determining whether an administrative proceeding is quasi-judicial."

1 *State ex rel. Bd. of Parole Comm'rs v. Morrow*, 127 Nev. 265, 273 (2011).

2 47. Moreover, Plaintiffs admitted it was a quasi-judicial proceeding at a May 9, 2018  
3 hearing before the City Council. *See*, Defendants' Request for Judicial Notice filed on May 9,  
4 2018, Exh. 1, p. 16, lines 415-420 (Mr. Hutchison (as counsel for these Developers) explaining  
5 that the proceeding are quasi-judicial).

6 48. The absolute litigation privilege applies without regard to how Plaintiffs styled  
7 their claims. "An absolute privilege bars any civil litigation based on the underlying  
8 communication." *Hampe v. Foote*, 118 Nev. 405, 409, 47 P.3d 438, 440 (2002), overruled in part  
9 on other grounds by *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 n. 6, 181 P.3d  
10 670, 672 n.6 (2008).

11 49. Because the Supreme Court already determined that the Defendants' activities  
12 were made in connection with the City Council proceedings, and because those activities were  
13 quite obviously an attempt to solicit witnesses testimony to submit in the form of written  
14 statements, Defendants' statements were all made in connection with, and preliminary to, a quasi-  
15 judicial proceeding and, therefore, were protected by the absolute litigation privilege.

16 50. For the first time at the hearing on the anti-SLAPP Motion, Plaintiffs' counsel cited  
17 to a case decided by the Nevada Supreme Court on July 9, 2020, four months before the hearing  
18 and more than three months before Plaintiffs filed their supplemental opposition to the anti-  
19 SLAPP motion.

20 51. Nonetheless, the Court has considered Plaintiffs' offer of *Spencer v. Klementi*, 466  
21 P.3d 1241 (Nev. 2020), for the proposition that the privilege does not apply to quasi-judicial  
22 proceedings where due process protections similar to those provided in a court of law are not  
23 present. This Court believes that *Spencer* is distinguishable from the current matter. *Spencer*  
24 involved a defamation suit arising out of defamatory comments made to a public body during a  
25 public comment session. The speaker was not under oath. No opportunity to respond was  
26 provided. No cross-examination was allowed. Importantly, the holding in the decision was  
27 expressly limited to defamation suits: "We therefore take this opportunity to clarify that a quasi-  
28 judicial proceeding in the context of defamation suits is one that provides basic due-process

1 protections similar to those provided in a court of law." *Id.* at 1247. Therefore, the *Oshins* case  
2 controls.

3 52. Because it applies, the litigation privilege is an absolute bar to all of Plaintiffs'  
4 claims. Therefore, for that reason alone, Plaintiffs' claims fail on Prong 2 and the anti-SLAPP  
5 Motion should be granted.

6 53. As a separate and additional basis for dismissing Plaintiffs' claims pursuant to the  
7 anti-SLAPP statute, even if the litigation privilege did not apply, Plaintiffs have failed to meet  
8 their burden under Prong 2.

9 54. Mindful that the Nevada Supreme Court already determined that Plaintiffs' failed  
10 to meet their burden under Prong 2 based on the evidence and argument offered prior to the  
11 appeal, the Court now considers whether Plaintiffs have offered any new evidence or legal  
12 argument in an attempt to meet their burden on remand.

13 55. The civil conspiracy claim is the only claim for which Plaintiffs have made any  
14 new argument.

15 56. The Nevada Supreme Court explained that the Developer was required to  
16 "demonstrate that the claim is supported by a prima facie showing of facts" that is supported by  
17 "competent, admissible evidence." *Omerza*, 455 P.3d 841 at \*4. This is the same standard as a  
18 court applies in a summary judgment motion. *Id.*

19 57. An actionable civil conspiracy "consists of a combination of two or more persons  
20 who, by some concerted action, intend to accomplish an unlawful objective for the purpose of  
21 harming another, and damage results from the act or acts." *Consol. Generator-Nevada, Inc. v.*  
22 *Cummins Engine Co.*, 114 Nev. 1304, 1311 (1998) (affirming summary judgment for defendant  
23 on the plaintiff's conspiracy claim because there was no evidence that the two defendants had  
24 agreed and intended to harm the plaintiff).

25 58. The evidence must be "of an explicit or tacit agreement between the alleged  
26 conspirators." *Guilfoyle v. Olde Monmouth Stock Transfer Co.*, 130 Nev. 801, 813, 335 P.3d 190,  
27 198 (2014) (upholding district court's grant of summary judgment where plaintiff "has presented  
28 no circumstantial evidence from which to infer an agreement between [defendants] to harm"

1 plaintiff). Here, Plaintiffs did not offer any admissible evidence of an agreement to do something  
2 unlawful.

3 59. A conspiracy claim also fails where the plaintiff cannot show that he suffered any  
4 actual harm. *Sutherland v. Gross*, 105 Nev. 192, 197 (1989); *see also Aldabe v. Adams*, 81 Nev.  
5 280, 286 (1965), overruled on other grounds by *Siragusa v. Brown*, 114 Nev. 1384 (1998) (“The  
6 damage for which recovery may be had in a civil action is not the conspiracy itself but the injury  
7 to the plaintiff produced by specific overt acts.”).

8 60. “The gist of a civil conspiracy is not the unlawful agreement but the damage  
9 resulting from that agreement or its execution. The cause of action is not created by the  
10 conspiracy but by the wrongful acts done by the defendants to the injury of the plaintiff.”  
11 *Eikelberger v. Tolotti*, 96 Nev. 525, 528 (1980).

12 61. Plaintiffs' Claims were all based on Defendants circulating the Statements to  
13 community members to oppose the Developer's efforts to change the land use restrictions on the  
14 Badlands. But, because the City Council proceedings did not advance and Plaintiffs appealed  
15 (successfully) Judge Crockett's decision, the City Council's prior decisions to allow development  
16 without a modification to the Peccole Ranch Master Plan were affirmed.

17 62. Therefore, Plaintiffs offered no admissible evidence of damages suffered even if it  
18 had proven a conspiracy existed.

19 63. Also, Plaintiffs offered no evidence to support any of their other claims, even  
20 though the Supreme Court already said their prior showing was insufficient. Where a plaintiff  
21 cannot demonstrate an unlawful act because it cannot prevail on the other claims it has alleged to  
22 form the basis for the underlying wrong, dismissal of the civil conspiracy claim is appropriate.  
23 *Goldman v. Clark Cty. Sch. Dist.*, 471 P.3d 753 (Nev. 2020) (unpublished) (citing *Consol.*  
24 *Generator-Nevada, Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1311 (1998)).

25 64. Plaintiffs have failed to show an agreement to achieve an unlawful objective and  
26 failed to show any damage. Therefore, Plaintiffs have failed to meet their Prong 2 anti-SLAPP  
27 burden.

28 65. Because Plaintiffs have failed to meet their burden under Prong 2 of the anti-

SLAPP analysis, Defendants' anti-SLAPP motion is well taken and will be granted.

66. Pursuant to NRS 41.670(1)(a), when a court grants an anti-SLAPP motion, it "shall award reasonable costs and attorney's fees." Pursuant to NRS 41.670(1)(b), the court also "may award" "an amount of up to \$10,000 to the person against whom the action was brought." Defendants may request those fees, costs, and additional amounts by separate motion.

