

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVE SANSON, AN INDIVIDUAL;
AND ROB LAUER,
AN INDIVIDUAL,

Appellants,

v.

LAWRA KASSEE BULEN,

Respondent.

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May 28 2021 01:11 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

SUPREME COURT CASE NO. 82393

Dist. Court Case No. A-18-784807-C

**APPENDIX TO APPEAL FROM THE
EIGHTH JUDICIAL DISTRICT COURT**

VOLUME V

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| DESCRIPTION OF DOCUMENT | DATE | VOL. | PAGE(S) |
|---|-------------|-------------|-----------------------|
| Complaint | 11/20/2018 | I | ROA000001 – ROA000077 |
| Affidavit of Service on Rob Lauer | 02/26/2019 | II | ROA000078 |
| Affidavit of Service on Rob Lauer (duplicate filed) | 02/26/2019 | II | ROA000079 |
| Affidavit of Service on Steve Sanson | 02/26/2019 | II | ROA000080 |
| Affidavit of Service on Steve Sanson (duplicate filed) | 02/26/2019 | II | ROA000081 |
| Order to Show Cause re: Dismissal | 02/13/2020 | II | ROA000082 – ROA000083 |
| Defendants' Notice of Motion and Motion to Dismiss Plaintiff's Complaint; Memorandum of Points and Authorities in Support, Exhibits, Affidavit of Robert Lauer in Support | 04/03/2020 | II | ROA000084 – ROA000091 |
| Plaintiff's Opposition to Defendants' Untimely Motion to Dismiss Complaint and Countermotion for Attorneys' Fees and Costs | 04/20/2020 | III | ROA000092 – ROA000178 |
| Recorder's Transcript of Hearing: All Pending Motions | 05/12/2020 | IV | ROA000179 – ROA000186 |
| Recorder's Transcript of Video Conference Hearing: All Pending Motions | 06/23/2020 | IV | ROA000187 – ROA000198 |
| Defendants' Special Motion to Dismiss Complaint Pursuant to NRS 41.660 | 07/02/2020 | IV | ROA000199 - ROA000242 |
| Notice of Entry of Order Granting Defendants' Motion to Set Aside Defaults and Denying Plaintiff's Countermotion for Application for Default Judgment | 07/09/2020 | IV | ROA000243 – ROA000249 |
| Notice of Non-Opposition to Defendants' Special Motion to Dismiss Complaint Pursuant to NRS 41.660 | 07/21/2020 | IV | ROA000250 – ROA000251 |
| Plaintiff Bulen's Opposition to Defendants' Anti-SLAPP Special Motion to Dismiss Under NRS 41.660 | 07/21/2020 | IV | ROA000252 – ROA000345 |

| DESCRIPTION OF DOCUMENT | DATE | VOL. | PAGE(S) |
|--|-------------|-------------|-----------------------|
| Defendants' Reply in Support of Special Motion to Dismiss Complaint Pursuant to NRS 41.660 | 07/28/2020 | V | ROA000346 – ROA000349 |
| Recorder's Transcript of Video Conference Hearing: Defendants' Special Motion to Dismiss Pursuant to NRS 41.660 | 08/04/2020 | V | ROA000350 – ROA000368 |
| Order Granting Defendants' Special Motion to Dismiss Complaint Pursuant to NRS 41.660 | 08/21/2020 | V | ROA000369 – ROA000377 |
| Notice of Entry of Order | 08/25/2020 | V | ROA000378 – ROA000388 |
| Defendants' Motion for Attorney's Fees, Costs, and Additional Relief Pursuant to NRS 41.660 and NRS 41.670 | 09/01/2020 | V | ROA000389 – ROA000410 |
| Plaintiff Bulen's Opposition to Defendants' Motion for Attorney's Fees, Costs, and Additional Relief Pursuant to NRS 41.660 and NRS 41.670 | 09/15/2020 | V | ROA000411 – ROA000420 |
| Notice of Appeal | 09/24/2020 | V | ROA000421 – ROA000434 |
| Recorder's Transcript of Video Conference Hearing: Defendants' Motion for Attorneys Fees and Costs and Additional Relief Pursuant to NRS 41.660 and NRS 41.670 | 10/06/2020 | V | ROA000435 – ROA000446 |
| Order on Defendants' Motion for Attorneys' Fees | 12/18/2020 | V | ROA000447 – ROA000452 |
| Notice of Entry of Order | 12/21/2020 | V | ROA000453 – ROA000461 |
| Case Appeal Statement | 01/20/2021 | V | ROA000462 – ROA000465 |
| Notice of Appeal | 01/20/2021 | V | ROA000466 – ROA000467 |

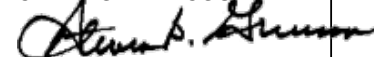
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Breeden & Associates, PLLC, and on the 28th day of May, 2021, a true and correct copy of the foregoing document was e-filed and e-served on all registered parties to the Supreme Court's electronic filing system.

Additionally, a hard copy of the Appendix with all documents on CD-ROM was served on Respondent by placing a copy in the US Mail, postage pre-paid, on the same date to:

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13 *Attorneys for Defendants*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 LAWRA KASSEE BULEN an individual,

17 Plaintiff,

18 vs.

19 ROB LAUER, an individual, STEVE SANSON,
20 an individual, and DOES I through X; and ROE
21 CORPORATIONS I through X, Inclusive,

22 Defendants.

CASE NO.: A-18-784807-C

DEPT. NO.: 18

**DEFENDANTS' REPLY IN SUPPORT
OF SPECIAL MOTION TO DISMISS
COMPLAINT PURSUANT TO NRS
41.660**

Date of Hearing: August 4, 2020

Time of Hearing: 9:30 a.m.

23 Come now, Defendants Rob Lauer ("Lauer") and Steve Sanson ("Sanson," collectively
24 with Lauer, "Defendants"), by and through their counsel, Kory L. Kaplan, Esq. and Kyle P.
25 Cottner, Esq., of the law firm of Kaplan Cottner, and hereby submit their Reply in support of their
26 Special Motion to Dismiss Complaint pursuant to NRS 41.660.

27 This Reply is made and based on the following Memorandum of Points and Authorities,
28 the papers and pleadings already on file herein, and any oral argument the Court may permit at the

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...

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hearing of this matter.

Dated this 28th day of July, 2020.

KAPLAN COTTNER

/s/ Kory L. Kaplan
KORY L. KAPLAN
Nevada Bar No. 13164
KYLE P. COTTNER
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Attorneys for Defendants

Pursuant to Eighth Judicial District Court Rule ("EDCR") 2.20(e):

Within 14 days after the service of the motion, and 5 days after service of any joinder to the motion, the opposing party **must serve and file** written notice of nonopposition or opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion and/or joinder should be denied. Failure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same.

EDCR 2.20(e) (emphasis added).

Defendants' Special Motion to Dismiss was filed on July 2, 2020. *See* Register of Actions. Therefore, Plaintiff was required to file her Opposition by Thursday, July 16, 2020 as the rule is mandatory and not discretionary. *See* EDCR 2.20(e). Plaintiff improperly filed her Opposition almost a week later on July 21, 2020 after Defendants filed a Notice of Non-Opposition. *See* Register of Actions. Plaintiff was not merely a day late as she alleges. As a result, Defendants' Special Motion to Dismiss must be taken as true and Plaintiff's non-opposition thereto should be construed as an admission that the motion is meritorious and a consent to granting the same. *See* EDCR 2.20(e).

Further, the Opposition creates no issue of law or fact preventing this Court from granting Defendants' Special Motion to Dismiss. Therefore, in the alternative of granting Defendants' Special Motion to Dismiss for Plaintiff's failure to timely oppose it, the Court should grant Defendants' Special Motion to Dismiss for the reasons set forth in the motion and detailed in the

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1 prior cases involving Defendant Steve Sanson in the Eighth Judicial District Court in and for Clark
2 County, Nevada and affirmed by the Nevada Supreme Court: *Abrams, et. al. v. Sanson, et. al.*,
3 Case No. A-17-749318-C and *Willick, et. al. v. Veterans in Politics International Inc., et. al*, Case
4 No. A-17-750171-C.

5 Dated this 28th day of July, 2020.

KAPLAN COTTNER

7 /s/ Kory L. Kaplan

8 KORY L. KAPLAN

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9 KYLE P. COTTNER

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CERTIFICATE OF SERVICE

I hereby certify that the *DEFENDANTS' REPLY IN SUPPORT OF SPECIAL MOTION TO DISMISS COMPLAINT PURSUANT TO NRS 41.660* submitted electronically for filing and/or service with the Eighth Judicial District Court on the 28th day of July, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows¹:

Attorneys for Plaintiff

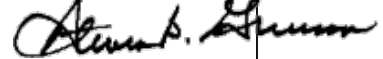
Brandon Phillips (blp@abetterlegalpractice.com)

Robin Tucker (rtucker@abetterlegalpractice.com)

/s/ Carey Shurtliff

Carey Shurtliff, An employee of
Kaplan Cottner

¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 LAWRA BULEN,
9 Plaintiff,

CASE#: A-18-784807-C
DEPT. VIII

10 vs.

11 ROB LAUER,
12 Defendant.

13
14 BEFORE THE HONORABLE TREVOR ADKIN, DISTRICT COURT JUDGE
15 TUESDAY, AUGUST 4, 2020

16 **RECORDER'S TRANSCRIPT OF VIDEO CONFERENCE HEARING**
17 **DEFENDANTS' SPECIAL MOTION TO DISMISS PURSUANT TO NRS**
18 **41.660**

19 APPEARANCES:

20 For the Plaintiff:

BRANDON L. PHILLIPS, ESQ.
(via BlueJeans)

21 For the Defendants:

KORY L. KAPLAN, ESQ.
(via BlueJeans)

22
23 Also Appearing:

ROB LAUER (via BlueJeans)

24 RECORDED BY: NANCY MALDONADO, COURT RECORDER
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Las Vegas, Nevada, Tuesday, August 4, 2020

[Case called at 9:43 a.m.]

THE COURT RECORDER: Page 15, A-784807, Lawra Bulen
versus Rob Lauer.

Who do we have for Plaintiffs?

MR. PHILLIPS: Good morning, Your Honor, Brandon Phillips,
bar number 12264.

THE COURT RECORDER: And who do we have for the
Defendant?

MR. KAPLAN: Good morning, Your Honor, Kory Kaplan, bar
number 13164. Also on the line is Defendant Rob Lauer.

THE COURT: All right, counsel, this is Defendant's Special
Motion to Dismiss Complaint Pursuant to NRS 41.660.

I would note that one of the items noted by Defense counsel
was that the Opposition was late, and therefore, I must not consider it.
The Rule is though under EDCR 2.20, I may consider it. And I will
consider that Opposition. So it's Defendant's motion.

Mr. Kaplan, please proceed.

MR. KAPLAN: Thank you, Your Honor. This case is very,
very similar to two recent cases that were -- one was a Anti-SLAAP
motion that was granted in the District Court and upheld by the Nevada
Supreme Court.

The other was denied in the District Court and then reversed
by the Nevada Court, both of which include Defendant Steve Sanson,

1 who is also a Defendant in this case and the same website as that issue.

2 You know, as a broad overview of Anti-SLAAP motions in the
3 Nevada Anti-SLAAP statutes, this is exactly what these statutes are
4 aimed to protect, the First Amendment rights by defendants to dismiss
5 meritless lawsuits that a party initiates to chill their exercise of his or her
6 or First Amendment free speech rights.

7 There are two Defendants in this case, Steve Sanson, as I've
8 already mentioned and Rob Lauer, who is on the line.

9 Plaintiff has already conceded in its complaint -- in her
10 complaint on paragraph 6 and 7 that both are journalists, political
11 journalists.

12 Defendant Rob Lauer is a political journalist and Defendant
13 Steve Sanson is the president of Veterans in Politics International, Inc.
14 That's veteraninpolitics.org is the website.

15 As I mentioned that the two previous cases, those opinions
16 came out this year, one on for the Abrams versus Sanson case was
17 issued on March 5th, 2020. And then the Willick versus Veteran and
18 Politics case, that decision was issued on February 21st, 2020.

19 And for the Court in considering a Special Motion to Dismiss,
20 the Court must undertake a two-prong analysis. The first prong is that
21 the Court must determine whether the moving party has established by a
22 preponderance of the evidence that the claim is based upon a good faith
23 communication in furtherance of the right of free speech in direct
24 connection with issues of public concern.

25 And that's codified in NRS 41.660(3)(a). If successful, the

1 second prong it shifts to the Plaintiff, where the Plaintiff has the burden
2 to show with prima facie evidence a probability of prevailing on the
3 claim.

4 As I already mentioned, Defendant Sanson recently prevailed
5 on an Anti-SLAAP special motion to dismiss that was affirmed by the
6 Nevada Supreme Court on March 5th.

7 In that case, Attorneys Jennifer Abrams and Louis Schneider
8 were opposing counsel in a family law case. Schneider allegedly gave
9 video of a closed-court hearing in that case to Sanson, who is the
10 president of Veterans in Politics.

11 He then published a series of articles on the Veteran in
12 Politics website, which again is the same website at issue relevant to
13 this motion concerning the judiciary and Abrams' courtroom conduct and
14 practices.

15 They were also sent a Veteran in Politic's email subscribers
16 and published through various social media outlets, especially as
17 alleged in this case.

18 The District Court granted Sanson's special motion to dismiss,
19 finding that he met his initial burden because the statements concerned
20 issues of public concern relating to an attorney or a professional's
21 performance of a job where the public interest in observing justice,
22 statements were made in a public forum on a publicly accessible
23 website. Republishing by email or social media did not remove them for
24 a public forum and that the statements were either true or statements of
25 opinion and capable of being false.

1 The District Court then found that Abrams failed to meet her
2 burden for provide prima facie evidence of a probability of prevailing on
3 her claim.

4 The case was then appealed and the Nevada Supreme Court
5 in affirming Judge Leavitt's granting of the Anti-SLAAP motion held that
6 Defendant's Sanson satisfied the first prong since a preponderance of
7 the evidence demonstrated that the gist of the story with a portion the
8 story carries the sting of the statement is true and did not consider the
9 literal truth of each word or detail used in that -- in the statement.

10 Further, in determining good faith, the Nevada Supreme Court
11 held that all of the evidence submitted by the Defendant in support of his
12 or her Anti-SLAAP motion was considered.

13 Therefore, the gist and sting of the communications, as
14 demonstrated by Sanson's declaration, emails, and articles are that he
15 believed Abrams misbehaved in court, employed tactics that hinder
16 public access to courts.

17 The burden had shifted to the Plaintiff with the Nevada
18 Supreme Court held that she could not [indiscernible] minimum merit on
19 her claims for defamation, intentional interference, negligence, false
20 light, or not intentional infliction of emotional distress, false light, invasion
21 of privacy, business disparagement, civil conspiracy, concert of action.

22 Those are almost entirely the same claims alleged by the
23 Plaintiff in this case. But the Nevada Supreme Court relied upon
24 Sanson's declarations that the articles were not published with
25 knowledge or disregard to their falsity.

1 I want to draw the Court's attention to the two exhibits
2 attached to the Motion to Dismiss, where both Defendant Lauer and
3 Defendant Sanson made the same representations that the statements
4 were true or not made with their knowledge or disregard to their falsity.

5 In the other recent case, titled Veterans in Politics versus
6 Willick, Defendant Sanson was again sued for defamation, intentional
7 infliction of emotional distress, negligent infliction of emotional distress,
8 false light, and business disparagement, again, almost the same claims
9 at issue in this case.

10 There, the Plaintiff had appeared by invitation on a radio show
11 hosted by Veterans in Politics to discuss his views regarding an
12 assembly bill relating to the inclusion of veterans' disability benefits
13 when calculating spousal support and other topics related to veterans
14 and family law.

15 Veterans in Politics filed special motion to dismiss pursuant to
16 Nevada's Anti-SLAAP statute. The District Court denied the state -- the
17 Anti-SLAAP motion, concluding that Veterans in Politics failed to meet
18 that first burden that the issues concerned an issue of public interest and
19 were truthful and made without their knowledge of the falsehood.

20 The Nevada Supreme Court reversed the District Court's
21 order holding that they have shown by a preponderance of the evidence
22 that the statements were a communication made in direct connection
23 with an issue of public interest and met the initial threshold required to
24 indulge Anti-SLAAP protections.

25 So moving along to that first prong, you know, the first subset

1 of that prong is that the communications were made in a public forum.

2 The Plaintiff in its opposition relies almost exclusively on a
3 nonauthoritative order from Judge Scotti from a 2013 case in support of
4 her argument that the Anti-SLAAP motion should be denied and ignores
5 the two 2020 Nevada Supreme Court opinions that are directly on point.

6 [Indiscernible] nonauthoritative, that order from Judge Scotti,
7 the judge ordered that the case was not protected by Anti-SLAAP
8 because the Defendant posted on its blog that was not held to be a
9 public forum.

10 The Nevada Supreme Court has already held that the
11 Veterans in Politics website is a public forum. And as to the video,
12 there's case law that I've attached and or cited in my motion that says a
13 widely disseminated television broadcast was undoubtedly a public
14 [indiscernible] for resharing those articles on Facebook or websites
15 accessible to the public are public forums for the purpose of an Anti-
16 SLAAP statute. And that's the Jackson versus Mayweather case.

17 The second prong, well, within the first prong is that the
18 communications concerned an issue of public interest, which is defined
19 broadly in Nevada pursuant to the Cuper v. Sosoni [phonetic] case.

20 The definition of public interest within the meaning of the Anti-
21 SLAAP statute has been broadly construed to not only include
22 governmental matters, but also private conduct that impacts a broad
23 segment of society or affects the community in a manner similar to that
24 of a governmental entity.

25 Plaintiff is clearly a person of public interest. As she admits in

1 her complaint, that she is a campaign manager for Republican
2 candidates.

3 And I cited Nevada Supreme Court case law and U.S.
4 Supreme Court case law that says the First Amendment has its fullest
5 and most urgent application to speech uttered during the campaign for
6 political office.

7 And the character and qualifications of a candidate for public
8 office constitute a public issue of public interest for the purpose of Anti-
9 SLAAP statute. And that's the Rosen versus Tarkanian case.

10 She also alleges in her complaint that she's well known in the
11 community and within the Republican Party, including the Clark County
12 Republican Party.

13 The political gist of the article, for instance, discusses the
14 Republican candidate for Clark County Public Administrator Thomas
15 Fougere, who retained the Plaintiff to manage his campaign. So,
16 therefore, there's no -- I don't believe that there's any dispute that the
17 communications concern public interest.

18 Alternatively, she admits she's a real estate agent. And I cited
19 the Kruger v. Daniel case that says the public has a significant interest in
20 the conduct of real estate professionals who often conduct their
21 business in the capacity of a fiduciary.

22 And, again, citing to the Abrams v. Sanson case, the Nevada
23 Supreme Court held that issues of public concern relate to a
24 professional's performance of a job. You know, real estate agent is
25 undoubtedly a professional.

1 And then, moving along to the third issue, that all of Plaintiff's
2 causes of action are based on this protected speech. So the Nevada
3 Supreme Court in Stark v. Lackey, which is again a 2020 case, or an
4 opinion, held that the affidavit of the defendant that he believed the
5 communications to be truthful or made them without knowledge of their
6 falsehood is sufficient to meet the defendant's burden on a Anti-SLAAP
7 motion.

8 As such, the attached declarations to the motion of Defendant
9 Lauer and Defendant Sanson, evidence that the statements in each
10 article and video were truthful or made without their knowledge of the
11 falsehood and/or were their opinions, which is sufficient to meet to the
12 burden under the first prong. Therefore, it -- the burden shifts to the
13 Plaintiff under the second prong.

14 So in sticking with the first prong, Defendants only need to
15 make a prima facie showing that the Plaintiff's lawsuit arises from the
16 Defendants' conduct in furtherance of the Defendants' exercise of free
17 speech.

18 Because the burden then switches to the Plaintiff for the
19 second part, Plaintiff must prove that no protection exists, which would
20 classify the Defendants' conduct as protected or otherwise privileged
21 speech.

22 They must -- she must also present evidence to overcome any
23 privilege or defense of the claim that has been raised.

24 Now in reviewing Plaintiff's opposition, you know, she gets into
25 the weeds of the articles, which is fine. But each of these articles -- and

1 I've attached links because I know that in printing them out, they don't
2 come out so clear. But in each of the articles, the Defendants post, you
3 know, their actual evidence.

4 So, you know, it's background checks, it's bankruptcy filing,
5 they post the actual ethics complaint.

6 And then, the other part that Plaintiff alleges to be false, which
7 is again without any evidence and belied by the Defendant's own sworn
8 statements in their declarations are that the sources where they got their
9 info are made up.