**ORDER**

WHEREFORE, IT IS HEREBY ORDERED that:

1. Defendants' Special Motion to Dismiss is hereby GRANTED, and

2. Defendants may seek attorneys' fees, costs, additional amounts by way of separate motion.

Dated this 10th day of December, 2020



DATED: \_\_\_\_\_

25B E0E 21B7 81BF  
Richard F. Scotti  
District Court Judge  
DISTRICT COURT JUDGE

*Respectfully Submitted:*


*Approved as to form and content:*

DATED this 2nd day of December, 2020.

DATED this \_\_\_\_ day of December, 2020.

BROWNSTEIN HYATT FARBER  
SCHRECK, LLP

LAW OFFICES OF KRISTINA  
WILDEVELD & ASSOCIATES  
**Counsel have disagreements regarding the  
contents of this order.**

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*Counsel for Defendants Daniel Omerza,  
Darren Bresee and Steve Caria*

*Counsel for Plaintiffs  
Fore Stars, Ltd., 180 Land Co., LLC,  
Seventy Acres, LLC*

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4		
5		
6	Fore Stars, Ltd., Plaintiff(s)	CASE NO: A-18-771224-C
7	vs.	DEPT. NO. Department 2
8	Daniel Omerza, Defendant(s)	
9		

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the  
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
case as listed below:

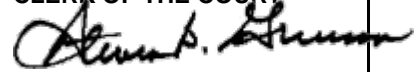
14 Service Date: 12/10/2020

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1 **NEOJ**

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11 STEVE CARIA

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 FORE STARS, LTD., a Nevada limited  
15 liability company; 180 LAND CO., LLC; a  
16 Nevada limited liability company;  
17 SEVENTY ACRES, LLC, a Nevada  
18 limited liability company,

19 Plaintiffs,

20 v.

21 DANIEL OMERZA, DARREN BRESEE,  
22 STEVE CARIA, and DOES 1 THROUGH  
23 100,

24 Defendants,

CASE NO.: A-18-771224-C

DEPT NO.: II

**NOTICE OF ENTRY OF FINDINGS OF  
FACTS, CONCLUSIONS OF LAW, AND  
ORDER**

**ELECTRONIC FILING CASE**

25 PLEASE TAKE NOTICE that the Findings of Fact, Conclusions of Law, and Order was  
26 entered on December 10, 2020.

27 ...

28 ...

...



1 A true and correct copy of said Findings of Fact, Conclusions of Law, and Order is attached  
2 hereto.

3 DATED this 10th day of December, 2020.

4 BROWNSTEIN HYATT FARBER SCHRECK, LLP

5 BY: /s/ Mitchell J. Langberg

6 MITCHELL J. LANGBERG, ESQ., Bar No. 10118

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14 STEVE CARIA

**CERTIFICATE OF SERVICE**

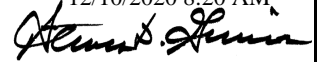
I HEREBY CERTIFY that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACTS, CONCLUSIONS OF LAW, AND ORDER** be submitted electronically for filing and/or service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 10th day of December, 2020, to the following:

Lisa A. Rasmussen, Esq.  
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Las Vegas, Nevada 89104  
Email: [lisa@lasmussenlaw.com](mailto:lisa@lasmussenlaw.com)

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EHB Companies, LLC  
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*Attorneys for Plaintiffs*  
FORE STARS, LTD., 180 LAND CO., LLC;  
and SEVENTY ACRES, LLC

/s/ DeEtra Crudup  
an employee of Brownstein Hyatt Farber Schreck, LLP

  
CLERK OF THE COURT

**FFCL**

MITCHELL J. LANGBERG, ESQ., Bar No. 10118

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*Counsel for Defendants*

DANIEL OMERZA, DARREN BRESEE,  
and STEVE CARIA

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

FORE STARS, LTD., a Nevada limited  
liability company; 180 LAND CO., LLC; a  
Nevada limited liability company;  
SEVENTY ACRES, LLC, a Nevada  
limited liability company,

Plaintiffs,

v.

DANIEL OMERZA, DARREN BRESEE,  
STEVE CARIA, and DOES 1 THROUGH  
100,

Defendants,

CASE NO.: A-18-771224-C

DEPT NO.: II

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

Date of Hearing: November 9, 2020

Time of Hearing: 9:30 am

WHEREAS this matter came on for hearing on the 9th of November, 2020 on *Defendants'*  
*Special Motion To Dismiss (Anti-SLAPP Motion) Plaintiff's Complaint Pursuant to NRS §41.635*  
*et seq.* Lisa Rasmussen, Esq. of the Law Offices of Kristina Wildeveld & Associates, appearing  
via telephone on behalf of the Plaintiffs, Fore Star Ltd, 180 Land Co., LLC, and Seventy Acres,  
LLC and Mitchell J. Langberg, Esq. of Brownstein Hyatt Farber Schreck, LLP, appearing via  
telephone on behalf of Defendants Daniel Omerza, Darren Bresee, and Steve Caria.

The Court having reviewed the pleadings and papers on file, having considered the oral  
argument of counsel, and good cause appearing, hereby FINDS, CONCLUDES and ORDERS:

**FINDINGS OF FACT**

1. Plaintiffs Fore Starts, Ltd., 180 Land Co., LLC, and Seventy Acres, LLC

1 ("Plaintiffs") filed a complaint against Daniel Omerza, Darren Bresse, and Steve Caria on March  
2 15, 2018 (the "Complaint").

3 2. The Complaint alleged causes of action for Equitable and Injunctive Relief,  
4 Intentional Interference with Prospective Economic Advantage, Negligent Interference with  
5 Prospective Economic Advantage, Conspiracy, Intentional Misrepresentation, and Negligent  
6 Misrepresentation ("Claims").

7 3. Generally, the Complaint alleged that the Defendants participated in the  
8 circulation, collection, and/or execution of allegedly false statements (the "Statements") to be  
9 delivered to the City of Las Vegas in an effort to oppose Plaintiffs' development of what is  
10 commonly referred to as the former Badlands golf course ("Badlands").

11 4. On April 13, 2018, among other things, Defendants filed their Special Motion to  
12 Dismiss (anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS §41.635 et. seq. (the "anti-  
13 SLAPP Motion"), which is the subject of these Findings of Fact and Conclusions of Law.

14 5. After extensive briefing and oral argument, the Court denied the anti-SLAPP  
15 Motion for various reasons as set forth in the record, including that Defendants did not  
16 demonstrate that they met their initial burden of establishing "by a preponderance of the evidence,  
17 that the claim is based upon a good faith communication in furtherance of the right to petition or  
18 the right to free speech in direct connection with an issue of public concern," pursuant to NRS  
19 41.660(3)(a) ("Prong 1").

20 6. Because the Court found that Defendants did not meet their Prong 1 burden, it did  
21 not consider Plaintiffs request for discovery pursuant to NRS 41.660(4) with respect to whether  
22 Plaintiffs had "demonstrated with prima facie evidence a probability of prevailing on the claim"  
23 pursuant to NRS 41.660(3)(b) ("Prong 2").

24 7. Defendants filed a timely notice of appeal.

25 8. After briefing, the Nevada Supreme Court decided the matter without oral  
26 argument.

27 9. The Nevada Supreme Court held that Defendants met their burden under Prong 1.

28 10. The Nevada Supreme Court also held that Plaintiffs did not meet their burden

1 under Prong 2.

2 11. However, the Nevada Supreme Court noted that the Court had not considered  
3 Plaintiffs' request for discovery pursuant to NRS 41.660(4).