10 And I want to again draw the Court's attention to NRS 49.275,
11 which is the news media privilege and states that no reporter or
12 journalist is ever required to publish or disclose their sources. That
13 includes before a Court.

14 So, you know, the Plaintiff cannot rely on, oh, they don't have
15 any sources and hope to get the discovery or Defendants to just say
16 exactly what they said in their declaration is we have these sources and
17 all of this information in each of these articles is true.

18 So as detailed in both the Abrams v. Sanson and Willick v.
19 Veterans in Politics cases, because the underlying conduct is central to
20 all of Plaintiff's claims is protected good faith communications, the claims
21 lack merit and must be dismissed as a matter of law.

22 These are almost the exact same claims that were dismissed
23 in both of those cases. Therefore, the Court should dismiss the
24 complaint in its entirety here as the Nevada Supreme Court has
25 affirmed.

1 And then, moving on to NRS 41.670, which states that
2 Nevada's Anti-SLAAP statute, the Court shall, this a mandatory shall,
3 award fees and costs to the Defendants when their Anti-SLAAP motion
4 is granted.

5 We will be submitting, you know, if the Court does grant this
6 motion, a Motion for Attorneys' Fees, but I did want to bring that to the
7 Court. And if the Court does not have any additional questions, I'll --

8 THE COURT: Okay, thank you.

9 Mr. Phillips?

10 MR. PHILLIPS: Good morning, Your Honor. First, I just want
11 make it clear that the Plaintiff does not consent that either of the
12 Defendants are somehow politically protected through or political
13 journalists. They run a political website, that's all.

14 Anti-SLAAP statutes were never intended to provide
15 protection against suits for defamatory statements where the speech at
16 issue was false.

17 This -- Anti-SLAAP statutes are specifically tailored and
18 intended to address opinion statements, opinion publications made by
19 individuals.

20 The statements made in this issue and the issues that are
21 raised in the complaint are not issues of opinion, and therefore, are not
22 protected under the Anti-SLAAP statutes.

23 The Court needs to focus on the allegations in the Complaint.
24 As outlined in the opposition, the Complaint alleges that Defendants'
25 statements published publicly were false and based on fabricated

1 evidence, excuse me.

2 The purpose of Anti-SLAAP is to make sure suits are not
3 brought frivolously. Here, as alleged in the Complaint, Defendants have
4 made numerous false statements that are addressing factual statements
5 concerning the Plaintiff. Many of those statements have already been
6 proven to be false.

7 We have already provided evidence both in the Opposition
8 and in our previous motions that the statements that the Defendants
9 published were statements of fact and they were statements that were
10 made falsely.

11 Defendants' Motion only focuses on a few lines in the
12 Complaint for which they believe they have a valid defense.

13 However, the Complaint alleges that those statements were
14 also false or intentionally fabricated with false evidence produced by the
15 Defendant.

16 One of the examples is the specific GALVAR complaint. That
17 GALVAR complaint that the Defendants produced is heavily redacted,
18 wherein you cannot even tell who it was, whether it was ever sent, and
19 where it was actually even filed.

20 The point is that we provided evidence from the attorney of
21 GALVAR, who specifically said no complaint has ever been filed against
22 Ms. Bulen, yet the Defendants continue to make this publication, never
23 issued a retraction. And we believe this was part of a total fabrication
24 and argument to then slam Ms. Bulen.

25 The statements set forth in the complaint are alleged to be

1 false statements of fact. Anti-SLAAP statutes, as I've said, are
2 specifically tailored to address opinion testimony or opinion statements.

3 Usually what happens is here, a person will lay out the facts,
4 and if they base on everything that happened here, this person is, you
5 know, a thief, you know this person is this, this person is this, this person
6 is this.

7 That's not what happened here. The Defendants here stated
8 Ms. Bulen, there's been a complaint filed against Ms. Bulen with
9 GALVAR.

10 And they published some false complaint that has never been
11 submitted to GALVAR, that they never did any research for it. Had they
12 ever done any research for, GALVAR would have confirmed that it
13 wasn't there. So it's a false statement. This is not opinion. They are
14 addressing this as fact.

15 Defendants have published and re-published all of these posts
16 and statements through numerous social media platforms. We don't
17 dispute that the -- that this a public forum that they've used.

18 But they don't -- they're still not protected in that public forum
19 from false speech. The complaint alleges that those statements are
20 false and the Court needs to focus its attentions on that.

21 As set forth in Pegasus and Cohen [phonetic], a statement is
22 defamatory if it directly imputes to the Plaintiff dishonesty lack of fair
23 dealing, want of fidelity, integrity, or business ability.

24 Here all of those elements are at issue. Defendants allege
25 Bulen did not have a business license. We then published the business

1 license. The business license was produced in the complaint. The
2 business license is there.

3 Defendants, again, used a statement that they believed as fact
4 that they used as a factual statement that Ms. Bulen has -- does not
5 have this, and as result, she did. The statement is false and the
6 statement is not true and it's not opinion.

7 Defendants allege Bulen received the complaint against her
8 real estate license, which we've already proven that statement was
9 false.

10 The Defendants also allege that she lived in multiple states
11 and moved to the -- moved due to promiscuous relationships with men,
12 taking money from them. All of that false and fabricated.

13 Ms. Bulen never lived in multiple states as they allege. They
14 specifically outline factual information and present it as fact. They don't
15 present it as opinion, which is the separation that this Court must make
16 between the Anti-SLAAP statutes and the protections that it is afforded.

17 They also then allege that she had multiple DUIs. Again, that
18 statement is false. She had one DUI. She had one DUI complaint that
19 was filed against her. And that DUI was dismissed, and then, refiled by
20 the D.A.

21 However, the clear thing is it was a single same DUI. And had
22 they done and went in and researched this in any manner, had they
23 requested those documents and reviewed the complaints that were filed
24 against Ms. Bulen, they would have determined that it was one.

25 Yet they've published many times that she has multiple DUI

1 complaints. Therefore, the statutes of Anti-SLAAP do not protect the
2 Defendants' statements here.

3 There's a high probability of success on Plaintiff's claims as
4 she has already set forth that all the statements herein have determined
5 to be false, specifically, the GALVAR attorney confirming no complaint
6 has ever been filed.

7 We can go on and on, Your Honor, but the Anti-SLAAP
8 statutes, which I have defended and I have brought in multiple cases, do
9 not protect false statements. They only protect opinion speech.

10 Here, the issue is the Defendants' statements issues of fact?
11 And that is what they are alleging. They are alleging Ms. Bulen did such
12 and such things and they list them as fact.

13 So the reader, the person that's reading those, would interpret
14 those as to be true statements when in reality, they are false. And we've
15 proven many of them at this stage to be false.

16 And we believe that if the Court allows this case to continue,
17 we will be able to provide the evidence that all of these statements were
18 completely fabricated against Ms. Bulen. And the Court at this stage in
19 the litigation cannot dismiss this case.

20 THE COURT: All right, thank you. Mr. Kaplan, please focus
21 your reply on that. How were these --

22 MR. KAPLAN: Sure.

23 THE COURT: -- you just heard Mr. Phillips lay out this isn't
24 an -- these are not opinion-based, but rather, they're factual falsehoods.
25 And how is a factual falsehood protected?

1 MR. KAPLAN: A factual falsehood is protected under the
2 Abrams case by [indiscernible] if the Defendant did not have knowledge
3 of its falsehood, which both Defendants Lauer and Sanson cite in their
4 declaration.

5 So, you know, they have a journalistic privilege to protect their
6 sources. The source calls in and says this is what happened to me.
7 She had an affair with me. You know, and if it ends up not being true,
8 they're entitled to vett it and cite their sources.

9 They don't cite anything that really alleges facts, Your Honor.
10 You know, it -- everything says according to my sources and I have the
11 two articles pointed up or pulled up. And they all say that.

12 And they say according to public databases she was charged
13 and sentenced for this. And then, they publish the database.

14 They're not presented as fact. The DUIs, she alleges that it
15 was [indiscernible]. So even it was true, it no longer is. And the DUI
16 stories were written after her lawsuit was filed.

17 The person who gave my client the ethics complaint, which
18 again, is provided in the article, states that, you know, wanted their
19 name protected.

20 I don't know if Plaintiff is actually alleging that she's never lived
21 in Texas, Utah, Arizona, or Nevada. I mean, that is true. I don't know if
22 counsel's denying that.

23 You don't get around an Anti-SLAAP motion by simply alleging
24 that the allegation in the complaint are true that the statements made by
25 the Defense were false. This is exactly what the Anti-SLAAP statutes

1 are intended to do.

2 Plaintiff has not even addressed the first prong, you know, that
3 the Court must determine whether the moving party has established that
4 the claim is made or is based upon a good faith communication in
5 furtherance of the right to free speech.

6 Now the good faith communication is established in that -- in
7 those declarations. They -- within each article and the video, the
8 Defendants did not believe the statements to be false and believed them
9 to be true. They didn't have any knowledge of their falsehood and to this
10 day, they claim that.

11 That has not been addressed. And then, the right to free
12 speech is clear as Defendant Sanson, you know, recently went before
13 the Supreme Court twice. Both came back, you know, in his favor on
14 the Anti-SLAAP motion.

15 So she has to -- you know, with that first prong being satisfied,
16 which counsel didn't even address, and I don't know that it can really be
17 countered.

18 And maybe counsel's just moving on simply to the second
19 prong, that Plaintiff has to show a prima facie evidence of a probability of
20 prevailing on the claim.

21 All of the claims are centered upon the alleged defamatory
22 statement. Now, again, they're not defamatory because they're
23 protected under the journalistic privilege in the First Amendment.

24 And so, when a journalist writes something, which I bet every
25 single journalist, you know, ultimately will write something that is untrue,

1 if they're relying in good faith on their source, then and without
2 knowledge of the falsehood, then they can't be held liable for
3 defamation, that's the journalistic privilege.

4 THE COURT: All right, thank you, counsel. I find this
5 case -- I'm a big believer in the First Amendment. I find this case, it falls
6 similar enough within Abrams. I'm going to grant the motion, defer ruling
7 on the waiting for a motion for fees and costs.

8 It's -- I appreciate the arguments made by Mr. Phillips, but
9 under our statute under the Abrams case, journalists have the right to be
10 wrong so to speak, so long as it is -- there's a good faith basis for it. And
11 I believe that's been demonstrated.

12 Mr. Kaplan, prepare the order.

13 MR. KAPLAN: Thank you, Your Honor.

14 [Proceedings concluded at 10:10 a.m.]

15 * * * * *

16

17

18 ATTEST: I do hereby certify that I have truly and correctly transcribed the
19 audio/video proceedings in the above-entitled case to the best of my ability.

19

20

21

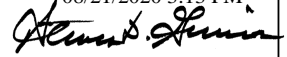
Chris Hwang
Transcriber

22

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25


CLERK OF THE COURT

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11 Telephone: (702) 381-8888
12 Facsimile: (702) 832-5559
13 *Attorneys for Defendants*

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 LAWRA KASSEE BULEN an individual,
12
13 Plaintiff,

14 vs.

15 ROB LAUER, an individual, STEVE SANSON,
16 an individual, and DOES I through X; and ROE
17 CORPORATIONS I through X, Inclusive,
18 Defendants.

CASE NO.: A-18-784807-C
DEPT. NO.: 8

ORDER GRANTING DEFENDANTS'
SPECIAL MOTION TO DISMISS
COMPLAINT PURSUANT TO NRS
41.660

Date of Hearing: August 4, 2020
Time of Hearing: 9:30 a.m.

18 THIS MATTER having come before the Court with respect to *Defendants' Special Motion*
19 *to Dismiss Complaint Pursuant to NRS 41.660* ("Motion") commencing on August 4, 2020 at the
20 hour of 9:30 a.m.; Kory L. Kaplan, Esq. of the law firm of Kaplan Cottner, appearing on behalf of
21 Defendants Rob Lauer and Steve Sanson (collectively, "Defendants"); and Brandon L. Phillips,
22 Esq., appearing on behalf of Plaintiff Lawra Kassee Bulen ("Plaintiff"); the Court having read and
23 considered Defendants' Motion, the Opposition and Reply on file, and the exhibits attached
24 thereto; and the Court having heard and considered the arguments of counsel, and good cause
25 appearing therefor, the Court finds the following:

26 **I.**

27 **FINDINGS OF FACT**

28 1. On November 20, 2018, Plaintiff filed her Complaint against Defendants for: (1)

1 Defamation; (2) Defamation Per Se; (3) Invasion of Privacy: False Light; (4) Invasion of Privacy:
2 Unreasonable Publicity Given to Private Facts; (5) Intentional Interference with Prospective
3 Economic Advantage; (6) Intentional Infliction of Emotional Distress; (7) Negligence Per Se; (8)
4 Concert of Action; and (9) NRS 42.005 Request for Exemplary and Punitive Damages.

5 2. On July 2, 2020, Defendants filed the Motion.

6 3. In their Motion, Defendants argue that each of Plaintiff's causes of action arise from
7 protected speech in the form of several published articles and a video.

8 4. Attached to the Motion are declarations from each of the Defendants, stating that
9 the articles and video are truthful, made without Defendants' knowledge of any falsehood, and/or
10 are the opinions of Defendants.

11 II.

12 CONCLUSIONS OF LAW

13 5. Nevada's anti-SLAPP ("Strategic Lawsuit Against Public Participation") statutes
14 aim to protect First Amendment rights by providing defendants with a procedural mechanism to
15 dismiss "meritless lawsuit[s] that a party initiates primarily to chill a defendant's exercise of his
16 or her First Amendment free speech rights" before incurring the costs of litigation. *Stubbs v.*
17 *Strickland*, 129 Nev. 146, 150, 297 P.3d 326, 329 (2013). Nevada's anti-SLAPP statute is codified
18 in NRS 41.635 thru NRS 41.670, inclusive.

19 6. Nevada's anti-SLAPP statutes "create a procedural mechanism to prevent wasteful
20 and abusive litigation by requiring the plaintiff to make an initial showing of merit." *John v.*
21 *Douglas Cnty. Sch. Dist.*, 125 Nev. 746, 757-58, 219 P.3d 1276, 1284 (2009); *U.S. ex rel. Newsham*
22 *v. Lockheed Missiles & Space Co.*, 190 F.3d 963, 970-71 (9th Cir. 1999) ("The hallmark of a
23 SLAPP suit is that it lacks merit, and is brought with the goals of obtaining an economic advantage
24 over a citizen party by increasing the cost of litigation to the point that the citizen party's case will
25 be weakened or abandoned, and of deterring future litigation."). The Nevada Legislature has
26 further "explained that SLAPP lawsuits abuse the judicial process by chilling, intimidating and
27 punishing individuals for their involvement in public affairs." *John*, 125 Nev. at 752, 29 P.3d
28 1281.

1 7. Under Nevada’s anti-SLAPP statutes, a moving party may file a special motion to
2 dismiss if an action is filed in retaliation to the exercise of free speech. *Coker v. Sassone*, 135 Nev.
3 8, 11–12, 432 P.3d 746, 749–50 (2019). A district court considering a special motion to dismiss
4 must undertake a two-prong analysis. First, it must “[d]etermine whether the moving party has
5 established, by a preponderance of the evidence, that the claim is based upon a good faith
6 communication in furtherance of ... the right to free speech in direct connection with an issue of
7 public concern.” NRS 41.660(3)(a). If successful, the district court advances to the second prong,
8 whereby “the burden shifts to the plaintiff to show ‘with prima facie evidence a probability of
9 prevailing on the claim.’” *Shapiro v. Welt*, 133 Nev. 35, 38, 389 P.3d 262, 267 (2017) (quoting
10 NRS 41.660(3)(b)). Otherwise, the inquiry ends at the first prong, and the case advances to
11 discovery.

12 8. A moving party seeking protection under NRS 41.660 need only demonstrate that
13 his or her conduct falls within one of four statutorily defined categories of speech, rather than
14 address difficult questions of First Amendment law. *See Delucchi v. Songer*, 133 Nev. 290, 299,
15 396 P.3d 826, 833 (2017). NRS 41.637(4) defines one such category as: “[c]ommunication made
16 in direct connection with an issue of public interest in a place open to the public or in a public
17 forum ... which is truthful or is made without knowledge of its falsehood.”

18 9. The published articles and video were made in a public forum. *Damon v. Ocean*
19 *Hills Journalism Club*, 85 Cal.App.4th 468, 475, 102 Cal.Rptr.2d 205) (2000).¹

20 10. The published articles and video concern an issue of public interest as Plaintiff
21 states in her Complaint that she is a campaign manager for Republican candidates and a
22 professional real estate agent.

23 11. All of Plaintiff’s causes of action in the Complaint are based upon protected speech
24 by Defendants as the underlying conduct central to each of the causes of action are good-faith
25

26 ¹ The Nevada Supreme Court considers California case law when determining whether Nevada’s
27 anti-SLAPP statute applies to a claim because California’s anti-SLAPP statute is similar in purpose
28 and language to Nevada’s anti-SLAPP statute. *John v. Douglas Cnty. Sch. Dist.*, 125 Nev. 746,
756, 219 P.3d 1276, 1283 (2009); *see* NRS 41.660; Cal.Civ.Proc.Code § 425.16 (West 2004 &
Supp. 2009).

1 communications. *Abrams v. Sanson*, 136 Nev. Adv. Op. 9, 458 P.3d 1062 (2020); *Veterans in*
2 *Politics Int'l, Inc. v. Willick*, 457 P.3d 970 (Nev. 2020) (unpublished).

3 12. Defendants have satisfied their burden under the first prong of the anti-SLAPP
4 analysis as they have demonstrated that their statements were either truthful or made without
5 knowledge of their falsity, the statements concern matters of public concern, and the statements
6 were made in a public forum.

7 13. As such, the burden shifts to Plaintiff to show “with prima facie evidence a
8 probability of prevailing on the claim.” *Shapiro*, 133 Nev. at 38, 389 P.3d at 267 (quoting NRS
9 41.660(3)(b)).

10 14. In reviewing Plaintiff’s probability of prevailing on each of her claims arising from
11 protected good-faith communications, Plaintiff has not shown minimal merit.

12 15. Plaintiff’s defamation claim and defamation per se claim lack minimal merit
13 because Defendants’ statements were truthful, made without knowledge of falsehood, and/or were
14 opinions that therefore could not be defamatory. *See Pegasus v. Reno Newspapers, Inc.*, 118 Nev.
15 706, 718, 57 P.3d 82, 90 (2002) (excluding statements of opinion from defamation).

16 16. Plaintiff has not shown minimal merit supporting her claims for invasion of privacy
17 because she failed to show that she was placed in a false light that was highly offensive or that
18 Defendants’ statements were made with knowledge or disregard to their falsity. *See Restatement*
19 *(Second) of Torts* § 652E (1977).

20 17. Plaintiff’s claim for intentional interference with prospective business advantage
21 lacks minimal merit as Plaintiff has not demonstrated that the statements were false or that there
22 was otherwise wrongful or unjustified conduct on the part of Defendants. *Klein v. Freedom*
23 *Strategic Partners, LLC*, 595 F. Supp. 2d 1152 (D. Nev. 2009).

24 18. Plaintiff has not shown that her intentional infliction of emotional distress (IIED)
25 claim had minimal merit because she did not show extreme and outrageous conduct beyond the
26 bounds of decency. *See Olivero v. Lowe*, 116 Nev. 395, 398, 995 P.2d 1023, 1025 (2000) (stating
27 IIED claim elements); *Maduike v. Agency Rent-A-Car*, 114 Nev. 1, 4, 953 P.2d 24, 26 (1998)
28 (considering “extreme and outrageous conduct” as that which is beyond the bounds of decency).

1 *See Candelore v. Clark Cty. Sanitation Dist.*, 975 F.2d 588, 591 (9th Cir. 1992) (considering claim
2 for IIED under Nevada law and observing that “[l]iability for emotional distress will not extend to
3 ‘mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities’” (quoting
4 *Restatement (Second) of Torts* § 46 cmt. d (1965))).

5 19. Plaintiff did not show minimal merit supporting her claim for concert of action
6 because she did not show any tortious act or that Defendant agreed to conduct an inherently
7 dangerous activity or an activity that poses a substantial risk of harm to others. *See GES, Inc. v.*
8 *Corbitt*, 117 Nev. 265, 271, 21 P.3d. 11, 15 (2001).

9 20. Since there is no minimal merit supporting any of Plaintiff’s other causes of action,
10 Plaintiff’s claim for punitive damages must also be dismissed. NRS 24.005.

11 21. As a result, Plaintiff has failed to meet her burden under the second prong of the
12 anti-SLAPP analysis.

13 22. As a matter of law, Defendants are entitled to attorney’s fees and costs, and may
14 also be awarded, in addition to reasonable costs and attorney’s fees, an amount of up to \$10,000
15 per Defendant. NRS 41.670(1)(a)-(b).

16 23. Defendants shall file a separate motion for attorney’s fees, costs, and an award
17 pursuant to NRS 41.670(1)(a)-(b).

18 **III.**

19 **ORDER**

20 Based on the foregoing findings of fact and conclusions of law,

21 **IT IS HEREBY ORDERED** that Defendants’ Special Motion to Dismiss Complaint
22 Pursuant to NRS 41.660 is **GRANTED** in its entirety.

23 **IT IS HEREBY FURTHER ORDERED** that Defendants are entitled to attorney’s fees
24 and costs, and may also be awarded, in addition to reasonable costs and attorney’s fees, an amount
25 of up to \$10,000 per Defendant.

26 ...

27 ...

28 ...

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Las Vegas, Nevada 89101
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IT IS SO ORDERED this ____ day of August, 2020.

Dated this 21st day of August, 2020



HONORABLE TREVOR L. ATKIN

62A 31E 23DA 200C
Trevor Atkin
District Court Judge

EIGHTH JUDICIAL DISTRICT COURT JUDGE

Respectfully Submitted By:

Approved as to form and content:

Dated: August 18, 2020

Dated: August 18, 2020

KAPLAN COTTNER

BRANDON L. PHILLIPS, ATTORNEY
AT LAW, PLLC

By: /s/ Kory L. Kaplan

By: /s/ Brandon L. Phillips

KORY L. KAPLAN

BRANDON L. PHILLIPS

Nevada Bar No. 13164

Nevada Bar No. 12264

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Las Vegas, NV 89101

Las Vegas, NV 89119

Attorneys for Defendants

Attorney for Plaintiff

Sunny Southworth

From: Brandon Phillips <blp@abetterlegalpractice.com>
Sent: Tuesday, August 18, 2020 11:20 AM
To: Kory Kaplan
Cc: Kyle Cottner; Sunny Southworth
Subject: RE: Bulen-Lauer Order Granting Anti-Slapp Motion

Follow Up Flag: Follow up
Flag Status: Completed

Kory,

You can use my e-signature for the Order.

Thank you,

BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC

Brandon L. Phillips, Esq.
1455 E. Tropicana Ave., Suite 750
Las Vegas, Nevada 89119
Phone: 702-795-0097
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NOTICES: This message, including attachments, is confidential and may contain information protected by the attorney-client privilege or work product doctrine. If you are not the addressee, any disclosure, copying, distribution, or use of the contents of this message are prohibited. If you have received this email in error, please destroy this communication and notify my office immediately.

From: Kory Kaplan <kory@kaplancottner.com>
Sent: Monday, August 10, 2020 3:18 PM
To: Brandon Phillips <blp@abetterlegalpractice.com>
Cc: Kyle Cottner <kyle@kaplancottner.com>; Sunny Southworth <sunny@kaplancottner.com>
Subject: Bulen-Lauer Order Granting Anti-Slapp Motion

Brandon,

Please see the attached draft of the order granting Defendants' Special Motion to Dismiss Complaint Pursuant to NRS 41.660. Please let me know if you have any edits.

Thanks,
Kory



Kory L. Kaplan, Esq.
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Tel (702) 381-8888
Fax (702) 382-1169
www.kaplancottner.com

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Lawra Bulen, Plaintiff(s)

CASE NO: A-18-784807-C

7 vs.

DEPT. NO. Department 8

8 Rob Lauer, 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 Order Granting was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 8/21/2020

15 Brandon Phillips

blp@abetterlegalpractice.com

16 Paul Padda

psp@paulpaddalaw.com

17 Steve Sanson

devildog1285@cs.com

18 Rob Lauer

news360daily@hotmail.com

19 Rob Lauer

centurywest1@hotmail.com

20 Robin Tucker

rtucker@abetterlegalpractice.com

21 Kory Kaplan

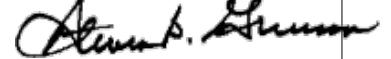
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22 Sara Savage

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23 Sunny Southworth

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8 Telephone: (702) 381-8888
9 Facsimile: (702) 832-5559
10 *Attorneys for Defendants*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 LAWRA KASSEE BULEN an individual,
11 Plaintiff,

CASE NO. A-18-784807-C
DEPT. 8

12 vs.

NOTICE OF ENTRY OF ORDER

13 ROB LAUER, an individual, STEVE SANSON,
14 an individual, and DOES I through X; and ROE
15 CORPORATIONS I through X, Inclusive,
16 Defendants.

17 NOTICE IS HEREBY GIVEN that on the 21st day of August, 2020, an *Order Granting*
18 *Defendants' Special Motion to Dismiss Complaint Pursuant to NRS 41.660 ("Order")*, was entered
19 in the above-entitled matter, a copy of said Order is attached hereto.

20 Dated: August 25, 2020.

KAPLAN COTTNER

21
22 By: /s/ Kory L. Kaplan
23 KORY L. KAPLAN
24 Nevada Bar No. 13164
25 850 E. Bonneville Ave.
26 Las Vegas, Nevada 89101
27 *Attorney for Defendants*
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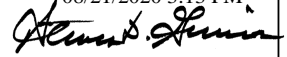
CERTIFICATE OF SERVICE

I hereby certify that the *Notice of Entry of Order* submitted electronically for filing and/or service with the Eighth Judicial District Court on the 25th day of August, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows¹:

Attorneys for Plaintiff
Brandon Phillips
(blp@abetterlegalpractice.com)
Robin Tucker
(rtucker@abetterlegalpractice.com)

/s/ Sunny Southworth
An employee of Kaplan Cottner

¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).


CLERK OF THE COURT

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13 *Attorneys for Defendants*

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 LAWRA KASSEE BULEN an individual,
12
13 Plaintiff,

14 vs.

15 ROB LAUER, an individual, STEVE SANSON,
16 an individual, and DOES I through X; and ROE
17 CORPORATIONS I through X, Inclusive,
18 Defendants.

CASE NO.: A-18-784807-C
DEPT. NO.: 8

ORDER GRANTING DEFENDANTS'
SPECIAL MOTION TO DISMISS
COMPLAINT PURSUANT TO NRS
41.660

Date of Hearing: August 4, 2020
Time of Hearing: 9:30 a.m.

18 THIS MATTER having come before the Court with respect to *Defendants' Special Motion*
19 *to Dismiss Complaint Pursuant to NRS 41.660* ("Motion") commencing on August 4, 2020 at the
20 hour of 9:30 a.m.; Kory L. Kaplan, Esq. of the law firm of Kaplan Cottner, appearing on behalf of
21 Defendants Rob Lauer and Steve Sanson (collectively, "Defendants"); and Brandon L. Phillips,
22 Esq., appearing on behalf of Plaintiff Lawra Kassee Bulen ("Plaintiff"); the Court having read and
23 considered Defendants' Motion, the Opposition and Reply on file, and the exhibits attached
24 thereto; and the Court having heard and considered the arguments of counsel, and good cause
25 appearing therefor, the Court finds the following:

26 **I.**

27 **FINDINGS OF FACT**

28 1. On November 20, 2018, Plaintiff filed her Complaint against Defendants for: (1)

KAPLAN COTTNER
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Las Vegas, Nevada 89101
Tel: (702) 381-8888 Fax: (702) 832-5559

1 Defamation; (2) Defamation Per Se; (3) Invasion of Privacy: False Light; (4) Invasion of Privacy:
2 Unreasonable Publicity Given to Private Facts; (5) Intentional Interference with Prospective
3 Economic Advantage; (6) Intentional Infliction of Emotional Distress; (7) Negligence Per Se; (8)
4 Concert of Action; and (9) NRS 42.005 Request for Exemplary and Punitive Damages.

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6 3. In their Motion, Defendants argue that each of Plaintiff's causes of action arise from
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8 4. Attached to the Motion are declarations from each of the Defendants, stating that
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11 II.

12 CONCLUSIONS OF LAW

13 5. Nevada's anti-SLAPP ("Strategic Lawsuit Against Public Participation") statutes
14 aim to protect First Amendment rights by providing defendants with a procedural mechanism to
15 dismiss "meritless lawsuit[s] that a party initiates primarily to chill a defendant's exercise of his
16 or her First Amendment free speech rights" before incurring the costs of litigation. *Stubbs v.*
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22 *v. Lockheed Missiles & Space Co.*, 190 F.3d 963, 970-71 (9th Cir. 1999) ("The hallmark of a
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28 1281.

1 7. Under Nevada’s anti-SLAPP statutes, a moving party may file a special motion to
2 dismiss if an action is filed in retaliation to the exercise of free speech. *Coker v. Sassone*, 135 Nev.
3 8, 11–12, 432 P.3d 746, 749–50 (2019). A district court considering a special motion to dismiss
4 must undertake a two-prong analysis. First, it must “[d]etermine whether the moving party has
5 established, by a preponderance of the evidence, that the claim is based upon a good faith
6 communication in furtherance of ... the right to free speech in direct connection with an issue of
7 public concern.” NRS 41.660(3)(a). If successful, the district court advances to the second prong,
8 whereby “the burden shifts to the plaintiff to show ‘with prima facie evidence a probability of
9 prevailing on the claim.’” *Shapiro v. Welt*, 133 Nev. 35, 38, 389 P.3d 262, 267 (2017) (quoting
10 NRS 41.660(3)(b)). Otherwise, the inquiry ends at the first prong, and the case advances to
11 discovery.

12 8. A moving party seeking protection under NRS 41.660 need only demonstrate that
13 his or her conduct falls within one of four statutorily defined categories of speech, rather than
14 address difficult questions of First Amendment law. *See Delucchi v. Songer*, 133 Nev. 290, 299,
15 396 P.3d 826, 833 (2017). NRS 41.637(4) defines one such category as: “[c]ommunication made
16 in direct connection with an issue of public interest in a place open to the public or in a public
17 forum ... which is truthful or is made without knowledge of its falsehood.”

18 9. The published articles and video were made in a public forum. *Damon v. Ocean*
19 *Hills Journalism Club*, 85 Cal.App.4th 468, 475, 102 Cal.Rptr.2d 205) (2000).¹

20 10. The published articles and video concern an issue of public interest as Plaintiff
21 states in her Complaint that she is a campaign manager for Republican candidates and a
22 professional real estate agent.

23 11. All of Plaintiff’s causes of action in the Complaint are based upon protected speech
24 by Defendants as the underlying conduct central to each of the causes of action are good-faith
25

26 ¹ The Nevada Supreme Court considers California case law when determining whether Nevada’s
27 anti-SLAPP statute applies to a claim because California’s anti-SLAPP statute is similar in purpose
28 and language to Nevada’s anti-SLAPP statute. *John v. Douglas Cnty. Sch. Dist.*, 125 Nev. 746,
756, 219 P.3d 1276, 1283 (2009); *see* NRS 41.660; Cal.Civ.Proc.Code § 425.16 (West 2004 &
Supp. 2009).

1 communications. *Abrams v. Sanson*, 136 Nev. Adv. Op. 9, 458 P.3d 1062 (2020); *Veterans in*
2 *Politics Int'l, Inc. v. Willick*, 457 P.3d 970 (Nev. 2020) (unpublished).

3 12. Defendants have satisfied their burden under the first prong of the anti-SLAPP
4 analysis as they have demonstrated that their statements were either truthful or made without
5 knowledge of their falsity, the statements concern matters of public concern, and the statements
6 were made in a public forum.

7 13. As such, the burden shifts to Plaintiff to show “with prima facie evidence a
8 probability of prevailing on the claim.” *Shapiro*, 133 Nev. at 38, 389 P.3d at 267 (quoting NRS
9 41.660(3)(b)).

10 14. In reviewing Plaintiff’s probability of prevailing on each of her claims arising from
11 protected good-faith communications, Plaintiff has not shown minimal merit.

12 15. Plaintiff’s defamation claim and defamation per se claim lack minimal merit
13 because Defendants’ statements were truthful, made without knowledge of falsehood, and/or were
14 opinions that therefore could not be defamatory. *See Pegasus v. Reno Newspapers, Inc.*, 118 Nev.
15 706, 718, 57 P.3d 82, 90 (2002) (excluding statements of opinion from defamation).

16 16. Plaintiff has not shown minimal merit supporting her claims for invasion of privacy
17 because she failed to show that she was placed in a false light that was highly offensive or that
18 Defendants’ statements were made with knowledge or disregard to their falsity. *See Restatement*
19 *(Second) of Torts* § 652E (1977).

20 17. Plaintiff’s claim for intentional interference with prospective business advantage
21 lacks minimal merit as Plaintiff has not demonstrated that the statements were false or that there
22 was otherwise wrongful or unjustified conduct on the part of Defendants. *Klein v. Freedom*
23 *Strategic Partners, LLC*, 595 F. Supp. 2d 1152 (D. Nev. 2009).

24 18. Plaintiff has not shown that her intentional infliction of emotional distress (IIED)
25 claim had minimal merit because she did not show extreme and outrageous conduct beyond the
26 bounds of decency. *See Olivero v. Lowe*, 116 Nev. 395, 398, 995 P.2d 1023, 1025 (2000) (stating
27 IIED claim elements); *Maduike v. Agency Rent-A-Car*, 114 Nev. 1, 4, 953 P.2d 24, 26 (1998)
28 (considering “extreme and outrageous conduct” as that which is beyond the bounds of decency).

1 *See Candelore v. Clark Cty. Sanitation Dist.*, 975 F.2d 588, 591 (9th Cir. 1992) (considering claim
2 for IIED under Nevada law and observing that “[l]iability for emotional distress will not extend to
3 ‘mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities’” (quoting
4 *Restatement (Second) of Torts* § 46 cmt. d (1965))).

5 19. Plaintiff did not show minimal merit supporting her claim for concert of action
6 because she did not show any tortious act or that Defendant agreed to conduct an inherently
7 dangerous activity or an activity that poses a substantial risk of harm to others. *See GES, Inc. v.*
8 *Corbitt*, 117 Nev. 265, 271, 21 P.3d. 11, 15 (2001).

9 20. Since there is no minimal merit supporting any of Plaintiff’s other causes of action,
10 Plaintiff’s claim for punitive damages must also be dismissed. NRS 24.005.

11 21. As a result, Plaintiff has failed to meet her burden under the second prong of the
12 anti-SLAPP analysis.

13 22. As a matter of law, Defendants are entitled to attorney’s fees and costs, and may
14 also be awarded, in addition to reasonable costs and attorney’s fees, an amount of up to \$10,000
15 per Defendant. NRS 41.670(1)(a)-(b).

16 23. Defendants shall file a separate motion for attorney’s fees, costs, and an award
17 pursuant to NRS 41.670(1)(a)-(b).

18 **III.**

19 **ORDER**

20 Based on the foregoing findings of fact and conclusions of law,

21 **IT IS HEREBY ORDERED** that Defendants’ Special Motion to Dismiss Complaint
22 Pursuant to NRS 41.660 is **GRANTED** in its entirety.

23 **IT IS HEREBY FURTHER ORDERED** that Defendants are entitled to attorney’s fees
24 and costs, and may also be awarded, in addition to reasonable costs and attorney’s fees, an amount
25 of up to \$10,000 per Defendant.

26 ...

27 ...

28 ...

KAPLAN COTTNER
850 E. Bonneville Ave.
Las Vegas, Nevada 89101
Tel: (702) 381-8888 Fax: (702) 832-5559

1 IT IS SO ORDERED this ____ day of August, 2020.

2 Dated this 21st day of August, 2020

3 

4 HONORABLE TREVOR L. ATKIN

5 62A 31E 23DA 206C
Trevor Atkin
District Court Judge

EIGHTH JUDICIAL DISTRICT COURT JUDGE

6 Respectfully Submitted By:

Approved as to form and content:

7 Dated: August 18, 2020

Dated: August 18, 2020

8 KAPLAN COTTNER

BRANDON L. PHILLIPS, ATTORNEY
AT LAW, PLLC

9 By: /s/ Kory L. Kaplan

By: /s/ Brandon L. Phillips

10 KORY L. KAPLAN

BRANDON L. PHILLIPS

11 Nevada Bar No. 13164

Nevada Bar No. 12264

12 850 E. Bonneville Ave.

1455 E. Tropicana Ave., Suite 750

Las Vegas, NV 89101

Las Vegas, NV 89119

Attorneys for Defendants

Attorney for Plaintiff

Sunny Southworth

From: Brandon Phillips <blp@abetterlegalpractice.com>
Sent: Tuesday, August 18, 2020 11:20 AM
To: Kory Kaplan
Cc: Kyle Cottner; Sunny Southworth
Subject: RE: Bulen-Lauer Order Granting Anti-Slapp Motion

Follow Up Flag: Follow up
Flag Status: Completed

Kory,

You can use my e-signature for the Order.

Thank you,

BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC

Brandon L. Phillips, Esq.
1455 E. Tropicana Ave., Suite 750
Las Vegas, Nevada 89119
Phone: 702-795-0097
Facsimile: 702-795-0098
Email: blp@abetterlegalpractice.com

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From: Kory Kaplan <kory@kaplancottner.com>
Sent: Monday, August 10, 2020 3:18 PM
To: Brandon Phillips <blp@abetterlegalpractice.com>
Cc: Kyle Cottner <kyle@kaplancottner.com>; Sunny Southworth <sunny@kaplancottner.com>
Subject: Bulen-Lauer Order Granting Anti-Slapp Motion

Brandon,

Please see the attached draft of the order granting Defendants' Special Motion to Dismiss Complaint Pursuant to NRS 41.660. Please let me know if you have any edits.

Thanks,
Kory



Kory L. Kaplan, Esq.
850 E. Bonneville Ave.
Las Vegas, NV 89101
Tel (702) 381-8888
Fax (702) 382-1169
www.kaplancottner.com

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Lawra Bulen, Plaintiff(s)

CASE NO: A-18-784807-C

7 vs.

DEPT. NO. Department 8

8 Rob Lauer, 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 Order Granting was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 8/21/2020

15 Brandon Phillips

blp@abetterlegalpractice.com

16 Paul Padda

psp@paulpaddalaw.com

17 Steve Sanson

devildog1285@cs.com

18 Rob Lauer

news360daily@hotmail.com

19 Rob Lauer

centurywest1@hotmail.com

20 Robin Tucker

rtucker@abetterlegalpractice.com

21 Kory Kaplan

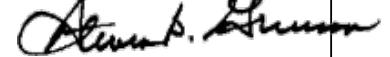
kory@kaplancottner.com

22 Sara Savage

sara@lzkclaw.com

23 Sunny Southworth

sunny@kaplancottner.com



1 **MAFC**
2 KAPLAN COTTNER
3 KORY L. KAPLAN
4 Nevada Bar No. 13164
5 Email: kory@kaplancottner.com
6 KYLE P. COTTNER
7 Nevada Bar No. 12722
8 Email: kyle@kaplancottner.com
9 850 E. Bonneville Ave.
10 Las Vegas, Nevada 89101
11 Telephone: (702) 381-8888
12 Facsimile: (702) 832-5559
13 *Attorneys for Defendants*

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 LAWRA KASSEE BULEN an individual,
12
13 Plaintiff,

14 vs.

15 ROB LAUER, an individual, STEVE SANSON,
16 an individual, and DOES I through X; and ROE
17 CORPORATIONS I through X, Inclusive,
18
19 Defendants.

CASE NO.: A-18-784807-C
DEPT. NO.: 8

DEFENDANTS' MOTION FOR
ATTORNEY'S FEES, COSTS, AND
ADDITIONAL RELIEF PURSUANT
TO NRS 41.660 AND NRS 41.670

HEARING REQUESTED

Date of Hearing: August 4, 2020
Time of Hearing: 9:30 a.m.

19 Come now, Defendants Rob Lauer ("Lauer") and Steve Sanson ("Sanson," collectively
20 with Lauer, "Defendants"), by and through their counsel, Kory L. Kaplan, Esq. and Kyle P.
21 Cottner, Esq., of the law firm of Kaplan Cottner, and hereby move this Honorable Court for an
22 award of attorney's fees and costs therefrom pursuant to Nevada Revised Statutes ("NRS") 41.670
23 and NRS 41.670.

24 ...

25 ...

26 ...

27 ...

28 ...

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1 This Motion is made and based on the following Memorandum of Points and Authorities,
2 the papers and pleadings already on file herein, and any oral argument the Court may permit at the
3 hearing of this matter.