4 12. Therefore, the Nevada Supreme Court remanded the matter back to this Court with  
5 express direction: "Accordingly, for the reasons set forth above, we vacate the portion of the  
6 district court's order denying appellants anti-SLAPP special motion to dismiss and remand to the  
7 district court for it to determine whether respondents are entitled to discovery under NRS  
8 41.660(4)."

9 13. On remand, the parties did not agree on whether discovery was appropriate under  
10 NRS 41.660(4) or even what the scope of the remand was.

11 14. Defendants contended that the order of remand required this Court to consider  
12 whether it would grant Plaintiffs discovery under the anti-SLAPP statute. It was Defendants'  
13 contention that no discovery should be permitted. But, if discovery would be permitted, it would  
14 have to be limited to Prong 2 issues for which Plaintiffs made a showing of necessity.  
15 Defendants further contended that if the Court determined discovery was not appropriate, the  
16 anti-SLAPP motion should be granted because the Nevada Supreme Court had already concluded  
17 that Defendants had met their Prong 1 burden and Defendants had not met their Prong 2 burden.

18 15. Moreover, Defendants contend that if the Court allowed discovery, the only issue  
19 that would be left to determine was whether, in light of that discovery, Plaintiffs could now meet  
20 their burden under Prong 2.

21 16. On the other hand, Plaintiffs contended that they were entitled to conduct  
22 discovery on both Prong 1 and Prong 2. Plaintiffs further contended that the Nevada Supreme  
23 Court's decision and remand order required this Court to reconsider both Prong 1 and Prong 2 of  
24 the anti-SLAPP analysis.

25 17. At a post remand hearing, the parties offered argument about the appropriateness  
26 of discovery. Plaintiffs' counsel requested to brief the issue, promising to identify the discovery  
27 requested and the grounds supporting that request: "Let me do some additional briefing just on  
28 what discovery is requested, why it's relevant, and how it comports with the Nevada Supreme

1 Court's ruling."

2 18. The Court allowed the parties to brief their positions on discovery.

3 19. After briefing, the Court granted some limited discovery that was intended to be  
4 circumscribed by the scope allowed by the anti-SLAPP statute and what Plaintiffs had requested  
5 in their briefing.

6 20. After issuing its order allowing limited discovery, the parties had additional  
7 disputes about the scope of discovery ordered by the Court.

8 21. The dispute was litigated by way of further motion practice and the Court issued  
9 orders clarifying that discovery would only to that related to Prong 2 of the anti-SLAPP analysis  
10 and only on the topics of "what documents Defendants relied on, what information Defendants  
11 relied on, or whether that information was provided to Defendants by third persons" all with  
12 respect to the Statements. In its order, the Court explained that NRS 41.660(4) requires Plaintiffs  
13 to make a showing of necessity for limited discovery and these topics were the only topics on  
14 which Plaintiffs even attempted to make such a showing.

15 22. After completion of the limited discovery, the Court also allowed supplemental  
16 briefing.

17 23. In their briefing, Plaintiffs contended that the Court was required to reconsider  
18 whether Defendants met their Prong 1 burden. Further, Plaintiffs argued that even if Defendants  
19 met their Prong 1 burden, Plaintiffs had satisfied their burden on Prong 2. Finally, Plaintiffs  
20 argued that the discovery they were granted was too narrow.

21 24. With respect to Prong 2, the only one of the Claims that Plaintiffs addressed in  
22 their supplemental briefing was the claim for Conspiracy.

23 25. Moreover, with respect to the claim for Conspiracy, Plaintiffs did not offer any  
24 admissible evidence or make any argument regarding alleged damages resulting from the  
25 purported conspiracy.

26 26. The Court heard oral argument on the anti-SLAPP Motion on November 9, 2020.

27 **CONCLUSIONS OF LAW**

28 27. NRS 41.635, et. seq. comprises Nevada's anti-SLAPP statute.

28. The following rulings by the Nevada Supreme Court constitute law of the case with respect to the anti-SLAPP Motion:

(a) "In sum, we conclude that the district court erred by finding that appellants had not met their burden under NRS 41.660(3)(a) to establish by a preponderance of the evidence that respondents' claims are grounded on appellants' good faith communications in furtherance of their petitioning rights on an issue of public concern." *Omerza v. Fore Stars, Ltd*, 455 P.3d 841, \*3 (Nev. 2020).

(b) "We therefore conclude that the district court erred in determining that respondents met their step-two burden of demonstrating with prima facie evidence a probability of prevailing on their claims." *Id.* at \*4 (Nev. 2020).

29. Thus, the Nevada Supreme Court clearly found that Defendants had met their Prong 1 burden and Plaintiffs had not met their Prong 2 burden.

30. The Nevada Supreme Court's order of remand was equally clear: "Accordingly, for the reasons set forth above, we vacate the portion of the district court's order denying appellants' anti-SLAPP special motion to dismiss and remand to the district court for it to determine whether respondents are entitled to discovery under NRS 41.660(4)." *Id.* at \*4 (Nev. 2020).

31. Pursuant to the "mandate rule," a court must effectuate a higher court's ruling on remand. *Estate of Adams By & Through Adams v. Fallini*, 132 Nev. 814, 819, 386 P.3d 621, 624 (2016). The law-of-the-case doctrine directs a court not to "re-open questions decided (i.e., established as law of the case) by that court or a higher one in earlier phases." *Id.*

32. Therefore, as a matter of law, this Court's task on remand was to determine whether Plaintiffs were entitled to discovery under NRS 41.600(4).

33. Pursuant to NRS 41.600(4), "[u]pon a showing by a party that information necessary to meet or oppose the burden pursuant to paragraph (b) of subsection 3 is in the possession of another party or a third party and is not reasonably available without discovery, the court shall allow limited discovery for the purpose of ascertaining such information."

34. Paragraph (b) of subsection 3 of the anti-SLAPP statute is the Prong 2 portion of

1 the anti-SLAPP analysis that requires a plaintiff to demonstrate with prima facie evidence a  
2 probability of prevailing on its claim.

3 35. Therefore, as a matter of law, discovery is only allowed with respect to Prong 2 of  
4 the anti-SLAPP analysis. No discovery is allowed with respect to Prong 1 of the anti-SLAPP  
5 analysis.

6 36. Even with respect to Prong 2, NRS 41.600(4) only allows a party discovery if the  
7 party has: 1) made a showing, 2) that information to meet or oppose the Prong 2 burden, 3) is in  
8 the possession of another, and 4) is not available without discovery. Then, a court may allow  
9 limited discovery, but only for the purpose of ascertaining such information.

10 37. Therefore, as a matter of law, this Court could only grant discovery to the extent  
11 Plaintiffs made a showing of necessity as set forth in NRS 41.600(4). As noted in the factual  
12 findings, the Court granted Plaintiffs the discovery they expressly requested as that is the only  
13 discovery for which Plaintiffs even attempted to make a showing.

14 38. Though Plaintiffs argue in their supplemental opposition to the anti-SLAPP  
15 Motion that they were not allowed adequate discovery, the discovery permitted was appropriate  
16 and, in light of Plaintiffs' request, all that was allowed under NRS 41.600(4).

17 39. The Court notes that in their supplemental opposition, Plaintiffs complain that  
18 Defendants did not adequately respond to the discovery permitted. Defendants dispute that  
19 contention. Because Plaintiffs never filed a motion to compel, there is no basis to conclude that  
20 Defendants failed to comply with their discovery obligations pursuant to the Court's order and  
21 any argument to the contrary has been waived.

22 40. Having considered the appropriateness of discovery pursuant to the Nevada  
23 Supreme Court's remand order and having allowed limited discovery pursuant to the anti-SLAPP  
24 statute, the only matter left for this Court is to determine whether Plaintiffs have now met their  
25 Prong 2 burden in light of any new evidence they offer post-discovery.

26 41. First, Defendants argue that no matter what evidence Plaintiffs could have offered,  
27 Plaintiffs Claims cannot be supported because the litigation privilege is a complete defense and is  
28 dispositive of the Prong 2 issues.



42. The Court agrees that the alleged facts that underlie Plaintiffs claims are subject to the absolute litigation privilege and provide an complete defense to the Claims.

43. Nevada recognizes "the long-standing common law rule that communications uttered or published in the course of judicial proceedings are absolutely privileged so long as they are in some way pertinent to the subject of controversy." *Circus Circus Hotels, Inc. v. Witherspoon*, 99 Nev. 56, 60 (1983) (citation omitted). This rule includes "statements made in the course of quasi-judicial proceedings." *Knox v. Dick*, 99 Nev. 514, 518 (1983) (citation omitted); *see also Circus Circus*, 99 Nev. at 61 ("the absolute privilege attached to judicial proceedings has been extended to quasi-judicial proceedings before executive officers, boards, and commissions") (citations omitted).

44. Critically, the statement at issue does not have to be made during any actual proceedings. *See Fink v. Oshins*, 118 Nev. 428, 433 (2002) ("the privilege applies not only to communications made during actual judicial proceedings, but also to communications preliminary to a proposed judicial proceeding") (footnote omitted). "[B]ecause the scope of the absolute privilege is broad, a court determining whether the privilege applies should resolve any doubt in favor of a broad application." *Clark County Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 382 (2009) (citation omitted) (*citing Fink, supra*).

45. The Nevada Supreme Court already determined that the statements underlying each of Plaintiffs' claims were made in good faith in connection with issues under consideration by a legislative body. That was the City Council's consideration of "amendment to the Master Plan/General Plan affecting Peccole Ranch." *Omerza*, 455 P.3d 841, \*1 (Nev. 2020).

46. Those City Council proceedings were quasi-judicial. Unified Development Code (UDC) section 19.16.030, *et. seq.* addresses amendments to the General Plan. It provides an extensive set of standards establishing how the City Council must exercise judgment and discretion, hear and determine facts, and render a reasoned written decision. In the course of those proceedings, the Council has the power to order the attendance of witnesses and the production of documents. Las Vegas City Charter §2.080(1)(d),(2)(a). This entire process meets the judicial function test for "determining whether an administrative proceeding is quasi-judicial."

1 *State ex rel. Bd. of Parole Comm'rs v. Morrow*, 127 Nev. 265, 273 (2011).

2 47. Moreover, Plaintiffs admitted it was a quasi-judicial proceeding at a May 9, 2018  
3 hearing before the City Council. *See*, Defendants' Request for Judicial Notice filed on May 9,  
4 2018, Exh. 1, p. 16, lines 415-420 (Mr. Hutchison (as counsel for these Developers) explaining  
5 that the proceeding are quasi-judicial).

6 48. The absolute litigation privilege applies without regard to how Plaintiffs styled  
7 their claims. "An absolute privilege bars any civil litigation based on the underlying  
8 communication." *Hampe v. Foote*, 118 Nev. 405, 409, 47 P.3d 438, 440 (2002), overruled in part  
9 on other grounds by *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 n. 6, 181 P.3d  
10 670, 672 n.6 (2008).

11 49. Because the Supreme Court already determined that the Defendants' activities  
12 were made in connection with the City Council proceedings, and because those activities were  
13 quite obviously an attempt to solicit witnesses testimony to submit in the form of written  
14 statements, Defendants' statements were all made in connection with, and preliminary to, a quasi-  
15 judicial proceeding and, therefore, were protected by the absolute litigation privilege.

16 50. For the first time at the hearing on the anti-SLAPP Motion, Plaintiffs' counsel cited  
17 to a case decided by the Nevada Supreme Court on July 9, 2020, four months before the hearing  
18 and more than three months before Plaintiffs filed their supplemental opposition to the anti-  
19 SLAPP motion.

20 51. Nonetheless, the Court has considered Plaintiffs' offer of *Spencer v. Klementi*, 466  
21 P.3d 1241 (Nev. 2020), for the proposition that the privilege does not apply to quasi-judicial  
22 proceedings where due process protections similar to those provided in a court of law are not  
23 present. This Court believes that *Spencer* is distinguishable from the current matter. *Spencer*  
24 involved a defamation suit arising out of defamatory comments made to a public body during a  
25 public comment session. The speaker was not under oath. No opportunity to respond was  
26 provided. No cross-examination was allowed. Importantly, the holding in the decision was  
27 expressly limited to defamation suits: "We therefore take this opportunity to clarify that a quasi-  
28 judicial proceeding in the context of defamation suits is one that provides basic due-process

1 protections similar to those provided in a court of law." *Id.* at 1247. Therefore, the *Oshins* case  
2 controls.

3 52. Because it applies, the litigation privilege is an absolute bar to all of Plaintiffs'  
4 claims. Therefore, for that reason alone, Plaintiffs' claims fail on Prong 2 and the anti-SLAPP  
5 Motion should be granted.

6 53. As a separate and additional basis for dismissing Plaintiffs' claims pursuant to the  
7 anti-SLAPP statute, even if the litigation privilege did not apply, Plaintiffs have failed to meet  
8 their burden under Prong 2.

9 54. Mindful that the Nevada Supreme Court already determined that Plaintiffs' failed  
10 to meet their burden under Prong 2 based on the evidence and argument offered prior to the  
11 appeal, the Court now considers whether Plaintiffs have offered any new evidence or legal  
12 argument in an attempt to meet their burden on remand.

13 55. The civil conspiracy claim is the only claim for which Plaintiffs have made any  
14 new argument.

15 56. The Nevada Supreme Court explained that the Developer was required to  
16 "demonstrate that the claim is supported by a prima facie showing of facts" that is supported by  
17 "competent, admissible evidence." *Omerza*, 455 P.3d 841 at \*4. This is the same standard as a  
18 court applies in a summary judgment motion. *Id.*

19 57. An actionable civil conspiracy "consists of a combination of two or more persons  
20 who, by some concerted action, intend to accomplish an unlawful objective for the purpose of  
21 harming another, and damage results from the act or acts." *Consol. Generator-Nevada, Inc. v.*  
22 *Cummins Engine Co.*, 114 Nev. 1304, 1311 (1998) (affirming summary judgment for defendant  
23 on the plaintiff's conspiracy claim because there was no evidence that the two defendants had  
24 agreed and intended to harm the plaintiff).

25 58. The evidence must be "of an explicit or tacit agreement between the alleged  
26 conspirators." *Guilfoyle v. Olde Monmouth Stock Transfer Co.*, 130 Nev. 801, 813, 335 P.3d 190,  
27 198 (2014) (upholding district court's grant of summary judgment where plaintiff "has presented  
28 no circumstantial evidence from which to infer an agreement between [defendants] to harm"

1 plaintiff). Here, Plaintiffs did not offer any admissible evidence of an agreement to do something  
2 unlawful.