4 Dated this 1st day of September, 2020.

5 KAPLAN COTTNER

6
7 /s/ Kory L. Kaplan
8 KORY L. KAPLAN
9 Nevada Bar No. 13164
10 KYLE P. COTTNER
11 Nevada Bar No. 12722
12 850 E. Bonneville Ave.
13 Las Vegas, Nevada 89101
14 *Attorneys for Defendants*

15 **MEMORANDUM OF POINTS AND AUTHORITIES**

16 **I.**

17 **STATEMENT OF RELEVANT FACTS**

18 Plaintiff filed her Complaint against Defendants relating to three published articles and a
19 video interview posted online concerning Plaintiff. *See* Complaint, already on file herein. Plaintiff
20 alleged 9 causes of action against Defendants for: (1) Defamation; (2) Defamation Per Se; (3)
21 Invasion of Privacy: False Light; (4) Invasion of Privacy: Unreasonable Publicity Given to Private
22 Facts; (5) Intentional Interference with Prospective Economic Advantage; (6) Intentional Infliction
23 of Emotional Distress; (7) Negligence Per Se; (8) Concert of Action; and (9) NRS 42.005 Request
24 for Exemplary and Punitive Damages. *See generally id.*¹

25 On July 2, 2020, Defendants filed their Special Motion to Dismiss the Complaint pursuant
26 to NRS 41.660. *See* Motion to Dismiss, already on file herein. Because Defendants' conduct is
27 protected free speech, anti-SLAPP ("Strategic Lawsuit Against Public Participation") laws are
28 designed to provide for early dismissal of meritless lawsuits filed against people for the exercise

¹ Defendants incorporate herein by reference their entire Special Motion to Dismiss Pursuant to NRS 41.660 that was filed in this case on July 2, 2020.

1 of their First Amendment rights. *Id.*; *see also* NRS 41.660.

2 On July 21, 2020, Defendants filed a Notice of Non-Opposition to their Special Motion to
3 Dismiss. *See* Notice of Non-Opposition, already on file herein. Later on, July 21, 2020, Plaintiff
4 filed an Opposition to Defendants' Special Motion to Dismiss. *See* Opposition, already on file
5 herein. On July 28, 2020, Defendants filed their Reply in support of their Special Motion to
6 Dismiss. *See* Reply, already on file herein.

7 On August 4, 2020, this Court held oral argument on Defendants' Special Motion to
8 Dismiss. *See* Register of Actions. This Court granted Defendants' Special Motion to Dismiss in
9 its entirety. *See* Order Granting Special Motion to Dismiss, already on file herein. Further, the
10 Court ordered that Defendants are entitled to attorney's fees and costs, and may also be awarded,
11 in addition to reasonable costs and attorney's fees, an amount of up to \$10,000 per Defendant. *Id.*;
12 *see also* NRS 41.670.

13 II.

14 LEGAL ARGUMENT

15 A. The Court Shall Award Reasonable Costs, Attorney's Fees, and \$10,000 per 16 Defendant as the Anti-SLAPP Motion was Granted.

17 1. If the court grants a special motion to dismiss filed pursuant to NRS 41.660:

18 (a) The court shall award reasonable costs and attorney's fees to the person
19 against whom the action was brought, except that the court shall award reasonable
20 costs and attorney's fees to this State or to the appropriate political subdivision of
21 this State if the Attorney General, the chief legal officer or attorney of the political
22 subdivision or special counsel provided the defense for the person pursuant to NRS
23 41.660.

24 (b) The court may award, in addition to reasonable costs and attorney's fees
25 awarded pursuant to paragraph (a), an amount of up to \$10,000 to the person against
26 whom the action was brought.

27 (c) The person against whom the action is brought may bring a separate action
28 to recover:

- 29 (1) Compensatory damages;
- 30 (2) Punitive damages; and
- 31 (3) Attorney's fees and costs of bringing the separate action.

32 [...]

33 3. In addition to reasonable costs and attorney's fees awarded pursuant to
34 subsection 2, the court may award:

1 (a) An amount of up to \$10,000; and

2 (b) Any such additional relief as the court deems proper to punish and deter the
3 filing of frivolous or vexatious motions.

4 NRS 41.670.

5 Further, the Ninth Circuit has held that when an anti-SLAPP motion disposes of every
6 cause of action, it is appropriate to award all attorney's fees incurred in connection with the case,
7 even if not directly related to the anti-SLAPP motion, because the successful movant "incurred the
8 expenses Plaintiffs dispute in responding to a lawsuit the district court found baseless." *Graham-*
9 *Suit v. Clainos*, 738 F.3d 1131, 1159 (9th Cir. 2013) (*affirmed in Graham-Suit v. Clainos*, 756
10 F.3d 724, 752 (9th Cir. 2014); *Wanland v. Law Offices of Mastagni, Holstedt & Chiurazzi*, 141
11 Cal.App.4th 15, 45 Cal.Rptr.3d 633, 637 (2006) ("[T]o this end, the provision is broadly construed
12 so as to effectuate the legislative purpose of reimbursing the prevailing defendant for expenses
13 incurred in extracting herself from a baseless lawsuit.").

14 Pursuant to NRS 41.670(1)(a), reasonable costs and attorney's fees are not discretionary
15 and shall be awarded upon the court's granting of a special motion to dismiss pursuant to NRS
16 41.660. As stated above, Defendants prevailed on obtaining dismissal of Plaintiff's Complaint
17 under Nevada's anti-SLAPP statute, NRS § 41.660. As a result, the legislature has mandated that
18 as the prevailing party in the anti-SLAPP litigation, Defendants must be awarded reasonable
19 attorney's fees and costs. As reflected in the declaration of counsel within **Exhibit A** and the
20 redacted billing entries provided in **Exhibit B**, Defendants incurred attorney's fees in the amount
21 of \$13,650.00 in defending Plaintiff's abusive lawsuit. Pursuant to NRS § 41.660(1), judgment in
22 favor of Defendants in this amount is necessary. For the same reasons, costs in the amount of
23 \$281.84 as stated within the Defendants' Memorandum of Costs located at **Exhibit C** must also
24 be awarded. Finally, NRS 41.670 permits, in addition to attorney's fees and costs, an amount of
25 up to \$10,000 per defendant, and Defendants therefore request an additional \$20,000.

26 **B. Defendants Are Entitled to Attorney's Fees.**

27 In determining the reasonableness and amount of an attorney's fee award, a court may begin
28

1 its analysis with any method rationally designed to calculate a reasonable amount. *Shuette v.*
2 *Beazer Homes*, 121 Nev. 837, 864; 124 P.3d 530, 549 (2005). Whether the court seeks to award
3 the entire amount of attorney’s fees or use an alternative approach, the court must consider the
4 requested amount in light of the factors enumerated in *Brunzell v. Golden Gate National Bank*, 85
5 Nev. 345, 349; 455 P.2d 31 (1969), “namely, (1) the advocate’s professional qualities, (2) the
6 nature of the litigation, (3) the work performed, and (4) the result.” *Shuette*, 121 Nev. at 865; 124
7 P.3d at 549. The *Brunzell* factors are demonstrated below and further supported by the Declaration
8 of Kory L. Kaplan, Esq., a true and correct copy of which is attached hereto as **Exhibit A**.

9
10 ***1. Qualities of the Advocate.***

11 Kory L. Kaplan, Esq. has been licensed to practice law in Nevada since 2013 and has been
12 licensed to practice law in Florida since 2019. *Id.* at ¶ 10. Mr. Kaplan received his undergraduate
13 degree in 2010 from UCLA and his law degree in 2013 from the University of Arizona, James E.
14 Rogers College of Law. *Id.* at ¶ 7. Prior to forming his current firm, Mr. Kaplan was a partner at
15 the law firms of Larson Zirzow Kaplan and Larson Zirzow Kaplan Cottner, an associate at Gentile
16 Cristalli Miller Armeni Savarese, and an associate at the law firm of Gordon Silver. *Id.* at ¶ 8.
17 Prior to joining Gordon Silver, Mr. Kaplan served as a judicial extern to the Honorable Jackie
18 Glass and the Honorable Ronald Israel of the Eighth Judicial District Court, Clark County, Nevada.
19 *Id.* at ¶ 9. Mr. Kaplan is admitted to practice in the Supreme Court of the State of Nevada, United
20 States District Court for the District of Nevada, Ninth Circuit Court of Appeals, Supreme Court of
21 Florida, and the Ninth Circuit Court of Appeals. *Id.* at ¶ 11.

22 ***2. Character of the Work / Nature of the Litigation.***

23 The character of the work performed in this case for Defendants, including the intricacy,
24 importance, and the time and skill required in Defendants’ counsel’s work is evident throughout.
25 The nature of the litigation involved complex research, analysis and drafting of the dispositive
26 motion and related work involving anti-SLAPP laws. The case was intricate as it involved
27 researching claims and defenses, including California law as Nevada follows California law in
28 anti-SLAPP cases, as evidenced in the 20-page Special Motion to Dismiss. This case involved
freedom of speech and the protections of journalists’ First Amendment rights to provide

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1 Defendants with a procedural mechanism to dismiss this meritless lawsuit that Plaintiff initiated
2 primarily to chill Defendants' exercise of their First Amendment free speech rights.

3 This factor, therefore, also weigh in favor of the reasonableness of the attorney's fees.

4 **3. Work Performed.**

5 Considerable time and attention were given to this matter as reflected in the itemized billing
6 statement, a true and correct copy of which is attached hereto as **Exhibit B**. Undersigned counsel's
7 skill and attention to this case is reflected in the filings in this case. For the same reasons, costs in
8 the amount of \$281.84 as stated within the Defendants' Memorandum of Costs located at **Exhibit**
9 **C** must also be awarded.

10 **4. Result.**

11 Finally, Defendants were successful in this case as Plaintiff's Complaint was dismissed
12 pursuant to NRS 41.660. These successful results, together with the other *Brunzell* factors, are
13 compelling evidence and favor awarding Defendants the total amount of attorney's fees incurred
14 in this case.

15 **IV.**

16 **CONCLUSION**

17 Based upon the foregoing, it is respectfully requested that this Court award Defendants
18 attorney's fees in the sum of \$13,650, costs in the amount of \$281.84, and an additional amount
19 of \$10,000 per Defendant pursuant to NRS 41.670, for a total judgment of \$33,931.84.

20 Dated this 1st day of September, 2020.

21 KAPLAN COTTNER

22 /s/ Kory L. Kaplan
23 KORY L. KAPLAN
24 Nevada Bar No. 13164
25 KYLE P. COTTNER
26 Nevada Bar No. 12722
27 850 E. Bonneville Ave.
28 Las Vegas, Nevada 89101
Attorneys for Defendants

KAPLAN COTTNER
850 E. Bonneville Ave.
Las Vegas, Nevada 89101
Tel: (702) 381-8888 Fax: (702) 832-5559

CERTIFICATE OF SERVICE

I hereby certify that the *DEFENDANTS' MOTION FOR ATTORNEY'S FEES, COSTS, AND ADDITIONAL RELIEF PURSUANT TO NRS 41.660 AND NRS 41.670* submitted electronically for filing and/or service with the Eighth Judicial District Court on the 1st day of September, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows²:

N/A

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

Brandon L. Phillips, Esq.
1455 E. Tropicana Ave., Suite 750
Las Vegas, NV 89119
Attorney for Plaintiff

/s/ Sunny Southworth
Sunny Southworth, An employee of
Kaplan Cottner

² Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

“Exhibit A”

“Exhibit A”

1 **DECLARATION OF KORY L. KAPLAN, ESQ. IN SUPPORT OF DEFENDANTS'**
2 **MOTION FOR ATTORNEY'S FEES, COSTS, AND ADDITIONAL RELIEF**
3 **PURSUANT TO NRS 41.660 AND NRS 41.670**

4 I, Kory L. Kaplan, Esq., make this declaration in support of Defendants' Motion for
5 Attorney's Fees, Costs, and Additional Relief pursuant to NRS 41.660 and 41.670 and hereby
6 declare as follows:

7 1. I am an attorney licensed to practice law in the State of Nevada and a partner at the
8 law firm of Kaplan Cottner, attorneys for Defendants.

9 2. I am competent to testify to the matters asserted herein, of which I have personal
10 knowledge, except as to those matters stated upon information and belief. As to those matters
11 stated upon information and belief, I believe them to be true.

12 3. Defendants' attorney's fees reflect 37.3 hours of work performed by me, a partner
13 with seven (7) years of litigation experience, billing Defendants at a rate of \$350.00 per hour,
14 which is reasonable and customary for attorneys with similar skill and experience in the Las Vegas
15 market.

16 4. Two (2) legal assistants in my office also performed 3.4 hours of work at the rate
17 of \$175 per hour, which is reasonable and customary for legal assistants with similar skill and
18 experience in the Las Vegas market. Carey Shurtliff has been a certified paralegal since 2010.
19 Sunny Southworth graduated from Truckee Meadows Community College with a degree in
20 paralegal studies in 2017. 1.6 hours of their time were written off.

21 5. Upon information and belief, the attorney's fees are reasonable and commensurate
22 with billing standards that exist in the Las Vegas legal market.

23 6. I have researched the rates of other counsel in the community and upon information
24 and belief, the rates charged by Kaplan Cottner on this matter are equal or below other rates
25 charged.

26 7. I received my undergraduate degree in 2010 from UCLA and my law degree in
27 2013 from the University of Arizona, James E. Rogers College of Law.

28 8. Prior to forming Kaplan Cottner, I was a partner at the law firms of Larson Zirzow
Kaplan and Larson Zirzow Kaplan Cottner, an associate at Gentile Cristalli Miller Armeni

1 Savarese, and an associate at the law firm of Gordon Silver.

2 9. Prior to joining Gordon Silver, I served as a judicial extern to the Honorable Jackie
3 Glass and the Honorable Ronald Israel of the Eighth Judicial District Court, Clark County, Nevada.

4 10. I have been licensed to practice law in Nevada since 2013 and have been licensed
5 to practice law in Florida since 2019.

6 11. I am admitted to practice in the Supreme Court of the State of Nevada, United States
7 District Court for the District of Nevada, Ninth Circuit Court of Appeals, and the Supreme Court
8 of Florida.

9 12. Defendants' attorney's fees were necessarily incurred in obtaining a favorable
10 result: the order of this Court dismissing Plaintiff's Complaint.

11 13. Defendants' costs in this matter total \$281.84. The items contained in the
12 Memorandum of Costs, attached to the Motion as Exhibit C, are true and correct to the best of my
13 knowledge and belief. Said disbursements have been necessarily incurred and paid in the
14 underlying action, and a true and accurate copy of the itemized costs is attached

15 14. All costs incurred, such as copies, postage, scanning, and filing fees were
16 reasonable, necessary to, and actually incurred, in the initial intake of the case, the work at issue
17 in this case, and ultimately obtaining dismissal of the case.

18 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
19 is true and correct.

20 Executed this 1st day of September, 2020.

21
22 /s/ Kory L. Kaplan
23 KORY L. KAPLAN, DECLARANT
24
25
26
27
28

“Exhibit B”

“Exhibit B”



INVOICE

Invoice # 202
Date: 08/27/2020
Due On: 09/26/2020

KAPLAN COTTNER

850 E. Bonneville Avenue
Las Vegas, NV 89101
Phone: (702) 381-8888



7126-001

Lauer, Rob & Sanson, Steve: Represent the Defendants to set aside the defaults and defend Client and prosecute claims in the Eighth Judicial District Court matter commonly known as Bulen v. Lauer / Case A-18-784807-C

Services

| Type | Date | Notes | Quantity | Attorney | Rate | Total |
|---------|------------|--|----------|----------|----------|----------|
| Service | 06/17/2020 | NC - No Charge: Review of court docket; download and saved all court pleadings filed; updated calendar with upcoming hearing | 0.70 | CS | \$0.00 | \$0.00 |
| Service | 06/17/2020 | Drafted notice of appearance and initial appearance fee disclosures; sent email to Kory | 0.30 | CS | \$175.00 | \$52.50 |
| Service | 06/18/2020 | Research and draft reply in support of motion to set aside and opposition to countermotion for default judgment | 2.00 | KK | \$350.00 | \$700.00 |
| Service | 06/19/2020 | Format and finalized reply ISO motion to setaside and opposition to countermotion; notice of appearance; and initial appearance fee disclosure; review of court docket for BlueJeans instructions for 6/23 hearing | 0.30 | CS | \$175.00 | \$52.50 |
| Service | 06/22/2020 | Receipt of court minutes scheduling June 23, 2020 hearing for BlueJean appearance; updated calendar | 0.10 | CS | \$175.00 | \$17.50 |

| | | | | | | |
|---------|------------|--|------|----|----------|------------|
| Service | 06/23/2020 | Prepare for and attend telephonically hearing on motion to set aside default; tele conf [REDACTED] | 0.40 | KK | \$350.00 | \$140.00 |
| Service | 06/23/2020 | Began draft of order granting motion to set aside defaults and denying countermotion for default judgment; sent to Kory for finalizing | 0.30 | CS | \$175.00 | \$52.50 |
| Service | 06/23/2020 | Edit order granting motion to set aside; email draft order to B. Phillips | 0.20 | KK | \$350.00 | \$70.00 |
| Service | 06/26/2020 | Research and draft case law re anti-SLAPP | 4.80 | KK | \$350.00 | \$1,680.00 |
| Service | 06/29/2020 | Research and draft section re public forum | 2.70 | KK | \$350.00 | \$945.00 |
| Service | 06/29/2020 | Research and draft section re public concern | 1.90 | KK | \$350.00 | \$665.00 |
| Service | 06/29/2020 | Research and draft analysis sections specific to three articles and video | 3.50 | KK | \$350.00 | \$1,225.00 |
| Service | 06/29/2020 | Research and draft section re entitlement to attorney's fees | 1.00 | KK | \$350.00 | \$350.00 |
| Service | 06/29/2020 | Draft statement of facts | 1.10 | KK | \$350.00 | \$385.00 |
| Service | 06/29/2020 | Draft introduction | 0.50 | KK | \$350.00 | \$175.00 |
| Service | 06/30/2020 | Research and draft argument re amendment of complaint | 0.80 | KK | \$350.00 | \$280.00 |
| Service | 06/30/2020 | Tele conf [REDACTED] | 0.40 | KK | \$350.00 | \$140.00 |
| Service | 06/30/2020 | Draft declaration of R. Lauer | 0.90 | KK | \$350.00 | \$315.00 |
| Service | 06/30/2020 | Draft declaration of S. Sanson | 0.40 | KK | \$350.00 | \$140.00 |
| Service | 06/30/2020 | Review of email to Brandon following up on order granting motion to set aside defaults | 0.10 | CS | \$175.00 | \$17.50 |
| Service | 07/01/2020 | Review of email authorizing signature on order re motion to set aside default; submitted order to court | 0.20 | CS | \$175.00 | \$35.00 |
| Service | 07/02/2020 | Format and finalize motion to dismiss; sent email to counsel re same | 0.30 | CS | \$175.00 | \$52.50 |
| Service | 07/06/2020 | NC - No Charge: Receipt of email from Dept. 18 to resubmit order to Dept. 8; updated department number on order and resent to Dept. 8. | 0.20 | CS | \$0.00 | \$0.00 |
| Service | 07/06/2020 | NC - No Charge: Served courtesy copy of video to court | 0.20 | CS | \$0.00 | \$0.00 |

| | | | | | | |
|---------|------------|---|------|----|----------|----------|
| Service | 07/07/2020 | Review of notice of hearing; updated calendar; draft and served certificate of service re same | 0.20 | CS | \$175.00 | \$35.00 |
| Service | 07/08/2020 | NC - No Charge: Review of response email from court re providing courtesy copy of Video that is exhibit to motion to dismiss | 0.10 | CS | \$0.00 | \$0.00 |
| Service | 07/09/2020 | NC - No Charge: Review of filings and email from court; prepared and filed filing fee remittance form | 0.20 | CS | \$0.00 | \$0.00 |
| Service | 07/10/2020 | NC - No Charge: Served courtesy copy of Video that is exhibit to motion to dismiss via email and regular mail to the court per their instructions | 0.20 | CS | \$0.00 | \$0.00 |
| Service | 07/21/2020 | Format and finalize notice of non opposition re special motion to dismiss complaint | 0.20 | CS | \$175.00 | \$35.00 |
| Service | 07/21/2020 | Draft notice of non-opposition | 0.50 | KK | \$350.00 | \$175.00 |
| Service | 07/22/2020 | Review of plaintiff's opposition to defendants' anti-slapp special motion to dismiss | 0.30 | CS | \$175.00 | \$52.50 |
| Service | 07/22/2020 | Tele conf [REDACTED] | 0.20 | KK | \$350.00 | \$70.00 |
| Service | 07/27/2020 | Research and draft reply in support of anti-slapp motion to dismiss | 1.30 | KK | \$350.00 | \$455.00 |
| Service | 07/28/2020 | Format and finalize defendants' reply in support of special motion to dismiss complaint pursuant to NRS 41.660 | 0.20 | CS | \$175.00 | \$35.00 |
| Service | 08/03/2020 | Tele conf [REDACTED] | 0.20 | KK | \$350.00 | \$70.00 |
| Service | 08/03/2020 | Review motion and opposition and prepare outline for hearing | 1.70 | KK | \$350.00 | \$595.00 |
| Service | 08/04/2020 | Attend hearing on special motion to dismiss | 0.70 | KK | \$350.00 | \$245.00 |
| Service | 08/04/2020 | Tele conf [REDACTED] | 0.30 | KK | \$350.00 | \$105.00 |
| Service | 08/10/2020 | Draft order granting motion to dismiss; draft email to opposing counsel attaching same | 2.30 | KK | \$350.00 | \$805.00 |
| Service | 08/14/2020 | Filed email sent by Mr. Kaplan to Better Legal regdring needing signature. | 0.10 | SS | \$175.00 | \$17.50 |
| Service | 08/18/2020 | Filed emails into our files, finalized order and emailed the order to the Judge. | 0.20 | SS | \$175.00 | \$35.00 |
| Service | 08/20/2020 | Revised proposed Order Granting Motion to Dismiss and emailed to Department 8. | 0.20 | SS | \$175.00 | \$35.00 |

| | | | | | | |
|--------------------------|------------|--|------|----|--------------------|------------|
| Service | 08/24/2020 | Drafted Notice of Entry of Order and sent to Mr. Kaplan for review. Revised again. | 0.30 | SS | \$175.00 | \$52.50 |
| Service | 08/25/2020 | Finalized Notice Entry of Order and sent to Mr. Kaplan for review. Filed with the court. | 0.10 | SS | \$175.00 | \$17.50 |
| Service | 08/27/2020 | Draft statement of facts in motion for attorney's fees pursuant to NRS 41.660 and 41.670 | 0.80 | KK | \$350.00 | \$280.00 |
| Service | 08/27/2020 | Research and draft legal argument in motion for attorney's fees pursuant to NRS 41.660 and 41.670 | 5.60 | KK | \$350.00 | \$1,960.00 |
| Service | 08/27/2020 | Draft declaration of K. Kaplan in support of motion for attorney's fees pursuant to NRS 41.660 and 41.670 | 0.60 | KK | \$350.00 | \$210.00 |
| Service | 08/27/2020 | Review and redact billing entries and costs as exhibits in support of motion for attorney's fees pursuant to NRS 41.660 and 41.670 | 0.90 | KK | \$350.00 | \$315.00 |
| Service | 08/27/2020 | Draft memorandum of costs as exhibit in support of motion for attorney's fees pursuant to NRS 41.660 and NRS 41.670 | 1.60 | KK | \$350.00 | \$560.00 |
| Services Subtotal | | | | | \$13,650.00 | |