3 59. A conspiracy claim also fails where the plaintiff cannot show that he suffered any  
4 actual harm. *Sutherland v. Gross*, 105 Nev. 192, 197 (1989); *see also Aldabe v. Adams*, 81 Nev.  
5 280, 286 (1965), overruled on other grounds by *Siragusa v. Brown*, 114 Nev. 1384 (1998) (“The  
6 damage for which recovery may be had in a civil action is not the conspiracy itself but the injury  
7 to the plaintiff produced by specific overt acts.”).

8 60. “The gist of a civil conspiracy is not the unlawful agreement but the damage  
9 resulting from that agreement or its execution. The cause of action is not created by the  
10 conspiracy but by the wrongful acts done by the defendants to the injury of the plaintiff.”  
11 *Eikelberger v. Tolotti*, 96 Nev. 525, 528 (1980).

12 61. Plaintiffs' Claims were all based on Defendants circulating the Statements to  
13 community members to oppose the Developer's efforts to change the land use restrictions on the  
14 Badlands. But, because the City Council proceedings did not advance and Plaintiffs appealed  
15 (successfully) Judge Crockett's decision, the City Council's prior decisions to allow development  
16 without a modification to the Peccole Ranch Master Plan were affirmed.

17 62. Therefore, Plaintiffs offered no admissible evidence of damages suffered even if it  
18 had proven a conspiracy existed.

19 63. Also, Plaintiffs offered no evidence to support any of their other claims, even  
20 though the Supreme Court already said their prior showing was insufficient. Where a plaintiff  
21 cannot demonstrate an unlawful act because it cannot prevail on the other claims it has alleged to  
22 form the basis for the underlying wrong, dismissal of the civil conspiracy claim is appropriate.  
23 *Goldman v. Clark Cty. Sch. Dist.*, 471 P.3d 753 (Nev. 2020) (unpublished) (citing *Consol.*  
24 *Generator-Nevada, Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1311 (1998)).

25 64. Plaintiffs have failed to show an agreement to achieve an unlawful objective and  
26 failed to show any damage. Therefore, Plaintiffs have failed to meet their Prong 2 anti-SLAPP  
27 burden.

28 65. Because Plaintiffs have failed to meet their burden under Prong 2 of the anti-

SLAPP analysis, Defendants' anti-SLAPP motion is well taken and will be granted.

66. Pursuant to NRS 41.670(1)(a), when a court grants an anti-SLAPP motion, it "shall award reasonable costs and attorney's fees." Pursuant to NRS 41.670(1)(b), the court also "may award" "an amount of up to \$10,000 to the person against whom the action was brought." Defendants may request those fees, costs, and additional amounts by separate motion.

**ORDER**

WHEREFORE, IT IS HEREBY ORDERED that:

1. Defendants' Special Motion to Dismiss is hereby GRANTED, and

2. Defendants may seek attorneys' fees, costs, additional amounts by way of separate motion.

Dated this 10th day of December, 2020



DATED: \_\_\_\_\_

25B E0E 21B7 81BF  
Richard F. Scotti  
District Court Judge  
DISTRICT COURT JUDGE

*Respectfully Submitted:*


*Approved as to form and content:*

DATED this 2nd day of December, 2020.

DATED this \_\_\_\_ day of December, 2020.

BROWNSTEIN HYATT FARBER  
SCHRECK, LLP

LAW OFFICES OF KRISTINA  
WILDEVELD & ASSOCIATES  
**Counsel have disagreements regarding the  
contents of this order.**

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*Counsel for Defendants Daniel Omerza,  
Darren Bresee and Steve Caria*

*Counsel for Plaintiffs  
Fore Stars, Ltd., 180 Land Co., LLC,  
Seventy Acres, LLC*

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4	
5	
6 Fore Stars, Ltd., Plaintiff(s)	CASE NO: A-18-771224-C
7 vs.	DEPT. NO. Department 2
8 Daniel Omerza, Defendant(s)	
9	

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the  
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
case as listed below:

14 Service Date: 12/10/2020

15 Elizabeth Ham	EHam@ehbcompanies.com
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Patricia Berg

Patty@Veldlaw.com

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**April 16, 2018**

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A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

---

**April 16, 2018      1:00 PM      Minute Order**

**HEARD BY:** Kishner, Joanna S.

**COURTROOM:** Chambers

**COURT CLERK:** Tena Jolley

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Although the Court could and would rule fairly and without bias, recusal is appropriate in the present case in accordance with Canon 2.11(A)(3) of the Nevada Code of Judicial Conduct in order to avoid the appearance of impartiality or implied bias as the Court could be viewed to have information relating to the facts and/or circumstances regarding the underlying issues. Thus, the Court recuses itself from the matter and requests that it be randomly reassigned in accordance with appropriate procedures.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**May 14, 2018**

---

A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

---

**May 14, 2018**

**9:00 AM**

**All Pending Motions**

**HEARD BY:** Scotti, Richard F.

**COURTROOM:** RJC Courtroom 11D

**COURT CLERK:** Vanessa Medina

**RECORDER:** Dalayne Easley

**REPORTER:**

**PARTIES**

**PRESENT:**      Ghanem, Elizabeth M.      Attorney  
                 Jimmerson, James Joseph, ESQ      Attorney  
                 Langberg, Mitchell J.      Attorney

**JOURNAL ENTRIES**

- Arguments by Mr. Langberg and Mr. Jimmerson. Court DIRECTED, counsel to submit a 2 page Supplemental Briefing by close of business day Wednesday 05/23/18, if counsel believes there is additional information. COURT ORDERED, matter CONTINUED to 05/23/18 Chamber Calendar.

CONTINUED TO: 05/23/18 (CHAMBER CALENDAR)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**May 23, 2018**

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A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

---

**May 23, 2018      3:00 AM      Motion to Dismiss**

**HEARD BY:** Scotti, Richard F.      **COURTROOM:** No Location

**COURT CLERK:** Natalie Ortega

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- These matters are continued to the May 30, 2018 Chambers Calendar.

CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Natalie Ortega, to all registered parties for Odyssey File & Serve. ndo/5/23/18

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

May 29, 2018

A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

May 29, 2018	10:41 AM	Minute Order	<b>Defendants' Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint</b>
--------------	----------	--------------	---------------------------------------------------------------------------------------------------

**HEARD BY:** Scotti, Richard F.**COURTROOM:** No Location**COURT CLERK:** Jennifer Lott**RECORDER:****REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- The Court DENIES without prejudice Defendants Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint pursuant to NRS 41.635 et. Seq. Nevada s anti-SLAPP statute does not apply to fraudulent conduct, which Plaintiffs have alleged. Even if it did so apply, at this early stage in the litigation and given the numerous allegations of fraud, the Court is not convinced by a preponderance of the evidence that Defendants conduct constituted good faith communications in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern, as described in NRS 41.637. The Court also DENIES Defendants Motion to Dismiss Pursuant to NRCP 12(b)(5). Plaintiffs have stated valid claims for relief. Plaintiffs shall prepare the proposed Order, adding appropriate context and authorities.

The 5/30/2018 Chambers Hearing on this matter hereby VACATED.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Jennifer Lott, to

all registered parties for Odyssey File & Serve. jl

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

October 19, 2018

A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

October 19, 2018	9:00 AM	Motion for Order	Plaintiffs' Motion for Order Allowing Commencement of Discovery
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HEARD BY: Truman, Erin

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

**PARTIES**

<b>PRESENT:</b>	Jimmerson, James Joseph, ESQ	Attorney
	Jimmerson, James M.	Attorney
	Langberg, Mitchell J.	Attorney

**JOURNAL ENTRIES**

- Mr. Jimmerson addressed Judge Scotti's ruling and the Court found that Defts' anti-slapp Motion did not apply to intentional torts pled by Plaintiffs in the case, and the Motion to Dismiss on the basis of anti-slapp was Denied. There is an immediate right to Appeal which Defts availed themselves to. Mr. Jimmerson attempted to file an Early Case Conference, however, counsel have returned before the Commissioner to begin discovery. Defts have failed to file an Answer, but Mr. Jimmerson doesn't intent to default Defts. The case needs to go forward and begin discovery. Argument by Mr. Jimmerson. Mr. Langberg discussed whether or not the anti-slapp Statute applies to the tort causes of action that Plaintiffs asserted. Defts filed a Writ of Mandamus, however, it was not brought on the same grounds as the anti-slapp. Mr. Langberg stated the Statute says if an anti-slapp Motion is filed, discovery is stayed pending a ruling on the Motion. Argument by Mr. Langberg.

Commissioner stated based on the Supreme Court Denial of the Petition for Writ, the case is ready to

be Answered, and 16.1 should be complied with. Mr. Langberg stated the Appeal is still pending. There was a Writ as to the Denial of the 12(b)(5) Motion because there is no Appeal from that. Mr. Langberg stated there is an automatic Appeal on Denial of an anti-slapp Motion, the Appeal is still pending, and the Opening Brief is due 10-22-18. Upon Commissioner's inquiry, Mr. Jimmerson stated there are no exigent circumstances that would warrant discovery before 16.1 is complied with.

Given the fact that the Appeal is still pending, and an Answer is not yet required, COMMISSIONER RECOMMENDED, there is no reasonable basis for discovery to go forward at this point, and counsel will wait until the Supreme Court hears the issue. Following that the Answer will be due, and 16.1 will be complied with. Mr. Jimmerson stated there will be a 18 month to 2 year delay. Arguments by counsel. Mr. Langberg read the Statute into the record.

Commissioner doesn't believe the case is stayed under the authority cited by Mr. Langberg. The Court determined that it doesn't apply to the causes of action, therefore, COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; discovery needs to go forward and within 30 days of Judge Scotti's ruling on the forthcoming Objection counsel should comply with 16.1 and file the JCCR. Mr. Langberg requested an extension to object to the Report and Recommendation. Colloquy. Mr. Jimmerson to prepare the Report and Recommendations, and Mr. Langberg to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**February 20, 2019**

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A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

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**February 20, 2019      9:00 AM      Hearing**

**HEARD BY:** Scotti, Richard F.      **COURTROOM:** RJC Courtroom 03B

**COURT CLERK:** Louisa Garcia

**RECORDER:** Dalayne Easley

**REPORTER:**

**PARTIES**

**PRESENT:**      Jimmerson, James Joseph, ESQ      Attorney  
                 Jimmerson, James M.      Attorney  
                 Langberg, Mitchell J.      Attorney

**JOURNAL ENTRIES**

- Arguments by counsel whether anti-slap statute applies and whether motion was filed in good faith.  
COURT ORDERED, matter UNDER ADVISEMENT. Court needs to review the Patton v. Lee case  
and whether it has jurisdiction, as well as the case law just presented.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**March 15, 2019**

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A-18-771224-C	Fore Stars, Ltd., Plaintiff(s)
	vs.
	Daniel Omerza, Defendant(s)

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<b>March 15, 2019</b>	<b>10:00 AM</b>	<b>Minute Order</b>
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<b>HEARD BY:</b> Scotti, Richard F.	<b>COURTROOM:</b> Chambers
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**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The Court DENIES Plaintiff s Motion to Commence Discovery, pursuant to NRS 41.660(3)(e). The Court had denied Defendants Special Motion to Dismiss, in part, on the grounds that Defendants did not meet their threshold burden of establishing, by a preponderance of the evidence, that the Land owners claims against them are based on their good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. . See Plaintiff s Motion at p. 6 (quoting NRS 41.660(3)(a). Under these circumstances the statute mandates that the Court stay discovery pending an appeal of an Order denying the Special Motion to Dismiss. Defendants to prepare the Order.

CLERK'S NOTE: A copy of this Minute Order has been distributed to the following: James Jimmerson, Esq. (JJJ@jimmersonlawfirm.com) and Mitchell Langberg, Esq. (mlangberg@bhfs.com).  
//ev 3/15/19



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**August 21, 2019**

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A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

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**August 21, 2019      3:00 AM      Status Check**

**HEARD BY:** Scotti, Richard F.      **COURTROOM:** Chambers

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Matter heard.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**October 02, 2019**

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A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

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**October 02, 2019      9:00 AM      Status Check**

**HEARD BY:** Scotti, Richard F.      **COURTROOM:** RJC Courtroom 03B

**COURT CLERK:** Elizabeth Vargas

**RECORDER:** Dalayne Easley

**REPORTER:**

**PARTIES**

**PRESENT:**      Langberg, Mitchell J.      Attorney

**JOURNAL ENTRIES**

- Mr. Langberg conveyed Elizabeth Ghanem emailed him that morning and advised this matter was pending in Supreme Court and she had a conflict, and the matter was still before the Supreme Court regarding the denial of the Motion to Dismiss. COURT ORDERED, Stay CONTINUED. Mr. Langberg advised discovery never commenced. COURT ORDERED, parties to SUBMIT a one-page status update 30 days after the Supreme Court rules on the Appeal from the denial of the Motion to Dismiss.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**March 25, 2020**

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A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

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**March 25, 2020      3:00 AM      Status Check**

**HEARD BY:** Scotti, Richard F.      **COURTROOM:** RJC Courtroom 03B

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Matter heard.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**April 06, 2020**

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A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

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**April 06, 2020**

**3:00 AM**

**Motion**

**HEARD BY:** Scotti, Richard F.

**COURTROOM:** RJC Courtroom 03B

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- The Court GRANTS the Motion for a Status Update and hereby SETS a Status Check for Wednesday, April 29, 2020 at 9AM. Further, in light of the continued ban on in-person hearings, the Court directs the parties to make the appropriate arrangements necessary to appear remotely through the available audio (CourtCall) or audiovisual (Blue Jeans) platforms in preparation for this hearing.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve and mailed to the following:

Seventy Acres LLC  
1215 S. Fort Apache Rd. Ste 120  
Las Vegas, NV 89117

180 Land Co  
1215 S. Fort Apache Rd. Ste 120  
Las Vegas, NV 89117

Daniel Omerza

**A-18-771224-C**

800 Petit Chalet Court  
Las Vegas, NV 89145

//ev 4/20/20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

April 29, 2020

A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

**April 29, 2020      9:00 AM      Status Check**

**HEARD BY:** Scotti, Richard F.**COURTROOM:** RJC Courtroom 03B**COURT CLERK:** Elizabeth Vargas**RECORDER:** Dalayne Easley**REPORTER:****PARTIES**

**PRESENT:**      Ghanem, Elizabeth M.      Attorney  
                         Langberg, Mitchell J.      Attorney

**JOURNAL ENTRIES**

- Lisa Rasmussen, Esq. also present on behalf of Plaintiffs. Court provided a brief overview of the history of the case. Arguments by counsel regarding additional supplemental briefing and additional discovery. Court stated counsel would be given an opportunity to provide additional briefing limited to 5 pages regarding why additional discovery was needed. COURT ORDERED, Plaintiff to provide supplemental briefing by May 6, Defendants' Opposition to the Motion due May 11, and Reply, if needed, due May 13. Court inquired if there were any issues left to decide other than limited discovery. Ms. Rasmussen stated the Supreme Court focused on one prong and not the other, and additional briefing may be needed regarding the second prong. Court stated in the event limited discovery was denied, ruling on the Motion to Dismiss would proceed. Court stated any emergency requests would be considered, and a decision would be provided by May 18, 2020 regarding the Motion for Limited Discovery.