Expenses

| Type | Date | Notes | Quantity | Attorney | Rate | Total |
|--------------------------|------------|------------------------------|----------|----------|-----------------|----------|
| Expense | 06/19/2020 | Copies | 1.00 | SS | \$2.50 | \$2.50 |
| Expense | 06/19/2020 | Postage | 1.00 | SS | \$0.50 | \$0.50 |
| Expense | 07/07/2020 | Copies | 1.00 | SS | \$0.25 | \$0.25 |
| Expense | 07/07/2020 | Postage | 1.00 | SS | \$0.50 | \$0.50 |
| Expense | 07/20/2020 | Filing Fee - NV Efile *06/19 | 1.00 | CRS | \$30.00 | \$30.00 |
| Expense | 07/20/2020 | Filing Fee - NV Efile *06/19 | 1.00 | CRS | \$4.40 | \$4.40 |
| Expense | 07/20/2020 | Filing Fee - NV Efile *07/02 | 1.00 | CRS | \$3.50 | \$3.50 |
| Expense | 07/20/2020 | Filing Fee - NV Efile *07/07 | 1.00 | CRS | \$3.50 | \$3.50 |
| Expense | 07/20/2020 | Filing Fee - NV Efile *07/09 | 1.00 | CRS | \$10.19 | \$10.19 |
| Expense | 07/20/2020 | Filing Fee - NV Efile *07/09 | 1.00 | CRS | \$3.50 | \$3.50 |
| Expense | 07/20/2020 | Filing Fee - NV Efile *07/09 | 1.00 | CRS | \$223.00 | \$223.00 |
| Expenses Subtotal | | | | | \$281.84 | |

Invoice # 202 - 08/27/2020

Subtotal **\$13,931.84**

Total **\$13,931.84**

Detailed Statement of Account

Current Invoice

| Invoice Number | Due On | Amount Due | Payments Received | Balance Due |
|---------------------------------|------------|-------------|-------------------|--------------------|
| 202 | 09/26/2020 | \$13,931.84 | \$0.00 | \$13,931.84 |
| Outstanding Balance | | | | \$13,931.84 |
| Total Amount Outstanding | | | | \$13,931.84 |

Please make all amounts payable to: KAPLAN COTTNER

“Exhibit C”

“Exhibit C”

KAPLAN COTTNER
850 E. Bonneville Ave.
Las Vegas, Nevada 89101
Tel: (702) 381-8888 Fax: (702) 832-5559

NOTC
KAPLAN COTTNER
KORY L. KAPLAN
Nevada Bar No. 13164
Email: kory@kaplancottner.com
KYLE P. COTTNER
Nevada Bar No. 12722
Email: kyle@kaplancottner.com
850 E. Bonneville Ave.
Las Vegas, Nevada 89101
Telephone: (702) 381-8888
Facsimile: (702) 832-5559
Attorneys for Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

LAWRA KASSEE BULEN an individual,
Plaintiff,

vs.

ROB LAUER, an individual, STEVE SANSON,
an individual, and DOES I through X; and ROE
CORPORATIONS I through X, Inclusive,
Defendants.

CASE NO.: A-18-784807-C
DEPT. NO.: 8

**MEMORANDUM OF COSTS AND
DISBURSEMENTS**

Pursuant to NRS 18.110, Defendants Rob Lauer (“Lauer”) and Steve Sanson (“Sanson,” collectively with Lauer, “Defendants”), by and through their counsel, Kory L. Kaplan, Esq. and Kyle P. Cottner, Esq., of the law firm of Kaplan Cottner, hereby submit the following Memorandum of Costs incurred in this action.

...

...

...

...

...

...

...

KAPLAN COTTNER
850 E. Bonneville Ave.
Las Vegas, Nevada 89101
Tel: (702) 381-8888 Fax: (702) 832-5559

| DESCRIPTION | AMOUNT | AUTHORIZATION |
|--|-----------------|---------------------|
| Clerk's Fees/ Online Filing Fees (Wiznet) | \$278.09 | NRS 18.005(1) |
| Scanning Charges/Copies (11 pages @ \$0.25 per page) | \$2.75 | NRS 18.005(11)-(12) |
| Postage (2 @ \$0.50 each) | \$1.00 | NRS 18.005(14) |
| TOTAL COSTS | \$281.84 | |

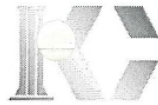
Dated this 1st day of September, 2020.

KAPLAN COTTNER

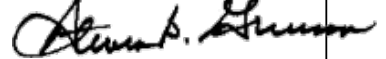
/s/ Kory L. Kaplan
KORY L. KAPLAN
Nevada Bar No. 13164
KYLE P. COTTNER
Nevada Bar No. 12722
850 E. Bonneville Ave.
Las Vegas, Nevada 89101
Attorneys for Defendants

| Order ID | Envelope ID | Case Number | Case Description | Date Filed | Date Accepted | Date Payment Captured | Party Fee | Court Fee | E-File Fee | Tax for E-File Fee | Court E-File Fee | Provider E-File Fee | Tax for Provider E-File Fee | Payment E-Service Fee | Taxes (for non-court fees) | Total Payment |
|-------------|-------------|---------------|---|----------------|----------------|-----------------------|-----------|-----------|------------|--------------------|------------------|---------------------|-----------------------------|-----------------------|----------------------------|---------------|
| 006297892-0 | 6297892 | A-18-784807-C | Lawra Bulen, Plaintiff(s)vs.Rob Lauer, Defendant(s) | 07/09/2020 UTC | 07/09/2020 UTC | 07/09/2020 UTC | 0 | 0 | 3.5 | 0 | 0 | 0 | 0 | 0 | 0 | 3.5 |
| 006297769-0 | 6297769 | A-18-784807-C | Lawra Bulen, Plaintiff(s)vs.Rob Lauer, Defendant(s) | 07/09/2020 UTC | 07/09/2020 UTC | 07/09/2020 UTC | 0 | 223 | 3.5 | 0 | 0 | 0 | 0 | 6.69 | 0 | 233.19 |
| 006279775-0 | 6279775 | A-18-784807-C | Lawra Bulen, Plaintiff(s)vs.Rob Lauer, Defendant(s) | 07/07/2020 UTC | 07/07/2020 UTC | 07/07/2020 UTC | 0 | 0 | 3.5 | 0 | 0 | 0 | 0 | 0 | 0 | 3.5 |
| 006270395-0 | 6270395 | A-18-784807-C | Lawra Bulen, Plaintiff(s)vs.Rob Lauer, Defendant(s) | 07/03/2020 UTC | 07/03/2020 UTC | 07/03/2020 UTC | 0 | 0 | 3.5 | 0 | 0 | 0 | 0 | 0 | 0 | 3.5 |
| 006207409-0 | 6207409 | A-18-784807-C | Lawra Bulen, Plaintiff(s)vs.Rob Lauer, Defendant(s) | 06/19/2020 UTC | 06/19/2020 UTC | 06/19/2020 UTC | 0 | 30 | 3.5 | 0 | 0 | 0 | 0 | 0.9 | 0 | 34.4 |

ROA000408

KAPLAN
COTTNER

KAPLAN
COTTNER[illegible]



1 **OPP**

2 BRANDON L. PHILLIPS, ESQ
3 Nevada Bar No. 12264
4 BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC
5 1455 E. Tropicana Ave., Suite 750
6 Las Vegas, NV 89119
7 Tel: (702) 795-0097
8 Fax: (702) 795-0098
9 blp@abetterlegalpractice.com
10 Attorney for Plaintiff, L. Bulen

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 LAWRA KASSEE BULEN,

CASE NO. A-18-784807-C

10 Plaintiff,

DEPT. NO. 8

11 vs.

12
13 STEVE SANSON, an Individual; ROB
14 LAUER, an Individual,

15 Defendant.

16 **PLAINTIFF BULEN'S OPPOSITION TO DEFENDANTS' MOTION FOR**
17 **ATTORNEYS' FEES, COSTS, AND ADDITIONAL RELIEF PURSUANT TO NRS**
18 **41.660 AND NRS 41.670**

19 Plaintiff by and through her attorney, Brandon L. Phillips, of the legal firm, BRANODN
20 L. PHILLIPS, ATTORNEY AT LAW, PLLC, hereby files her Opposition to Defendants' Motion
21 for Attorneys' Fees, Costs, and Additional Relief Pursuant to NRS 41.660 and NRS 41.670.

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28

1 This Opposition is based on the papers and pleadings on file, the Points and Authorities
2 attached and any arguments made by counsel at hearing.

3 DATED this 15th day of September, 2020
4

5 **BRANDON L. PHILLIPS,**
6 **ATTORNEY AT LAW, PLLC**

7 /s/ Brandon L. Phillips, Esq.
8 BRANDON L. PHILLIPS, ESQ.
9 Nevada Bar No. 12264
10 1455 E. Tropicana Ave., Suite 750
11 Las Vegas, Nevada 89119
12 *Attorney for Plaintiff, L. Bulen*

13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14 **I.**

15 **INTRODUCTION**

16 Plaintiff's Complaint is entirely focused on the false and fabricated statements of the
17 Defendants, who used their political and media ties to post defamatory statements of and
18 concerning the Plaintiff. Third Parties have confirmed that the Defendants' statements were false
19 and relevant case law on the matter confirm that false statements are not protected speech and
20 such false accusers can be held legally liable for their false statements. While this Court has found
21 the speech was protected based on the argument that operating a political website somehow makes
22 a person a verified political reporter, Ms. Bule was the person irreparably damaged by the
23 "inaccurate" reporting by the Defendants. This Court should be reminded that the Defendants
24 shared their inaccurate posts, which caused thousands to consider the inaccuracies of their
25 reporting as true statements against the Plaintiff.

26 This Court must consider the totality of the circumstances when it comes to determining
27 an appropriate award of attorneys' fees and costs and possible additional award to each Defendant.
28 Had Defendants' reporting been accurate or truthful then Plaintiff would not have likely been
harmed. However, the claims against the Plaintiff were false and inaccurate and therefore she had

1 to defend herself, not only before this Court, but with GLVAR and others regarding the false
2 reporting of the Defendants.

3 While the Court is required to award a certain sum for attorneys' fees those fees must be
4 reasonable. In the instant matter, the filing of a single motion to dismiss could never possibly
5 warrant attorneys' fees in excess of \$10,000.00 as requested in the instant Motion. Further, a
6 separate award to the Defendants would in essence award them for their inaccurate and false
7 reporting that caused substantial harm to the Plaintiff. Such an award would fly in the face of
8 justice the Court so desperately should seek to serve.

9 The true purpose of the Anti-SLAPP law is to ensure that lawsuits are not brought lightly
10 against defendants for exercising their First Amendment rights. The instant lawsuit was not
11 brought lightly. Defendants continued to post and repost articles that were in fact false, even if
12 Defendants were justified in being wrong, the articles were false, which has already been proven
13 to this Court. The fact that the Court ultimately determined the speech was protected does not also
14 mean that Plaintiff was not justified in attempting to stop the irreparable harm that was being
15 caused by the continued posting of false claims by the Defendants. Therefore, Defendants'
16 Motion must be denied as requested and the attorneys' fees limited to defending the Motion to
17 Dismiss.

18 **FACTUAL BACKGROUND**

19 This matter arises out Defendants' multiple publication of false articles of and concerning
20 the Plaintiff. While this Court ruled those articles were justified based on Anti-SLAPP and some
21 privilege afforded to "news reporters" though that has never been established, the publications
22 were in fact false as they relayed information that was not accurate or truthful. Numerous specific
23 statements made within the articles were entirely false and fabricated.

24 **A. Time Line of Events**

| 25 Date | Event |
|----------------|--|
| 26 08/08/2018 | Defendants published <i>Kasee Bulen, Political Gypsy?</i> |
| 27 08/13/2018 | Defendants published <i>Kasee Bulen Under Investigation After Being Charged With Ethics Violations In Complaint Filed With GLVAR</i> |
| 28 08/20/2018 | Defendants published <i>Kasee Bulen Attacks President Trump</i> |

| | |
|---------------|--|
| 08/22-24/2018 | Plaintiff alleges Defendants sent harassing text messages, in part claiming Plaintiff “. . . would be politically destroyed, Plaintiff would never work for any politically candidate ever again, stating that if she cared about the party she would play nice with Defendant Lauer.” |
| 08/25/2018 | Defendant Lauer wrote and posted a 360 News Las Vegas article demeaning Plaintiff’s character, calling her a liar and questioning her credibility. |

III.

LEGAL ARGUMENT

I. Anti-SLAPP Attorneys’ Fees are Limited to the Special Motion to Dismiss Only.

“If the court grants a special motion to dismiss filed pursuant to NRS 41.660 [...] [t]he court shall award reasonable costs and attorneys’ fees to the person whom the action was brought [...]” NRS § 41.670(1)(a). California case law regarding Anti-SLAPP suits may be considered in Nevada courts because California’s Anti-SLAPP statute is in similar purpose and language to Nevada’s Anti-SLAPP statutes. *See John v. Douglas County School Dist.* 125 Nev. 764, 756 (2009).

“[T]he anti-SLAPP statute’s fee provision applies only to the motion to strike, and not to the entire action.” *Christian Research v. Alnor*, 165 Cal. App. 4th 1315, 81 Cal.Rptr.3d 866, 874 (2008). (internal quotes omitted). “[T]he anti-SLAPP statute is ‘intended to compensate a defendant for the expense of responding to a SLAPP suit. To this end, the provision is broadly construed so as to effectuate the legislative purpose of reimbursing the prevailing defendant for expenses incurred in extracting herself from a baseless lawsuit.’” *Graham-Sult v. Clainos*, 756 F.3d 724, 752 (9th Cir. 2014)(quoting *Wanland v. Law Offices of Mastagni, Holstedt & Chiurazzi*, 141 Cal. App. 4th 15, 45 Cal. Rptr.3d 633, 637 (2006) (citation omitted) (internal quotation marks omitted) (emphasis added)).

Here an award of attorneys’ fees and costs for the amount requested would be entirely inappropriate. The Defendants were the cause of the default for failure to appear in the action and file a responsive pleading. The Plaintiff was fully entitled to move forward with the litigation especially since the default was properly entered and the Defendants never moved to set it aside. The Defendants could have immediately filed their responsive pleading after being served,

1 however, they set on their rights and did not take any action in the case until Plaintiff began
2 moving forward with a default judgment. Therefore, an award of attorneys' fees for the entire
3 litigation is not appropriate and per persuasive case law should not be awarded.

4 Additionally, Plaintiff's Complaint was brought in good faith. The Defendants were
5 undoubtedly posting articles based on false information. While the Court has determined that the
6 Defendants were entitled to make a mistake in the publication, Plaintiff's reputation, career, and
7 future opportunities were all being destroyed. Well established case law, clearly illustrates that
8 the purpose of the anti-SLAPP statutes is to reimburse prevailing defendants for expenses incurred
9 in defending "baseless lawsuit[s]." *Wanland*, 45 Cal. Rptr.3d at 637 (2006). Plaintiff's case was
10 never baseless. Plaintiff suffered irreparable harm due to the inaccurate publication of false
11 information, for which an apology/retracting publication was never made. GLVAR unequivocally
12 stated that no complaint had ever been filed against the Plaintiff, yet Defendants continued to run
13 the story and post a fabricated report that was their basis of their news articles.

14 Defendants' seek attorneys' fees for the following items that should not be included in any
15 award this Court may consider:

- 16 1. 6/17/20: Draft notice of appearance... (0.30hrs)
- 17 2. 6/18/2020: Research and draft reply in support of motion to set aside ... (2.0)
- 18 3. 6/19/2020: Format and finalized reply ISO motion to ... (0.30)
- 19 4. 6/22/2020: Receipt of court minutes ... (0.10)
- 20 5. 6/23/2020: Prepare for and attend ... (0.40)
- 21 6. 6/23/2020: Began draft of order ... (0.30)
- 22 7. 6/23/2020: Edit order granting motion ... (0.20)
- 23 8. 6/30/2020: Review of email to... (0.10)
- 24 9. 7/1/2020: Review of email to ... (0.20)
- 25 10. 7/7/2020: Review of notice of hearing; updated calendar... (0.20)
- 26 11. 8/4/2020: Tele conf... (0.30)
- 27 12. 8/14/2020: Filed email sent by Mr. Kaplan ... (0.10)
- 28 13. 8/18/2020: Filed emails into our files finalized ... (0.20)

- 1 14. 8/27/2020: Draft statement of facts in motion for attorneys' fees (0.80)
2 15. 8/27/2020: Research and draft legal argument in motion for attorneys' fees
3 (5.60)
4 16. 8/27/2020: Draft declaration of Kaplan (0.60)
5 17. 8/27/2020: Review and redact billing entries...(0.90)
6 18. 8/27/2020: Draft memorandum of costs as exhibit ... (1.60)

7 An award for all of the above fees is not warranted as they were completely unrelated to
8 the Anti-SLAPP motion to dismiss. Defendants' are requesting 14.02 hours of billing unrelated
9 to the anti-SLAPP motion. This all should be removed from any award.

10 **B. In Arguendo, the Requested Attorney's Fees Award Should Be Reduced**

11 An award of attorney's fees pursuant to the Anti-SLAPP statutes should only apply to fees
12 associated with motion to strike Plaintiff's Complaint and not the entire action. *Christian*
13 *Research v. Alnor*, 165 Cal. App. 4th 1315, 81 Cal. Rptr. 3d 866, 874 (2008). Furthermore,
14 Defendants' counsel requested attorney rate is egregious in light of the *Brunzell v. Golden Gate*
15 *Nat. Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969) factors.

16 **1. Qualities Of Defendants' Counsel Does Not Warrant \$350 Per Hour**

17 Defendants' counsel did not offer any support for the rate of \$350 per hour. Defendants'
18 counsel did not provide any prior orders justifying this rate, nor did he provide his education
19 background, training, experience, industry awards/recognition, etc. Similarly, he did not provide
20 ANY support that the clients have actually PAID any amount or had agreed to pay the hourly rate
21 of \$350. Upon information and belief, the Defendants have not actually paid their counsel any
22 amount. There are no attorneys' fees if the Defendants did not actually pay any attorneys' fees.
23 In light of Defendants' failure to provide any supportive evidence for the outrageous rate, the
24 award of attorneys' fees must be reduced to \$200 per hour.

25 **2. Character of the Actual Work Done**

26 The character of the work performed in the Motion appears to be cut and paste from prior
27 actions. Notably the majority of Defendants' work comes research. Defendants billed 14.7 hours
28 associated with "research," equaling \$5145 solely for research. No reasonable attorney would

1 spend this outrageous amount of time on researching for a single Motion to Dismiss. Unless,
2 Defendants want to admit that they have never handled an anti-SLAPP action then this amount
3 research, on an issue they are likely familiar with, is not reasonable. The idea that the Defendants
4 would demand such an award raises concern about Defendants' entire billing.

5 3. Work Performed

6 Attorneys "CS" and "SS" failed to provide an affidavit that they actually performed any
7 of the work billed for in Exhibit B. These attorneys' billed 4.3 hours at a rate of \$175 per hour.
8 This work appears to be duplicative in nature to the work that was performed by attorney "KK".
9 As Defendants failed to provide an affidavit supporting the work billed, any award must be
10 reduced by \$752.50. The work of attorney "KK" is excessive and should be substantial reduced
11 due to the overbilling and duplicative nature of the work completed.

12 4. The Invoiced Time Is Excessive

13 Defendants' Exhibit B clearly shows that Defendants' claim for an award of fees includes
14 excessive fees, double billing or duplicative work, and the amount of research for a single motion
15 is outrageous. The Defendants' are also requesting fees for research on the request for attorneys'
16 fees and the drafting of the present motion. The charges are clearly not related to the anti-SLAPP
17 Motion and must be excluded.

18 C. Any Award of Attorneys' Fees must be Apportioned.

19 As a threshold issue, attorneys' fees must be limited to the anti-SLAPP Motion alone.
20 NRS §41.670; *Alnor* ("the anti-SLAPP statute's fee provision applies only the motion to strike,
21 and not to the entire action.").

22 As with most attorney's fee rulings, apportionment of attorneys' fees by a trial court is
23 discretionary. *U. of Nevada v. Tarkanian*, 879 P.2d 1180, 1187 (Nev. 1994) (holding modified by
24 *Exec. Mgt., Ltd. v. Ticor Title Ins. Co.*, 963 P.2d 265 (Nev. 1998)). The district court also has
25 discretion related to apportionment when there is a dispute as to the amount of work associated
26 with task. *Corsiglia v. Hammersmith*, 404 P.2d 8, 9, (Nev. 1965). "The court's apportionment will
27 not be disturbed on appeal in the absence of a showing of abuse of discretion." *Mau v. Woodburn*,
28 *Forman, Wedge, Blakey, Folsom and Hug*, 390 P.2d 721, 723 (Nev. 1964).

1 As noted earlier, attorneys' fees are applicable under the anti-SLAPP statute should only
2 be apportioned to the anti-SLAPP Motion. Therefore, the amount of any award should be reduced
3 by

4 **D. No Defendant Should Be Award Any Amount**

5 The anti-SLAPP statute allows this Court to consider an award of up to \$10,000 to each
6 Defendant. As identified herein, the purpose of such an award is to deter Plaintiffs from filing
7 frivolous motions attempting to restrain free speech. Plaintiff's Complaint was not brought for
8 any frivolous nature. Plaintiff was being harmed by the false publications. The publications were
9 affecting Plaintiff's career, business opportunities, and ability to function on a daily basis. Neither
10 Defendant was affected by the filing of the Complaint. They continued to publish against the
11 Plaintiff. They republished and reposted their articles multiple times on numerous social media
12 platforms. The instant litigation only provided additional articles for them to write about. They
13 used their platform to continue to criticize the Plaintiff and published an article about Plaintiff's
14 counsel. Therefore, Defendants should not be awarded any amount per statute.

15 **CONCLUSION**

16 Based on the above detailed analysis of the Motion, Defendants' should be awarded no
17 more than \$2,000 for the filing of the anti-SLAPP Motion. Further, Defendants' should not be
18 awarded any amount as allowed by statute as they were not harmed by the Complaint and the
19 Complaint was not brought in bad faith or for a frivolous purpose.
20

21 DATED this 15th day of September, 2020..
22

23 **BRANDON L. PHILLIPS,**
24 **ATTORNEY AT LAW, PLLC**

25
26 /s/ Brandon L. Phillips
27 BRANDON L. PHILLIPS, ESQ.
28 Nevada Bar No. 12264
1455 E. Tropicana Ave., Suite 750
Las Vegas, Nevada 89169

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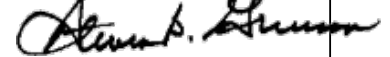
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC., and that on the 15th day of September, 2020, I served a true and correct copy of the foregoing DEFENDANTS MOTION FOR ATTORNEYS' FEES AND COSTS through the Eighth Judicial District Court's electronic filing system to the following:

KORY L. KAPLAN
KYLE P. COTTNER
850 E. Bonneville Ave.
Las Vegas, Nevada 89101
Attorney for Defendants

/s/ Brandon L. Phillips.
An employee of BRANDON L. PHILLIPS,
ATTORNEY AT LAW, PLLC

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BRANDON L. PHILLIPS, ESQ

Nevada Bar No. 12264

BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC

1455 E. Tropicana Ave., Suite 750

Las Vegas, NV 89119

P: (702) 795-0097; F: (702) 795-0098

blp@abetterlegalpractice.com

Attorney for Plaintiff, L. Bulen

DISTRICT COURT

* * *

CLARK COUNTY, NEVADA

LAWRA KASSEE BULEN,

Plaintiff,

vs.

STEVE SANSON, an Individual; ROB
LAUER, an Individual,

Defendant(s).

CASE NO.: A-18-784807-C

DEPT. NO.: VIII

NOTICE OF APPEAL

Please take notice that Plaintiff, LAWRA KASSEE BULEN, (hereinafter referred to as "Plaintiff") by and through her attorney, BRANDON L. PHILLIPS, ESQ., of the law firm of BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC hereby appeals to the Supreme Court of Nevada and/or the Appeals Court of the State of Nevada from:

1. The Court's ORDER GRANTING DEFENDANTS' SPECIAL ANTI-SLAPP MOTION TO DISMISS (Exhibit 1 – Order entered August 25, 2020).

///

///

///

///

1 2. All rulings and interlocutory orders made appealable by any of the foregoing, including any
2 subsequent award of attorneys' fees.

3 DATED this 24th day of September, 2020.

4 **BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC**

5 /s/ Brandon L. Phillips, Esq.
6 BRANDON L. PHILLIPS, ESQ
7 Nevada Bar No. 12264
8 1455 E. Tropicana Ave., Suite 750
9 Las Vegas, NV 89119
10 P: (702) 795-0097; F: (702) 795-0098
11 blp@abetterlegalpractice.com
12 *Attorney for Plaintiff, L. Bulen*

13 **CERTIFICATE OF SERVICE**

14 I HEREBY CERTIFY that on the 24th day of September, 2020, the undersigned, employee of
15 Brandon L. Phillips, Attorney at Law, PLLC, served a true and correct copy of the **NOTICE OF**
16 **APPEAL** via the District Court's electric filing system through Odyssey and by depositing a copy of
17 the same in the United States Mail in an addressed sealed envelope, postage prepaid, to the following
18 addresses:

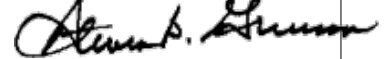
19 **KORY L. KAPLAN**
20 **KYLE P. COTTNER**
21 **850 E. Bonneville Ave.**
22 **Las Vegas, Nevada 89101**
23 *Attorneys for Defendants*

24 /s/Robin Tucker
25 An employee of,
26 Brandon L. Phillips, Attorney at Law, PLLC
27
28

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Exhibit 1

Exhibit 1



1 **NEOJ**
2 KAPLAN COTTNER
3 KORY L. KAPLAN
4 Nevada Bar No. 13164
5 Email: kory@kaplancottner.com
6 850 E. Bonneville Ave.
7 Las Vegas, Nevada 89101
8 Telephone: (702) 381-8888
9 Facsimile: (702) 832-5559
10 *Attorneys for Defendants*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 LAWRA KASSEE BULEN an individual,
11 Plaintiff,

CASE NO. A-18-784807-C
DEPT. 8

12 vs.

NOTICE OF ENTRY OF ORDER

13 ROB LAUER, an individual, STEVE SANSON,
14 an individual, and DOES I through X; and ROE
15 CORPORATIONS I through X, Inclusive,
16 Defendants.

17 NOTICE IS HEREBY GIVEN that on the 21st day of August, 2020, an *Order Granting*
18 *Defendants' Special Motion to Dismiss Complaint Pursuant to NRS 41.660 ("Order")*, was entered
19 in the above-entitled matter, a copy of said Order is attached hereto.

20 Dated: August 25, 2020.

KAPLAN COTTNER

21
22 By: /s/ Kory L. Kaplan
23 KORY L. KAPLAN
24 Nevada Bar No. 13164
25 850 E. Bonneville Ave.
26 Las Vegas, Nevada 89101
27 *Attorney for Defendants*
28

KAPLAN COTTNER
850 E. Bonneville Ave.
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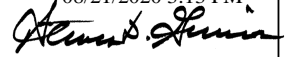
CERTIFICATE OF SERVICE

I hereby certify that the *Notice of Entry of Order* submitted electronically for filing and/or service with the Eighth Judicial District Court on the 25th day of August, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows¹:

Attorneys for Plaintiff
Brandon Phillips
(blp@abetterlegalpractice.com)
Robin Tucker
(rtucker@abetterlegalpractice.com)

/s/ Sunny Southworth
An employee of Kaplan Cottner

¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).


CLERK OF THE COURT

1 **ORDG**
2 KAPLAN COTTNER
3 KORY L. KAPLAN
4 Nevada Bar No. 13164
5 Email: kory@kaplancottner.com
6 KYLE P. COTTNER
7 Nevada Bar No. 12722
8 Email: kyle@kaplancottner.com
9 850 E. Bonneville Ave.
10 Las Vegas, Nevada 89101
11 Telephone: (702) 381-8888
12 Facsimile: (702) 832-5559
13 *Attorneys for Defendants*

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 LAWRA KASSEE BULEN an individual,
12
13 Plaintiff,

14 vs.

15 ROB LAUER, an individual, STEVE SANSON,
16 an individual, and DOES I through X; and ROE
17 CORPORATIONS I through X, Inclusive,
18 Defendants.

CASE NO.: A-18-784807-C
DEPT. NO.: 8

ORDER GRANTING DEFENDANTS'
SPECIAL MOTION TO DISMISS
COMPLAINT PURSUANT TO NRS
41.660

Date of Hearing: August 4, 2020
Time of Hearing: 9:30 a.m.

18 THIS MATTER having come before the Court with respect to *Defendants' Special Motion*
19 *to Dismiss Complaint Pursuant to NRS 41.660* ("Motion") commencing on August 4, 2020 at the
20 hour of 9:30 a.m.; Kory L. Kaplan, Esq. of the law firm of Kaplan Cottner, appearing on behalf of
21 Defendants Rob Lauer and Steve Sanson (collectively, "Defendants"); and Brandon L. Phillips,
22 Esq., appearing on behalf of Plaintiff Lawra Kassee Bulen ("Plaintiff"); the Court having read and
23 considered Defendants' Motion, the Opposition and Reply on file, and the exhibits attached
24 thereto; and the Court having heard and considered the arguments of counsel, and good cause
25 appearing therefor, the Court finds the following:

26 **I.**

27 **FINDINGS OF FACT**

28 1. On November 20, 2018, Plaintiff filed her Complaint against Defendants for: (1)

KAPLAN COTTNER
850 E. Bonneville Ave.
Las Vegas, Nevada 89101
Tel: (702) 381-8888 Fax: (702) 832-5559

1 Defamation; (2) Defamation Per Se; (3) Invasion of Privacy: False Light; (4) Invasion of Privacy:
2 Unreasonable Publicity Given to Private Facts; (5) Intentional Interference with Prospective
3 Economic Advantage; (6) Intentional Infliction of Emotional Distress; (7) Negligence Per Se; (8)
4 Concert of Action; and (9) NRS 42.005 Request for Exemplary and Punitive Damages.

5 2. On July 2, 2020, Defendants filed the Motion.

6 3. In their Motion, Defendants argue that each of Plaintiff's causes of action arise from
7 protected speech in the form of several published articles and a video.

8 4. Attached to the Motion are declarations from each of the Defendants, stating that
9 the articles and video are truthful, made without Defendants' knowledge of any falsehood, and/or
10 are the opinions of Defendants.

11 II.

12 CONCLUSIONS OF LAW

13 5. Nevada's anti-SLAPP ("Strategic Lawsuit Against Public Participation") statutes
14 aim to protect First Amendment rights by providing defendants with a procedural mechanism to
15 dismiss "meritless lawsuit[s] that a party initiates primarily to chill a defendant's exercise of his
16 or her First Amendment free speech rights" before incurring the costs of litigation. *Stubbs v.*
17 *Strickland*, 129 Nev. 146, 150, 297 P.3d 326, 329 (2013). Nevada's anti-SLAPP statute is codified
18 in NRS 41.635 thru NRS 41.670, inclusive.

19 6. Nevada's anti-SLAPP statutes "create a procedural mechanism to prevent wasteful
20 and abusive litigation by requiring the plaintiff to make an initial showing of merit." *John v.*
21 *Douglas Cnty. Sch. Dist.*, 125 Nev. 746, 757-58, 219 P.3d 1276, 1284 (2009); *U.S. ex rel. Newsham*
22 *v. Lockheed Missiles & Space Co.*, 190 F.3d 963, 970-71 (9th Cir. 1999) ("The hallmark of a
23 SLAPP suit is that it lacks merit, and is brought with the goals of obtaining an economic advantage
24 over a citizen party by increasing the cost of litigation to the point that the citizen party's case will
25 be weakened or abandoned, and of deterring future litigation."). The Nevada Legislature has
26 further "explained that SLAPP lawsuits abuse the judicial process by chilling, intimidating and
27 punishing individuals for their involvement in public affairs." *John*, 125 Nev. at 752, 29 P.3d
28 1281.

1 7. Under Nevada’s anti-SLAPP statutes, a moving party may file a special motion to
2 dismiss if an action is filed in retaliation to the exercise of free speech. *Coker v. Sassone*, 135 Nev.
3 8, 11–12, 432 P.3d 746, 749–50 (2019). A district court considering a special motion to dismiss
4 must undertake a two-prong analysis. First, it must “[d]etermine whether the moving party has
5 established, by a preponderance of the evidence, that the claim is based upon a good faith
6 communication in furtherance of ... the right to free speech in direct connection with an issue of
7 public concern.” NRS 41.660(3)(a). If successful, the district court advances to the second prong,
8 whereby “the burden shifts to the plaintiff to show ‘with prima facie evidence a probability of
9 prevailing on the claim.’” *Shapiro v. Welt*, 133 Nev. 35, 38, 389 P.3d 262, 267 (2017) (quoting
10 NRS 41.660(3)(b)). Otherwise, the inquiry ends at the first prong, and the case advances to
11 discovery.

12 8. A moving party seeking protection under NRS 41.660 need only demonstrate that
13 his or her conduct falls within one of four statutorily defined categories of speech, rather than
14 address difficult questions of First Amendment law. *See Delucchi v. Songer*, 133 Nev. 290, 299,
15 396 P.3d 826, 833 (2017). NRS 41.637(4) defines one such category as: “[c]ommunication made
16 in direct connection with an issue of public interest in a place open to the public or in a public
17 forum ... which is truthful or is made without knowledge of its falsehood.”

18 9. The published articles and video were made in a public forum. *Damon v. Ocean*
19 *Hills Journalism Club*, 85 Cal.App.4th 468, 475, 102 Cal.Rptr.2d 205) (2000).¹

20 10. The published articles and video concern an issue of public interest as Plaintiff
21 states in her Complaint that she is a campaign manager for Republican candidates and a
22 professional real estate agent.

23 11. All of Plaintiff’s causes of action in the Complaint are based upon protected speech
24 by Defendants as the underlying conduct central to each of the causes of action are good-faith
25

26 ¹ The Nevada Supreme Court considers California case law when determining whether Nevada’s
27 anti-SLAPP statute applies to a claim because California’s anti-SLAPP statute is similar in purpose
28 and language to Nevada’s anti-SLAPP statute. *John v. Douglas Cnty. Sch. Dist.*, 125 Nev. 746,
756, 219 P.3d 1276, 1283 (2009); *see* NRS 41.660; Cal.Civ.Proc.Code § 425.16 (West 2004 &
Supp. 2009).

1 communications. *Abrams v. Sanson*, 136 Nev. Adv. Op. 9, 458 P.3d 1062 (2020); *Veterans in*
2 *Politics Int'l, Inc. v. Willick*, 457 P.3d 970 (Nev. 2020) (unpublished).

3 12. Defendants have satisfied their burden under the first prong of the anti-SLAPP
4 analysis as they have demonstrated that their statements were either truthful or made without
5 knowledge of their falsity, the statements concern matters of public concern, and the statements
6 were made in a public forum.

7 13. As such, the burden shifts to Plaintiff to show “with prima facie evidence a
8 probability of prevailing on the claim.” *Shapiro*, 133 Nev. at 38, 389 P.3d at 267 (quoting NRS
9 41.660(3)(b)).

10 14. In reviewing Plaintiff’s probability of prevailing on each of her claims arising from
11 protected good-faith communications, Plaintiff has not shown minimal merit.

12 15. Plaintiff’s defamation claim and defamation per se claim lack minimal merit
13 because Defendants’ statements were truthful, made without knowledge of falsehood, and/or were
14 opinions that therefore could not be defamatory. *See Pegasus v. Reno Newspapers, Inc.*, 118 Nev.
15 706, 718, 57 P.3d 82, 90 (2002) (excluding statements of opinion from defamation).

16 16. Plaintiff has not shown minimal merit supporting her claims for invasion of privacy
17 because she failed to show that she was placed in a false light that was highly offensive or that
18 Defendants’ statements were made with knowledge or disregard to their falsity. *See Restatement*
19 *(Second) of Torts* § 652E (1977).

20 17. Plaintiff’s claim for intentional interference with prospective business advantage
21 lacks minimal merit as Plaintiff has not demonstrated that the statements were false or that there
22 was otherwise wrongful or unjustified conduct on the part of Defendants. *Klein v. Freedom*
23 *Strategic Partners, LLC*, 595 F. Supp. 2d 1152 (D. Nev. 2009).

24 18. Plaintiff has not shown that her intentional infliction of emotional distress (IIED)
25 claim had minimal merit because she did not show extreme and outrageous conduct beyond the
26 bounds of decency. *See Olivero v. Lowe*, 116 Nev. 395, 398, 995 P.2d 1023, 1025 (2000) (stating
27 IIED claim elements); *Maduike v. Agency Rent-A-Car*, 114 Nev. 1, 4, 953 P.2d 24, 26 (1998)
28 (considering “extreme and outrageous conduct” as that which is beyond the bounds of decency).

1 *See Candelore v. Clark Cty. Sanitation Dist.*, 975 F.2d 588, 591 (9th Cir. 1992) (considering claim
2 for IIED under Nevada law and observing that “[l]iability for emotional distress will not extend to
3 ‘mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities’” (quoting
4 *Restatement (Second) of Torts* § 46 cmt. d (1965))).

5 19. Plaintiff did not show minimal merit supporting her claim for concert of action
6 because she did not show any tortious act or that Defendant agreed to conduct an inherently
7 dangerous activity or an activity that poses a substantial risk of harm to others. *See GES, Inc. v.*
8 *Corbitt*, 117 Nev. 265, 271, 21 P.3d. 11, 15 (2001).

9 20. Since there is no minimal merit supporting any of Plaintiff’s other causes of action,
10 Plaintiff’s claim for punitive damages must also be dismissed. NRS 24.005.

11 21. As a result, Plaintiff has failed to meet her burden under the second prong of the
12 anti-SLAPP analysis.

13 22. As a matter of law, Defendants are entitled to attorney’s fees and costs, and may
14 also be awarded, in addition to reasonable costs and attorney’s fees, an amount of up to \$10,000
15 per Defendant. NRS 41.670(1)(a)-(b).

16 23. Defendants shall file a separate motion for attorney’s fees, costs, and an award
17 pursuant to NRS 41.670(1)(a)-(b).

18 **III.**

19 **ORDER**

20 Based on the foregoing findings of fact and conclusions of law,

21 **IT IS HEREBY ORDERED** that Defendants’ Special Motion to Dismiss Complaint
22 Pursuant to NRS 41.660 is **GRANTED** in its entirety.