5/13/20 STATUS CHECK: OPTIONAL REPLY (CHAMBERS)

5/18/20 MOTION FOR LIMITED DISCOVERY (CHAMBERS)

5/25/20 DECISION: MOTION TO DISMISS (CHAMBERS)



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**May 13, 2020**

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A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

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**May 13, 2020      3:00 AM      Status Check**

**HEARD BY:** Scotti, Richard F.      **COURTROOM:** RJC Courtroom 03B

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Matter heard.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Other Civil Matters

## COURT MINUTES

**May 29, 2020**

A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

**May 29, 2020**                      **10:00 AM**                      **Minute Order**

**HEARD BY:** Scotti, Richard F. **COURTROOM:** Chambers

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

## JOURNAL ENTRIES

- The Court GRANTS in part, and DENIES in part, Plaintiff s request for limited discovery. Plaintiff may serve one set of requests for production of documents, with no more than a total of fifteen (15) requests for documents to be allocated among the defendants, as Plaintiff sees fit; Defendants shall have two weeks to respond to such requests. Further, Plaintiff may take the depositions of the three defendants, each limited to four (4) hours. This limited discovery period commences immediately, and concludes on Friday, July 17, 2020, absent stipulation of the parties. The defendants have the option of appearing for deposition in person, or appearing by audio/visual means (at their own arrangements). The depositions may be set on two week s notice, at the time and place noticed by Plaintiff after good faith attempt to meet and confer on the same. Any discovery dispute shall be brought before this Court upon request for an Order Shortening Time. Plaintiff may file a supplemental brief in opposition to the Motion to Dismiss by Wednesday, July 22, 2020. Plaintiff may file a supplemental reply by Monday, July, 27, 2020. The Court will conduct a Hearing on the Defendants Motion to Dismiss on Wednesday, July 29, 2020. The parties may modify this schedule by written stipulation approved by the Court.

7/29/20 9:30 AM DEFENDANTS' MOTION TO DISMISS

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas,

PRINT DATE: 01/11/2021

Page 18 of 31

Minutes Date: April 16, 2018

to all registered parties for Odyssey File & Serve. //ev 5/29/20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**June 05, 2020**

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A-18-771224-C	Fore Stars, Ltd., Plaintiff(s)
	vs.
	Daniel Omerza, Defendant(s)

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<b>June 05, 2020</b>	<b>12:00 AM</b>	<b>Minute Order</b>
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<b>HEARD BY:</b> Scotti, Richard F.	<b>COURTROOM:</b> Chambers
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**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- With regard to this Court's May 29, 2020 Minute Order, granting in part and denying in Part Plaintiff's request for limited discovery, the Court issues this clarification: The discovery permitted by the prior order must relate to the second prong of the anti-SLAPP analysis, and is limited to the matters identified in Plaintiff's papers, or the matters identified by the Plaintiff at the April 29th hearing.

CLERK'S NOTE: A copy of this Minute Order was electronically served to all registered parties by the Courtroom Clerk, Elizabeth Vargas via Odyssey Efile and Serve. //ev 6/5/20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

July 13, 2020

A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

**July 13, 2020      9:00 AM      Motion for Protective  
Order**

**HEARD BY:** Scotti, Richard F.**COURTROOM:** RJC Courtroom 03B**COURT CLERK:** Louisa Garcia**RECORDER:** Brittany Amoroso**REPORTER:****PARTIES**

**PRESENT:**      Langberg, Mitchell J.      Attorney  
                         Rasmussen, Lisa A.      Attorney

**JOURNAL ENTRIES**

- Court stated procedural aspect of Plaintiff's response to the motion, noting they expressed concerns that this Court issued a minute order providing clarification of its prior discovery order before having had a chance to receive and review Plaintiff's Response to Defendant's written request for clarification. This matter came back after a remand from the Nevada Supreme Court where it appeared to the Court that the Supreme Court had resolved prong 1 and was remanding back to this Court for appropriate proceedings regarding prong 2, whether limited discovery should go forward and resolve the issue of the litigation privilege. Following arguments by counsel regarding their respective positions, Court advised it was not one hundred percent convinced that prong 1 was completely disposed of by the Nevada Supreme Court, after hearing Ms. Rasmussen paraphrasing the order. Court advised it needs to go back and review the Supreme Court order. COURT ORDERED, matter TAKEN UNDER ADVISEMENT; discovery STAYED pending ruling on motion for protective order and if Court needs additional briefing regarding the litigation privilege issue, it will inform the parties by minute order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**July 21, 2020**

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A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

---

**July 21, 2020      3:00 PM      Minute Order**

**HEARD BY:** Scotti, Richard F.      **COURTROOM:** Chambers

**COURT CLERK:** Carolyn Jackson

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The Court GRANTS Defendants Motion for Protective Order Limiting Discovery. Discovery is limited to the second prong of the anti-SLAPP analysis. Discovery is limited to what is identified by Plaintiffs on p.5, lines 15-21 of Plaintiffs Brief in Support of Request for Limited Discovery (5-6-20). The Defendants shall prepare the proposed Order, consistent with the relief sought in their motion.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Carolyn Jackson, to all registered parties for Odyssey File & Serve. /cj 07/21/20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

July 29, 2020

A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

July 29, 2020

9:30 AM

Motion to Dismiss

Date to be  
determined

HEARD BY: Scotti, Richard F.

COURTROOM: RJC Courtroom 03B

COURT CLERK: Louisa Garcia

RECORDER: Brittany Amoroso

REPORTER:

**PARTIES**

**PRESENT:**      Langberg, Mitchell J.      Attorney  
                         Rasmussen, Lisa A.      Attorney

**JOURNAL ENTRIES**

- Court noted this matter was set for a continued hearing on the Motion to Dismiss. Mr. Langberg stated he believes on the 21st the Court issued a minute order on their Motion for Protective Order defining the scope of discovery. The parties should conduct the discovery the Court ordered, noting they have been working on a formal order. Mr. Langberg stated he does not believe they have any dispute about what the Court ordered to occur however, there is a disagreement as to the findings that led to that decision. Court advised it would be its preference if the parties could work out and decrease the number of findings and get to the heart of the matter on the scope of discovery. Ms. Rasmussen stated by minimizing the findings in the proposed order that will probably resolve all their issues and they should be able to get the proposed order over to the Court today. Ms. Rasmussen stated they did their own proposed briefing schedule which takes them out into October; it allows the Court to set a date for the continued hearing. COURT ORDERED, hearing for Motion to Dismiss CONTINUED, to a date to be determined. COURT FURTHER ORDERED, matter SET for status check.