23 **IT IS HEREBY FURTHER ORDERED** that Defendants are entitled to attorney’s fees
24 and costs, and may also be awarded, in addition to reasonable costs and attorney’s fees, an amount
25 of up to \$10,000 per Defendant.

26 ...

27 ...

28 ...

KAPLAN COTTNER
850 E. Bonneville Ave.
Las Vegas, Nevada 89101
Tel: (702) 381-8888 Fax: (702) 832-5559

1 IT IS SO ORDERED this ____ day of August, 2020.

2 Dated this 21st day of August, 2020

3 

4 HONORABLE TREVOR L. ATKIN

5 62A 31E 23DA 206C EIGHTH JUDICIAL DISTRICT COURT JUDGE
Trevor Atkin
District Court Judge

6 Respectfully Submitted By:

Approved as to form and content:

7 Dated: August 18, 2020

Dated: August 18, 2020

8 KAPLAN COTTNER

BRANDON L. PHILLIPS, ATTORNEY
AT LAW, PLLC

9 By: /s/ Kory L. Kaplan

By: /s/ Brandon L. Phillips

10 KORY L. KAPLAN

BRANDON L. PHILLIPS

11 Nevada Bar No. 13164

Nevada Bar No. 12264

12 850 E. Bonneville Ave.

1455 E. Tropicana Ave., Suite 750

Las Vegas, NV 89101

Las Vegas, NV 89119

Attorneys for Defendants

Attorney for Plaintiff

Sunny Southworth

From: Brandon Phillips <blp@abetterlegalpractice.com>
Sent: Tuesday, August 18, 2020 11:20 AM
To: Kory Kaplan
Cc: Kyle Cottner; Sunny Southworth
Subject: RE: Bulen-Lauer Order Granting Anti-Slapp Motion

Follow Up Flag: Follow up
Flag Status: Completed

Kory,

You can use my e-signature for the Order.

Thank you,

BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC

Brandon L. Phillips, Esq.
1455 E. Tropicana Ave., Suite 750
Las Vegas, Nevada 89119
Phone: 702-795-0097
Facsimile: 702-795-0098
Email: blp@abetterlegalpractice.com

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From: Kory Kaplan <kory@kaplancottner.com>
Sent: Monday, August 10, 2020 3:18 PM
To: Brandon Phillips <blp@abetterlegalpractice.com>
Cc: Kyle Cottner <kyle@kaplancottner.com>; Sunny Southworth <sunny@kaplancottner.com>
Subject: Bulen-Lauer Order Granting Anti-Slapp Motion

Brandon,

Please see the attached draft of the order granting Defendants' Special Motion to Dismiss Complaint Pursuant to NRS 41.660. Please let me know if you have any edits.

Thanks,
Kory



Kory L. Kaplan, Esq.
850 E. Bonneville Ave.
Las Vegas, NV 89101
Tel (702) 381-8888
Fax (702) 382-1169
www.kaplancottner.com

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Lawra Bulen, Plaintiff(s)

CASE NO: A-18-784807-C

7 vs.

DEPT. NO. Department 8

8 Rob Lauer, 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 Order Granting was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 8/21/2020

15 Brandon Phillips

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16 Paul Padda

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18 Rob Lauer

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19 Rob Lauer

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20 Robin Tucker

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21 Kory Kaplan

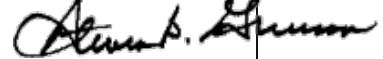
kory@kaplancottner.com

22 Sara Savage

sara@lzkclaw.com

23 Sunny Southworth

sunny@kaplancottner.com



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 LAWRA BULEN,
9 Plaintiff,

CASE#: A-18-784807-C
DEPT. VIII

10 vs.

11 ROB LAUER,
12 Defendant.

13
14 BEFORE THE HONORABLE TREVOR ADKIN, DISTRICT COURT JUDGE
15 TUESDAY, OCTOBER 6, 2020

16 **RECORDER'S TRANSCRIPT OF VIDEO CONFERENCE HEARING**
17 **DEFENDANTS' MOTION FOR ATTORNEYS' FEES AND COSTS AND**
18 **ADDITIONAL RELIEF PURSUANT TO NRS 41.660 AND NRS 41.670**

19 APPEARANCES:

20 For the Plaintiff:

BRANDON L. PHILLIPS, ESQ.
(via BlueJeans)

21 For the Defendant:

KORY L. KAPLAN, ESQ.
(via BlueJeans)

22
23
24 RECORDED BY: NANCY MALDONADO, COURT RECORDER
25

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INDEX

Motion, granted

Page
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1 Las Vegas, Nevada, Tuesday, October 6, 2020

2
3 [Case called at 11:13 a.m.]

4 THE COURT RECORDER: 1, A784807, Lawra Bulen versus
5 Rob Lauer. We have Kory Kaplan.

6 And who do we have for the Plaintiff?

7 MR. PHILLIPS: Good morning, Attorney Brandon Phillips, bar
8 number 12264.

9 THE COURT: Good morning, Mr. Phillips.

10 Good morning, Mr. Kaplan.

11 I've reviewed the briefing on this. It's -- well, it's relatively
12 simple, straightforward matter as far as statutory construction.
13 Nevertheless, I do -- will entertain some brief oral argument.

14 It's your motion, Mr. Kaplan. Please address the issue
15 primarily as to the reasonableness of your fees, and the Brunzell factors,
16 and then why I should award an additional up to \$10,000 under NRS
17 41.660 subpart (b) as in boy?

18 MR. KAPLAN: Thank you, Your Honor. You know, before I
19 get to the fees part, I just want to address Plaintiff's one argument that
20 the fees should not be for the entire case. They should just be for the
21 Motion to Dismiss.

22 Plaintiff cites to the Christian Research case, a California case
23 that limited recovery to just the motion to strike. Distinguishable from
24 this case, that case did not dispose of the entire case, which happened
25 here.

1 Actually, the 9th Circuit case of Graham Stultz [phonetic]
2 expressly rejected Plaintiff's same argument because the motion
3 disposed of the entire case. Here, it was the entire case, all nine causes
4 of action.

5 And that the 9th Circuit held there at the outset, the entire
6 action against defendants was subject of the motion [indiscernible] the
7 cause of action against them survives it. Thus, the rule Plaintiff's cites
8 from Christian Research does not control the outcome here.

9 Therefore, all of my fees and costs are recoverable per
10 statute, not just the ones associated with the Anti-SLAAP motion.

11 And there weren't many or much beyond that. There was a
12 Motion to Set Aside the Default that the Court granted when I was, you
13 know, or soon after I was retained.

14 It should be noted that, you know, Plaintiff in opposition to that
15 and with its countermotion sought over \$1.5 million from the Defendant.

16 But the district court in that case awarded \$134,000 in fees
17 and all requested costs. And here, Defendants are merely seeking a
18 little over \$16,000 in attorneys' fees and costs, \$10,000 per Defendant
19 pursuant to NRS 41. [indiscernible].

20 So to move on to my fees, Plaintiff first argues that my rate of
21 \$350 per hour is egregious, the 14.7 hours of Westlaw research is
22 outrageous, and there was duplicative work done by my paralegals and
23 me.

24 As to the \$350 rate, the Plaintiff argues that I should be only
25 entitled to \$200 per hour without any justification or anything at all, just

1 conclusory \$200 an hour.

2 My rate as an associate attorney in my first year of practice
3 was over \$200 an hour when I was at the law firm of Silver. You know,
4 it's been over seven years since that.

5 According to the Laffey Matrix, I should be, you know,
6 somewhere in the \$465 range and above. You know, as to my
7 experience and educational background, I lay all of that out in my
8 declaration.

9 I went to UCLA. I got a law degree from Arizona. I worked for
10 the Honorable Jackie Glass and for Ron Israel. I'm also -- I am and
11 have been for a number of years an executive committee member of the
12 litigation section of the State Bar.

13 The -- also I'm -- you know, in talking to my peers, I'm low,
14 honestly, and especially with the ones with expertise in Anti-SLAAP
15 motion, a very complex area of law as Your Honor is [indiscernible].

16 And you know, the 14.7 hours of research is extremely low on
17 such a substantive -- I think had over a 20-page Anti-SLAAP motion.
18 And the reason the research, you know, only took me 14.7 hours was
19 because of my prior familiarity with the topic.

20 The -- you know, the Plaintiff's contention that no reasonable
21 attorney would spend an outrageous amount of time is without any
22 justification. Anti-SLAAP law is extremely complex. And like I said, that
23 amount of time was very, you know, minimal.

24 You know, I know it wasn't Mr. Phillips, but had Plaintiff's
25 counsel, you know, researched -- prior counsel researched this topic,

1 even a little, then you know, the complaint filing never would have filed.

2 So, you know, in talking to some of my other, you know,
3 peers, especially ones that focus on First Amendment and defamation
4 law, you know, my rate is extremely low. And you know, I imagine Your
5 Honor's going to feel I have higher rates and a lot more than 14.7 hours
6 of research.

7 And then to the final point, Plaintiff points to nothing in my
8 billings that is duplicative of the work done by my paralegals and me. I
9 did all of the research, all of the writing, all of the arguments associated
10 with this case.

11 You know, with that said, Defendants respectfully request fees
12 in the modest amount is \$16,415 and costs in the amount of \$281.84.

13 As for the \$10,000 per Defendant, you know, I understand that
14 that is subjective. You know, and it's not a shall, it's a may. But you
15 know, I would like to, you know, draw the Court's attention that my
16 clients have been unnecessarily dragged into this lawsuit.

17 Specifically, you know, Steve Sanson, as I cited in my Anti-
18 SLAAP motion, was subject to two prior complaints that she was
19 successful on Anti-SLAAP relief.

20 And, you know, this is going to continue to come and harass
21 my clients. You know, they've expended a great deal of effort and time,
22 you know, even representing themselves, you know, during a portion of
23 this case. And they're both political journalists.

24 And so, you know, unless this Court sanctions the Plaintiff,
25 you know, with an amount of \$10,000 per Defendant, and really you

1 know, pursuant to the statute gives notice to Plaintiffs to recognize the
2 privileges associated with this -- with the journalists, you know, this is
3 going to continue to come.

4 So, you know, that is our request. I believe it adds for a total
5 of \$36,696.84. That is not including my time, you know, spent preparing
6 and attending this hearing today and I'm not seeking that. So that
7 should also come in.

8 THE COURT: All right, thank you.

9 Mr. Phillips?

10 MR. PHILLIPS: Good afternoon, Your Honor. In reviewing
11 this and in our opposition to the motion, you spent 14 hours, that's
12 almost two entire days of doing research on a issue of law that he
13 allegedly is very familiar with.

14 I think that's outrageous under any consideration just to do
15 research. That's not including the writing, that's not including anything
16 else. That's just research done on this case.

17 And if you look at -- even if you go back and you look at the
18 other hours that were added prior to drafting the motion, and there are
19 numerous hours spent in this case just devoted to client meetings, client
20 review, Court minutes, reviewing Court minutes, reviewing emails, I
21 mean, hours upon hours of stuff that are completely unrelated to this
22 Motion to Dismiss.

23 Additionally, they also included time for two other attorneys,
24 C.S. and S. S. They included no affidavit for either one those. That was
25 another 4.3 hours of work that was billed for, where there is no affidavit

1 supporting their present motion.

2 So we believe that any amount of work should be reduced by
3 all of those hours. We're asking the Court to reduce by about
4 approximately 20 hours' worth of work that Mr. or that the Plaintiffs are
5 seeking, or sorry, the Defendants are seeking here.

6 In addition, Your Honor, we're looking at the purpose of the
7 statute. The purpose of the statute or the Anti-SLAAP statute is to
8 prevent frivolous filings. This is not a frivolous filing.

9 This Court found that these individuals who run an online
10 website are political journalists. They have no credentials for that. They
11 have essentially a website and somehow they have now become
12 political journalists.

13 Even though that the -- even though they allege that they are
14 political journalists, they filed and wrote about Ms. Bulen. And they
15 wrote false statements about Ms. Bulen.

16 They admitted that those statements were false. There's -- we
17 proved that the statements that they wrote about her were false, many of
18 them, not all of them, but many of them before the case was dismissed.

19 She had the right to file a lawsuit. It was not frivolous. She
20 was being exposed online and things were being said about her that
21 were completely false.

22 This Court found that they had as political journalists, they had
23 the right to err. They had the right to, you know be wrong, but that
24 doesn't mean that she didn't have a right to at least file the complaint
25 and find out where they got their information.

1 We believe that had the Court allowed discovery, the Court
2 would have found that all of this was made up by the Defendants and
3 they never had any of that information. We didn't get that far.

4 However, she was reasonable in filing the complaint. And
5 we've provided proof of why she filed the complaint. And, therefore, I
6 believe the Court should not award the \$10,000 because that's not part
7 of the analysis here.

8 The analysis is to look at the Plaintiffs and see if they're filing
9 frivolous lawsuits. What they're asking you to do here, Your Honor, is
10 punish her for other individuals filing lawsuits against the Defendant.

11 And that's, again, not what happened here. She has her own
12 personal complaint. She had reasonable belief that they were posting
13 false information.

14 It was false. The Court found the information to be false. And
15 therefore, it's not frivolous. So they are not entitled to anything.

16 The other thing that's important here is, Your Honor, there was
17 no dispute that the Defendants were served with this case. They were
18 served and they participated in the litigation.

19 They never -- they were defaulted. They've never participated
20 until almost two years down the road. At any time, they could have tried
21 to set aside the default, but they didn't.

22 At that time, Plaintiff had a reasonable -- had a -- or could
23 have reasonably believed that the Defendants were not disputing her
24 claims.

25 They were noticed properly. They appeared in the case. So

1 they should also be held to some responsibility for the case getting this
2 far down the road.

3 I mean, if you know that Defendant -- the Court has already
4 found and there's case law supporting this is that when a Defendant
5 does not file an opposition, it's deemed admitted.

6 Well, they didn't file an answer until, you know, essentially two
7 years down the road. So Ms. Bulen was proper in moving forward with
8 her case.

9 She had reason to believe that her complaints were valid. It
10 was almost deemed as an admission until the Court later set aside this
11 through setting aside the default.

12 So the idea now that you're looking in retrospect that Ms.
13 Bulen should have never filed it, well, the Defendants never disputed it
14 until the very end of the case until she had already moved for default
15 judgment and everything else.

16 So the Court should take that into account. Ms. Bulen had a
17 proper claim. Ms. Bulen had legitimate claims that were postings of
18 information that was being widely distributed on the Internet that were
19 actually false.

20 And the other part -- and other important part that I think this
21 Court must consider is Plaintiff actually suffered damages because of
22 the false reporting.

23 She did suffer damages. She was interviewed and talked with
24 GALVAR. Her licensing and her ability to be a realtor was called into
25 question publicly throughout the community on various social media

1 websites.

2 She was actually harmed by their false publications. And the
3 Court should consider that in determining whether or not an award of
4 attorneys' fees and the additional award of \$10,000 should be given to
5 each Plaintiff.

6 THE COURT: All right, I'm ready to rule on this. Specifically,
7 I'm going to follow NRS 41.660(a) as pertains to fees and costs. And in
8 that regard, I think that the hourly rate was reasonable. The time spent
9 was reasonable. And I believe that the action encompasses all fees
10 incurred. That was the intention of the statute. The statute is not limited
11 as to actual work on the case.

12 So I'm therefore going to order the amount of fees of \$16,415,
13 that includes the cost of preparing this Motion and Reply. I'm going to
14 award costs of \$281.84.

15 As to the second section, as to what the Court may award up
16 to \$10,000, I am going to deny that part of the motion. I don't believe the
17 action was brought in bad faith or for any ill reason.

18 As to whether it needs to send a message or more suits will
19 come, I don't find that persuasive. I can't predict the future. And if that
20 were to happen, if more suits are filed, then perhaps that may be
21 something that can be addressed in a different case, but it's not
22 happened at this time.

23 I'm going to request that Mr. Kaplan prepare the order in that
24 regard.

25 MR. KAPLAN: Thank you, Your Honor, I'll circulate to it

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counsel.

THE COURT: Thank you.

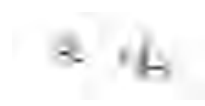
MR. PHILLIPS: Thank you. Your Honor.

THE COURT: Thank you.

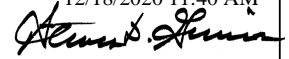
[Proceedings concluded at 11:28 a.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Chris Hwang
Transcriber


CLERK OF THE COURT

ORD

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Attorney for Plaintiff, L. Bulen

**DISTRICT COURT
CLARK COUNTY, NEVADA**

LAWRA KASSEE BULEN,

Plaintiff,

vs.

STEVE SANSON, an Individual; ROB
LAUER, an Individual,

Defendant.

CASE NO. A-18-784807-C

DEPT. NO. 8

ORDER ON DEFENDANTS'

MOTION FOR ATTORNEYS' FEES

Hearing Date: October 6, 2020

THIS MATTER, having come before the Court with respect to *Defendants' Motion for Attorney's Fees, Costs, and Additional Relief pursuant to NRS 41.660 and NRS 41.670* ("Motion"), commencing on October 6, 2020 at the hour of 9:30 a.m.; Kory L. Kaplan, Esq. of the law firm of Kaplan Cottner, appearing on behalf of Defendants Rob Lauer and Steve Sanson (collectively, "Defendants"); and Brandon L. Phillips, Esq., appearing on behalf of Plaintiff Lawra Kassee Bulen ("Plaintiff"); the Court having read and considered Defendants' Motion, the Opposition and Reply on file, and the exhibits attached thereto; and the Court having heard and considered the arguments of counsel, and good cause appearing therefor, the Court finds the following:

I.
FINDINGS OF FACT

1. On November 20, 2018, Plaintiff filed her Complaint against Defendants for: (1) Defamation; (2) Defamation Per Se; (3) Invasion of Privacy: False Light; (4) Invasion of Privacy: Unreasonable Publicity Given to Private Facts; (5) Intentional Interference with Prospective Economic Advantage; (6) Intentional Infliction of Emotional Distress; (7) Negligence Per Se; (8) Concert of Action; and (9) NRS 42.005 Request for Exemplary and Punitive Damages.

2. On July 2, 2020, Defendants filed their Special Motion to Dismiss the Complaint pursuant to Nevada Revised Statutes (“NRS”) 41.660.

3. At the oral argument on August 4, 2020, the Court granted Defendants’ Special Motion to Dismiss in its entirety.

4. On August 25, 2020, Notice of Entry of Order was entered on the Court’s Order Granting Defendants’ Special Motion to Dismiss. The findings of fact and conclusions of law within the Court’s Order Granting Defendants’ Special Motion to Dismiss in its entirety is hereby incorporated by reference.

5. Defendants prevailed on obtaining dismissal of Plaintiff’s entire Complaint under Nevada’s anti-SLAPP statute, NRS § 41.660.

6. That Plaintiff’s claims were not brought in bad faith or for a frivolous purpose.

7. On September 1, 2020, Defendants filed the Motion.

8. On September 15, 2020, Plaintiff filed her Opposition to the Motion.

9. On September 29, 2020, Defendants filed their Reply in support of the Motion.

10. Defendants incurred \$16,415.00 in attorney’s fees and \$281.84 in costs related to this entire matter.

II.
CONCLUSIONS OF LAW

11. Nevada’s anti-SLAPP (“Strategic Lawsuit Against Public Participation”) statutes aim to protect First Amendment rights by providing defendants with a procedural mechanism to dismiss “meritless lawsuit[s] that a party initiates primarily to chill a defendant’s exercise of his

1 or her First Amendment free speech rights” before incurring the costs of litigation. *Stubbs v.*
2 *Strickland*, 129 Nev. 146, 150, 297 P.3d 326, 329 (2013). Nevada’s anti-SLAPP statute is
3 codified in NRS 41.635 thru NRS 41.670, inclusive.

4 12. A moving party seeking protection under NRS 41.660 need only demonstrate that
5 his or her conduct falls within one of four statutorily defined categories of speech, rather than
6 address difficult questions of First Amendment law. *See Delucchi v. Songer*, 133 Nev. 290, 299,
7 396 P.3d 826, 833 (2017). NRS 41.637(4) defines one such category as: “[c]ommunication made
8 in direct connection with an issue of public interest in a place open to the public or in a public
9 forum ... which is truthful or is made without knowledge of its falsehood.”

10 13. When an anti-SLAPP motion disposes of every cause of action, it is appropriate to
11 award all attorney’s fees incurred in connection with the case, even if not directly related to the
12 anti-SLAPP motion, because the successful movant “incurred the expenses Plaintiffs dispute in
13 responding to a lawsuit the district court found baseless.” *Graham-Suit v. Clainos*, 738 F.3d 1131,
14 1159 (9th Cir. 2013) (*affirmed in Graham-Suit v. Clainos*, 756 F.3d 724, 752 (9th Cir. 2014);
15 *Wanland v. Law Offices of Mastagni, Holstedt & Chiurazzi*, 141 Cal.App.4th 15, 45 Cal.Rptr.3d
16 633, 637 (2006) (“[T]o this end, the provision is broadly construed so as to effectuate the
17 legislative purpose of reimbursing the prevailing defendant for expenses incurred in extracting
18 herself from a baseless lawsuit.”).

19 14. Additionally, an award of anti-SLAPP costs and fees includes fees incurred after
20 the motion is granted. *See Wanland v. Law Offices of Mastagni, Holstedt & Chiurazzi*, 141 Cal.
21 App. 4th 15, 21 (2006) (finding that fees recoverable under anti-SLAPP statute include all post-
22 motion fees, such as fees on fees, fees in connection with defending an award of fees, and fees on
23 appeal of an order granting an Anti-SLAPP motion).

24 15. In Nevada, trial courts “have great discretion to award attorney fees, and this
25 discretion is tempered only by reason and fairness.” *Haley v. Dist. Ct.*, 128 Nev. Adv. Op. 16,273
26 P.3d 855, 860 (2012) (citing *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 864, 124
27 P.3d 530, 548-49 (2005)); *see also Bergmann v. Boyce*, 109 Nev. 670, 674, 856 P.2d 560, 563
28

1 (1993) (attorney's fees are "within the sound discretion of the trial court").)

2 16. In determining the reasonableness and amount of an attorney's fee award, a court
3 may begin its analysis with any method rationally designed to calculate a reasonable amount.
4 *Shuette v. Beazer Homes*, 121 Nev. 837, 864; 124 P.3d 530, 549 (2005). Whether the court seeks
5 to award the entire amount of attorney's fees or use an alternative approach, the court must
6 consider the requested amount in light of the factors enumerated in *Brunzell v. Golden Gate*
7 *National Bank*, 85 Nev. 345, 349; 455 P.2d 31 (1969), "namely, (1) the advocate's professional
8 qualities, (2) the nature of the litigation, (3) the work performed, and (4) the result." *Shuette*, 121
9 Nev. at 865; 124 P.3d at 549.

10 17. Upon review of the *Brunzell* factors, the Declaration of Kory L. Kaplan, Esq.
11 attached to the Motion, and the arguments made by the parties in the Motion, Plaintiff's
12 Opposition, and Defendants' Reply in support of the Motion, Defendants' attorney's fees were
13 reasonable and necessary.
14

15 18. As a matter of law, Defendants are entitled to their attorney's fees and costs. NRS
16 41.670(1)(a).

17 **III.**
ORDER AND FINAL JUDGMENT

18 Based on the foregoing findings of fact and conclusions of law,

19 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Defendants' Motion
20 for Attorney's Fees, Costs, and Additional Relief pursuant to NRS 41.660 and NRS 41.670 is
21 **GRANTED** in part.
22

23 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that
24 Defendants are entitled to attorney's fees from Plaintiff in the amount of **\$16,415.00** and costs in
25 the amount of **\$281.84**, for a total judgment of **\$16,696.84**.
26

27 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that Plaintiff,
28 Lawra Kasee Bulen, shall pay the full amount of \$16,696.84 to Defendants no later than thirty

1 (30) days from the entry of this Order.

2 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that post-
3 judgment interest will accrue on the total judgment from entry of this judgment at the statutory
4 rate per annum, until the judgment is paid in full.

5 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that
6 Defendants' Motion for additional sanctions in the form of an award of \$10,000.00 per Defendant
7 is hereby **DENIED**.

8 **IT IS SO ORDERED** this ____ day of December, 2020.

Dated this 18th day of December, 2020

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HONORABLE TREVOR L. ATKIN
EIGHTH JUDICIAL DISTRICT COURT JUDGE

A0B 976 63C3 A433

Trevor Atkin
District Court Judge

Respectfully Submitted By:

Approved as to form and content:

Dated: December ____, 2020

Dated: December 17, 2020

KAPLAN COTTNER

BRANDON L. PHILLIPS, ATTORNEY
AT LAW, PLLC

By: submitted competing order
KORY L. KAPLAN
Nevada Bar No. 13164
850 E. Bonneville Ave.
Las Vegas, NV 89101
Attorneys for Defendants

By: /s/ Brandon L. Phillips
BRANDON L. PHILLIPS
Nevada Bar No. 12264
1455 E. Tropicana Ave., Suite 750
Las Vegas, NV 89119
Attorney for Plaintiff

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Lawra Bulen, Plaintiff(s)

CASE NO: A-18-784807-C

7 vs.

DEPT. NO. Department 8

8 Rob Lauer, 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 Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 12/18/2020

15 Brandon Phillips

blp@abetterlegalpractice.com

16 Paul Padda

psp@paulpaddalaw.com

17 Steve Sanson

devildog1285@cs.com

18 Rob Lauer

news360daily@hotmail.com

19 Rob Lauer

centurywest1@hotmail.com

20 Robin Tucker

rtucker@abetterlegalpractice.com

21 Kory Kaplan

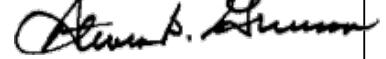
kory@kaplancottner.com

22 Sara Savage

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23 Sunny Southworth

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3 Nevada Bar No. 12264
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6 Las Vegas, Nevada 89119
7 P: 702-795-0097 F: 702-795-0098
8 blp@abetterlegalpractice.com
9 Attorney for Plaintiff, Lawra Kassee Bulen

10 **EIGHTH JUDICIAL DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 LAWRA KASSEE BULEN,
13 Plaintiff,

CASE NO.: A-18-784807-C
DEPT. NO.: VIII

14 vs.

15 STEVE SANSON, an Individual; ROB
16 LAUER, an Individual,
17 Defendant(s).

18 **NOTICE OF ENTRY OF ORDER**

19 **TO: ALL PARTIES**

20 **YOU, AND EACH OF YOU** will please take notice that an Order was entered in this
21 matter on December 18, 2020. A copy of said ORDER is attached hereto and incorporated herewith
22 by reference.

23 **DATED** this 21st day of December, 2020.

24 Respectfully Submitted By:

25 /s/ Brandon L. Phillips
26 BRANDON L. PHILLIPS, ESQ.
27 Nevada Bar No. 12264
28 Brandon L. Phillips, Attorney at Law, PLLC
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P: 702-795-0097 F: 702-795-0098
blp@abetterlegalpractice.com
Attorney for Plaintiff, Lawra Kassee Bulen

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 21st day of December, 2020, the undersigned, employee of
Brandon L. Phillips, Attorney at Law, PLLC, placed a true and correct copy of the foregoing **Notice of**
Entry of Order, in the United States Mail, in an addressed sealed envelope, postage prepaid,
addressed to the following:

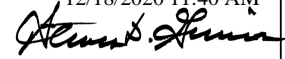
KORY L. KAPLAN
Nevada Bar No. 13164
850 E. Bonneville Ave.
Las Vegas, NV 89101
Attorneys for Defendants

/s/Robin Tucker
An employee of,
Brandon L. Phillips, Attorney at Law, PLLC

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EXHIBIT 1

EXHIBIT 1


CLERK OF THE COURT

ORD

BRANDON L. PHILLIPS, ESQ
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blp@abetterlegalpractice.com
Attorney for Plaintiff, L. Bulen

**DISTRICT COURT
CLARK COUNTY, NEVADA**

LAWRA KASSEE BULEN,

Plaintiff,

vs.

STEVE SANSON, an Individual; ROB
LAUER, an Individual,

Defendant.

CASE NO. A-18-784807-C

DEPT. NO. 8

ORDER ON DEFENDANTS'

MOTION FOR ATTORNEYS' FEES

Hearing Date: October 6, 2020

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I.
FINDINGS OF FACT

1. On November 20, 2018, Plaintiff filed her Complaint against Defendants for: (1) Defamation; (2) Defamation Per Se; (3) Invasion of Privacy: False Light; (4) Invasion of Privacy: Unreasonable Publicity Given to Private Facts; (5) Intentional Interference with Prospective Economic Advantage; (6) Intentional Infliction of Emotional Distress; (7) Negligence Per Se; (8) Concert of Action; and (9) NRS 42.005 Request for Exemplary and Punitive Damages.

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15 *Wanland v. Law Offices of Mastagni, Holstedt & Chiurazzi*, 141 Cal.App.4th 15, 45 Cal.Rptr.3d
16 633, 637 (2006) (“[T]o this end, the provision is broadly construed so as to effectuate the
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19 14. Additionally, an award of anti-SLAPP costs and fees includes fees incurred after
20 the motion is granted. *See Wanland v. Law Offices of Mastagni, Holstedt & Chiurazzi*, 141 Cal.
21 App. 4th 15, 21 (2006) (finding that fees recoverable under anti-SLAPP statute include all post-
22 motion fees, such as fees on fees, fees in connection with defending an award of fees, and fees on
23 appeal of an order granting an Anti-SLAPP motion).

24 15. In Nevada, trial courts “have great discretion to award attorney fees, and this
25 discretion is tempered only by reason and fairness.” *Haley v. Dist. Ct.*, 128 Nev. Adv. Op. 16,273
26 P.3d 855, 860 (2012) (citing *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 864, 124
27 P.3d 530, 548-49 (2005)); *see also Bergmann v. Boyce*, 109 Nev. 670, 674, 856 P.2d 560, 563
28

1 (1993) (attorney's fees are "within the sound discretion of the trial court").)

2 16. In determining the reasonableness and amount of an attorney's fee award, a court
3 may begin its analysis with any method rationally designed to calculate a reasonable amount.
4 *Shuette v. Beazer Homes*, 121 Nev. 837, 864; 124 P.3d 530, 549 (2005). Whether the court seeks
5 to award the entire amount of attorney's fees or use an alternative approach, the court must
6 consider the requested amount in light of the factors enumerated in *Brunzell v. Golden Gate*
7 *National Bank*, 85 Nev. 345, 349; 455 P.2d 31 (1969), "namely, (1) the advocate's professional
8 qualities, (2) the nature of the litigation, (3) the work performed, and (4) the result." *Shuette*, 121
9 Nev. at 865; 124 P.3d at 549.

10 17. Upon review of the *Brunzell* factors, the Declaration of Kory L. Kaplan, Esq.
11 attached to the Motion, and the arguments made by the parties in the Motion, Plaintiff's
12 Opposition, and Defendants' Reply in support of the Motion, Defendants' attorney's fees were
13 reasonable and necessary.
14

15 18. As a matter of law, Defendants are entitled to their attorney's fees and costs. NRS
16 41.670(1)(a).

17 **III.**
ORDER AND FINAL JUDGMENT

18 Based on the foregoing findings of fact and conclusions of law,

19 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Defendants' Motion
20 for Attorney's Fees, Costs, and Additional Relief pursuant to NRS 41.660 and NRS 41.670 is
21 **GRANTED** in part.
22

23 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that
24 Defendants are entitled to attorney's fees from Plaintiff in the amount of **\$16,415.00** and costs in
25 the amount of **\$281.84**, for a total judgment of **\$16,696.84**.
26

27 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that Plaintiff,
28 Lawra Kasee Bulen, shall pay the full amount of \$16,696.84 to Defendants no later than thirty

1 (30) days from the entry of this Order.

2 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that post-
3 judgment interest will accrue on the total judgment from entry of this judgment at the statutory
4 rate per annum, until the judgment is paid in full.

5 **IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that
6 Defendants' Motion for additional sanctions in the form of an award of \$10,000.00 per Defendant
7 is hereby **DENIED**.

8 **IT IS SO ORDERED** this ____ day of December, 2020.

9 Dated this 18th day of December, 2020

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HONORABLE TREVOR L. ATKIN
EIGHTH JUDICIAL DISTRICT COURT JUDGE

A0B 976 63C3 A433

Trevor Atkin
District Court Judge

Respectfully Submitted By:

Approved as to form and content:

Dated: December ____, 2020

Dated: December 17, 2020

KAPLAN COTTNER

BRANDON L. PHILLIPS, ATTORNEY
AT LAW, PLLC

By: submitted competing order
KORY L. KAPLAN
Nevada Bar No. 13164
850 E. Bonneville Ave.
Las Vegas, NV 89101
Attorneys for Defendants

By: /s/ Brandon L. Phillips
BRANDON L. PHILLIPS
Nevada Bar No. 12264
1455 E. Tropicana Ave., Suite 750
Las Vegas, NV 89119
Attorney for Plaintiff

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Lawra Bulen, Plaintiff(s)

CASE NO: A-18-784807-C

7 vs.

DEPT. NO. Department 8

8 Rob Lauer, 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 Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 12/18/2020

15 Brandon Phillips

blp@abetterlegalpractice.com

16 Paul Padda

psp@paulpaddalaw.com

17 Steve Sanson

devildog1285@cs.com

18 Rob Lauer

news360daily@hotmail.com

19 Rob Lauer

centurywest1@hotmail.com

20 Robin Tucker

rtucker@abetterlegalpractice.com

21 Kory Kaplan

kory@kaplancottner.com

22 Sara Savage

sara@lzkclaw.com

23 Sunny Southworth

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1 **ASTA**
2 **ADAM J. BREEDEN, ESQ.**
3 Nevada Bar No. 008768
4 **BREEDEN & ASSOCIATES, PLLC**
5 376 E. Warm Springs Road, Suite 120
6 Las Vegas, Nevada 89119
7 Phone: (702) 819-7770
8 Fax: (702) 819-7771
9 Adam@Breedendassociates.com
10 *Attorneys for Defendants*

7 **EIGHTH JUDICIAL DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 LAWRA KASSEE BULEN,

10 Plaintiff,

11 v.

12 STEVE SANSON, an individual; ROB
13 LAUER, an individual,

14 Defendants.

CASE NO.: A-18-784807-C

DEPT.: V

15 **CASE APPEAL STATEMENT**

16 1. Name of appellant filing this case appeal statement:

17 STEVE SANSON & ROB LAUER, DEFENDANTS

18 2. Identify the judge issuing the decision, judgment, or order appealed from:

19 HON. TREVOR ATKIN, EIGHTH JUDICIAL DISTRICT COURT DEPARTMENT 8.

20 3. Identify each appellant and the name and address of counsel for each appellant:

21 STEVE SANSON AND ROB LAUER. REPRESENTED BY COUNSEL ADAM J.
22 BREEDEN, ESQ., BREEDEN & ASSOCIATES, PLLC, 376 E. WARM SPRINGS RD.,
23 SUITE 120, LAS VEGAS, NV 89119, (702) 819-7770.

24 4. Identify each respondent and the name and address of appellate counsel, if known, for each
25 respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and
26 provide the name and address of that respondent's trial counsel):

27 LAWRA KASSEE BULEN. COUNSEL OF RECORD IS BRANDON L. PHILLIPS,
28 ESQ. OF BRANDON L. PHILLIPS ATTORNEY AT LAW, PLLC, 1455 E.

1 TROPICANA AVENUE, SUITE 750, LAS VEGAS, NEVADA 89119, (702) 795-0097.

2 IT IS BELIEVED THAT APPELLATE COUNSEL IS ALSO MR. PHILLIPS.

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

6 ALL COUNSEL IN THIS MATTER ARE LICENSED TO PRACTICE LAW IN THE
7 STATE OF NEVADA.

8 6. Indicate whether appellant was represented by appointed or retained counsel in the district
9 court:

10 APPELLANTS WERE REPRESENTED BY RETAINED COUNSEL IN THE DISTRICT
11 COURT PROCEEDINGS. COUNSEL WAS KORY L. KAPLAN OF KAPLAN COTTNER

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

13 APPELLANTS ARE REPRESENTED BY RETAINED COUNSEL FOR THIS APPEAL.

14 APPELLATE COUNSEL IS ADAM J. BREEDEN, ESQ.

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

17 NO PARTY HAS APPEARED IN FORMA PAUPERIS.

18 9. Indicate the date the proceedings commenced in the district court (e.g., date complaint,
19 indictment, information, or petition was filed):

20 THE ORIGINAL CIVIL COMPLAINT WAS FILED ON NOVEMBER 20, 2018.

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

23 DEFENDANTS APPEAL FROM AN ORDER DENYING THEIR MOTION FOR
24 ADDITIONAL SANCTIONS IN THE FORM OF AN AWARD OF \$10,000.00 PER
25 DEFENDANT UNDER NEVADA'S ANTI-SLAPP LAWS.

26 11. Indicate whether the case has previously been the subject of an appeal to or original writ
27 proceeding in the Supreme Court or Court of Appeals and, if so, the caption and docket number of
28 the prior proceeding:

1 PLAINTIFF HAS APPEALED A PRIOR ORDER IN THE SAME CASE WHICH
2 GRANTED DEFENDANTS' SPECIAL MOTION TO DISMISS UNDER NEVADA'S
3 ANTI-SLAPP LAWS. THIS RELATED APPEAL IS SUPREME COURT CASE NO.
4 81854.

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

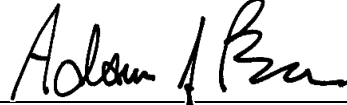
6 THE CASE DOES NOT CONCERN CHILD CUSTODY OR VISITATION.

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

8 IT IS THE APPELLANT'S POSITION THAT A SETTLEMENT CONFERENCE WILL
9 NOT HELP RESOLVE THIS APPEAL.

10 DATED this 20th day of January, 2021.

11 **BREEDEN & ASSOCIATES, PLLC**

12 

13 **ADAM J. BREIDEN, ESQ.**

14 Nevada Bar No. 008768

15 376 E. Warm Springs Road, Suite 120

16 Las Vegas, Nevada 89119

17 Phone: (702) 819-7770

18 Fax: (702) 819-7771

19 Adam@Breedendandassociates.com

20 *Attorneys for Defendants*

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of January, 2021, I served a copy of the foregoing legal document **CASE APPEAL STATEMENT** via the method indicated below:

| | |
|---|---|
| X | Pursuant to NRCP 5 and NEFCR 9, by electronically serving all counsel and e-mails registered to this matter on the Court's official service, Wiznet system. |
| | Pursuant to NRCP 5, by placing a copy in the US mail, postage pre-paid to the following counsel of record or parties in proper person: Brandon L. Phillips, Esq. BRANDON L. PHILLIPS ATTORNEY AT LAW PLLC 1455 E. Tropicana Avenue, Suite 750 Las Vegas, Nevada 89119 <i>Attorneys for Plaintiff</i> |
| | Via receipt of copy (proof of service to follow) |

An Attorney or Employee of the following firm:

/s/ Kristy Johnson
BREEDEN & ASSOCIATES, PLLC



1 **NOAS**
2 **ADAM J. BREEDEN, ESQ.**
3 Nevada Bar No. 008768
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9 Adam@Breedendandassociates.com
10 *Attorneys for Defendants*

7 **EIGHTH JUDICIAL DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 LAWRA KASSEE BULEN,

10 Plaintiff,

11 v.

12 STEVE SANSON, an individual; ROB
13 LAUER, an individual,

14 Defendants.

CASE NO.: A-18-784807-C

DEPT.: V

NOTICE OF APPEAL

15
16 Notice is hereby given that Defendants, STEVE SANSON and ROB LAUER, hereby appeal
17 to the Supreme Court of Nevada from the *Order on Defendants' Motion for Attorney's Fees* entered
18 in this case on December 18, 2020 with Notice of Entry being filed December 21, 2020 to the extent
19 that it denied the Defendants a \$10,000 per Defendant sanction against the Plaintiff.

20 DATED this 20th day of January, 2021.

21 **BREEDEN & ASSOCIATES, PLLC**



22 **ADAM J. BREEDEN, ESQ.**

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25 Las Vegas, Nevada 89119
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Attorneys for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of January, 2021, I served a copy of the foregoing legal document **NOTICE OF APPEAL** via the method indicated below:

| | |
|---|---|
| X | Pursuant to NRCP 5 and NEFCR 9, by electronically serving all counsel and e-mails registered to this matter on the Court's official service, Wiznet system. |
| | Pursuant to NRCP 5, by placing a copy in the US mail, postage pre-paid to the following counsel of record or parties in proper person: Brandon L. Phillips, Esq. BRANDON L. PHILLIPS ATTORNEY AT LAW PLLC 1455 E. Tropicana Avenue, Suite 750 Las Vegas, Nevada 89119 <i>Attorneys for Plaintiff</i> |
| | Via receipt of copy (proof of service to follow) |

An Attorney or Employee of the following firm:

/s/ Kristy Johnson

BREEDEN & ASSOCIATES, PLLC