9/28/20 STATUS CHECK: STATUS OF CASE (CHAMBERS)



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**September 28, 2020**

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A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

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**September 28, 2020      3:00 AM      Status Check**

**HEARD BY:** Scotti, Richard F.      **COURTROOM:** RJC Courtroom 03B

**COURT CLERK:** Elizabeth Vargas

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Matter heard.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**October 22, 2020**

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A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

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**October 22, 2020      3:00 AM      All Pending Motions**

**HEARD BY:** Scotti, Richard F.

**COURTROOM:** RJC Courtroom 03B

**COURT CLERK:** Grecia Snow

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- DEFENDANTS' MOTION TO STIRKE AND FOR IMPOSITION OF SANCTIONS (ON  
OST)...OPPOSITION TO MOTION TO STRIKE & FOR SANCTIONS / COUNTERMOTION FOR  
SANCTIONS

The Court will issue a Minute Order resolving this matter.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**October 26, 2020**

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A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

---

**October 26, 2020      3:00 AM      Minute Order**

**HEARD BY:** Scotti, Richard F.      **COURTROOM:** Chambers

**COURT CLERK:** Grecia Snow

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The Court DENIES Defendants Motion to Strike and for Imposition of Sanctions. The Court places no restriction on the content Plaintiff may include in its Brief. Plaintiff did not violate EDCR 7.60(b). The Court, further, DENIES Plaintiff s Countermotion because Defendants motion was meritless, but not frivolous. Plaintiff to prepare and submit the Order, pursuant to the electronic submission requirements of AO 20-17.

CLERK'S NOTE: This Minute Order was e-mailed by Courtroom Clerk, Grecia Snow to: Lisa Rasmussen Esq., at Lisa@Veldlaw.com, Mitchell J. Langberg Esq., at mlangber@bhfs.com, and Elizabeth M. Ghanem Esq., at eghanem@gs-lawyers.com. 10/26/20 gs

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**November 09, 2020**

---

A-18-771224-C      Fore Stars, Ltd., Plaintiff(s)  
vs.  
Daniel Omerza, Defendant(s)

---

**November 09, 2020      9:30 AM      Motion to Dismiss**

**HEARD BY:** Scotti, Richard F.; Thompson, Charles      **COURTROOM:** RJC Courtroom 03B

**COURT CLERK:** Kathryn Hansen-McDowell

**RECORDER:** Brittany Amoroso

**REPORTER:**

**PARTIES**

**PRESENT:**      Langberg, Mitchell J.      Attorney  
                 Rasmussen, Lisa A.      Attorney

**JOURNAL ENTRIES**

- Court noted it read the motion, support briefs, and orders. Arguments by counsel. COURT took matter UNDER ADVISEMENT, stated it would issue a minute order. Ms. Rasmussen stated it filed a support brief and Mr. Langberg moved to strike, requested Court review the Motion to strike and respond.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**November 09, 2020**

---

A-18-771224-C	Fore Stars, Ltd., Plaintiff(s)
	vs.
	Daniel Omerza, Defendant(s)

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**November 09, 2020      12:16 AM      Minute Order**

**HEARD BY:** Thompson, Charles

**COURTROOM:** No Location

**COURT CLERK:** Kathryn Hansen-McDowell

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- On June 20, 2018, Judge Scotti entered Findings of Fact, Conclusions of Law and an Order denying this motion. Defendants appealed and on January 23, 2020, the Nevada Supreme Court entered an Order vacating Judge Scotti's order and remanding with an opportunity for Plaintiffs to conduct limited discovery.

Plaintiffs first argue that they may revisit step one of the anti-SLAPP analysis. On July 13, 2020, Judge Scotti entered a minute order including the following: This matter came back after a remand from the Nevada Supreme Court where it appeared to the Court that the Supreme Court had resolved prong 1 and was remanding back to this Court for appropriate proceedings regarding prong 2, whether limited discovery should go forward and resolve the issue of the litigation privilege. Following arguments by counsel regarding their respective positions, Court advised it was not one hundred percent convinced that prong 1 was completely disposed of by the Nevada Supreme Court, after hearing Ms. Rasmussen paraphrasing the order. Court advised it needs to go back and review the Supreme Court order.

On July 21, 2020, after reviewing the Supreme Court Order, Judge Scotti entered a minute order which contained the following: Discovery is limited to the second prong of the anti-SLAPP analysis. It is clear from this minute order that Judge Scotti believed that prong 1 was resolved and that the

limited discovery was only allowed with regard to prong 2.

This Court agrees with Judge Scotti. It is clear from the Supreme Court's order filed January 23, 2020, that the Defendants met their burden at step one of the anti-SLAPP analysis. In other words, the Court found that the Defendant's communications were in furtherance of their right to petition the government in connection with an issue of public concern and that the communications were in good faith. The Court then held that the Plaintiffs had not met their step-two burden of demonstrating with prima facie evidence a probability of prevailing on their claims. However, they believed that the Plaintiffs should be permitted limited discovery to see if they could meet that step-two burden.

Thereafter, Judge Scotti entered an order prescribing the limited discovery that would be permitted. Plaintiffs complain that the order was too limited. I believe that the judge appropriately exercised his discretion in this regard. Also, I do not sit as an appellate court over Judge Scotti. Thus, I decline to find that his Order was in any way in error.

Defendants first argue that the litigation privilege is dispositive of the prong 2 issue. I find that the argument has merit. First, the City Council proceedings were quasi-judicial and the privilege does apply to quasi-judicial proceedings. Also, the privilege applies even though the communications are not directed at the Council itself. *Fink v. Oshins*, 118 Nev. 428 (2002). In accordance with the holding in *Oshins*, communications between the residents would be included.

Today, Ms. Rasmussen cited *Spencer v. Klementi*, 466 P.3d 1241 (Nev. 2020), for the proposition that the privilege does not apply to quasi-judicial proceedings where due process protections similar to those provided in a court of law are not present. This Court believes that *Spencer* is distinguishable from the current matter. *Spencer* involved a defamation suit arising out of defamatory comments made to a public body during a public comment session. The speaker was not under oath. No opportunity to respond was provided. No cross-examination was allowed and the holding in the decision appears to be expressly limited to defamation suits. I believe that the *Oshins* case is more on point.

The civil conspiracy claim is the only claim that Plaintiff has argued meets the prong two test. However, a civil conspiracy must be to accomplish some unlawful objective where damage results. There was no unlawful objective here. Further, no damage to Plaintiffs may be claimed because the proceeding never occurred.

Even if the litigation privilege is not dispositive of the prong two issue, I find that Plaintiff has failed to demonstrate with prima facie evidence a probability of prevailing on any of their claims.

For the reasons set forth in Defendants' Supplemental Brief filed October 30, 2020, the Motion to Dismiss is GRANTED. Mr. Langberg is directed to prepare a proposed appropriate order with findings. Further, he is directed to submit the Order, pursuant to the electronic submission requirements of AO 20-17.

CLERK'S NOTE: The above minute order has been distributed to: Lisa Rasmussen:  
Lisa@VeldLaw.Com, Mitchell Langberg: mlangber@bhfs.com. 11/10 km



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

LISA A. RASMUSSEN, ESQ.  
550 E. CHARLESTON BLVD., SUITE A  
LAS VEGAS, NV 89104

DATE: January 11, 2021  
CASE: A-18-771224-C

RE CASE: FORE STARS, LTD.; 180 LAND CO., LLC; SEVENTY ACRES, LLC vs. DANIEL OMERZA;  
DARREN BRESEE; STEVE CARIA

NOTICE OF APPEAL FILED: January 8, 2020

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
  - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☐ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

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

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

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

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

# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACTS, CONCLUSIONS OF LAW, AND ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

FORE STARS, LTD.; 180 LAND CO., LLC;  
SEVENTY ACRES, LLC,

Plaintiff(s),

vs.

DANIEL OMERZA; DARREN BRESEE;  
STEVE CARIA,

Defendant(s),

Case No: A-18-771224-C

Dept No: XIX

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 11 day of January 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk