

Electronically Filed  
Feb 26 2021 11:06 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**NOAS (CIV)**

Thomas Christensen, Esq.  
Nevada Bar No. 2326  
1000 S. Valley View Blvd.  
Las Vegas, Nevada 89107  
T: (702) 870-1000  
F: (702) 870-6152  
courtnotices@injuryhelpnow.com  
Attorney for Plaintiffs

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Damaso S. Puente, individually and on behalf of  
the Estate of Damaso I. Puente, Maria Puente,  
Daniel Malone, and Diane Malone, individually  
and on behalf of the Estate of Christa Puente,

Plaintiffs,

vs.

Henry Biderman Aparicio, Morgan Hurley, Dave  
& Buster's of Nevada, Inc dba Dave & Buster's;  
Dave & Buster's Inc; MAT-SUMMERLIN LLC,  
dba Casa del Matador Summerlin; MATADOR  
INVESTMENTS, LLC; OPPER MELANG 5410,  
LLC; MEL-OPP & GRIFF, LLC; OPP MEL &  
GRIFF, INC.; MOCORE, LLC; DOES I - V, and  
ROE CORPORATIONS I - V, ROE  
MANUFACTURER I - V; ROE WHOLESALER,  
I - V; ROE RETAILER, I - V;

Defendants.

CASE NO:A-20-813787-C  
DEPT. NO: 18

**NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN that Plaintiffs, by and through their counsel of record,  
Thomas Christensen, Esq. hereby appeal to the Supreme Court of Nevada from the Order  
granting Defendant Dave & Buster's, Inc.'s Motions to Dismiss and Motion for Summary  
Judgment entered in this action on July 14, 2020, December 14, 2020 and January 26, 2021 and  
all other orders made

///

1  
2 final and appealable.

3  
4 DATED this 24th day of February, 2021.

5 CHRISTENSEN LAW OFFICES, LLC.

6  
7   
8 THOMAS F. CHRISTENSEN, ESQ.

9 Nevada Bar No. 2326

10 1000 S. Valley View Blvd.

11 Las Vegas, Nevada 89107

12 Telephone: (702) 870-1000

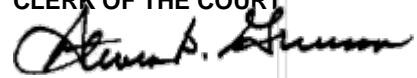
13 courtnotices@injuryhelpnow.com

14  
15 **CERTIFICATE OF SERVICE**

16 Pursuant to NRCP 5(b), I certify that I am an employee of CHRISTENSEN LAW  
17 OFFICES, LLC and that on this 45th day of January, 2021, I served a copy of the foregoing  
18 **NOTICE OF APPEAL** as follows:

19 XX E-Served through the Court's e-service system to all registered users on the case.

20  
21   
22 An employee of CHRISTENSEN LAW OFFICES, LLC.  
23  
24  
25  
26  
27  
28



**ASTA(CIV)**

Thomas Christensen, Esq.  
Nevada Bar No. 2326  
1000 S. Valley View Blvd.  
Las Vegas, Nevada 89107  
T: (702) 870-1000  
F: (702) 870-6152  
courtnotices@injuryhelpnow.com  
Attorney for Plaintiffs

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Damaso S. Puente, individually and on behalf of  
the Estate of Damaso I. Puente, Maria Puente,  
Daniel Malone, and Diane Malone, individually  
and on behalf of the Estate of Christa Puente,

Plaintiffs,

vs.

Henry Biderman Aparicio, Morgan Hurley, Dave  
& Buster's of Nevada, Inc dba Dave & Buster's;  
Dave & Buster's Inc; MAT-SUMMERLIN LLC,  
dba Casa del Matador Summerlin; MATADOR  
INVESTMENTS, LLC; OPPER MELANG 5410,  
LLC; MEL-OPP & GRIFF, LLC; OPP MEL &  
GRIFF, INC.; MOCORE, LLC; DOES I - V, and  
ROE CORPORATIONS I - V, ROE  
MANUFACTURER I - V; ROE WHOLESALER,  
I - V; ROE RETAILER, I - V;

Defendants.

CASE NO:A-20-813787-C  
DEPT. NO: 18

**CASE APPEAL STATEMENT**

1. Name of Appellants filing this case appeal statement:
2. Judge issuing Order appealed from : Mary Kay Holthus.
3. Appellant and Counsel for Appellants:

Appellants:

Damaso S. Puente, individually and on behalf of the Estate of Damaso I. Puente  
Maria Puente

1 Daniel Malone

2 Diane Malone, individually and on behalf of the Estate of Christa Puente.

3 Counsel :

4 Thomas F. Christensen, Esq.  
5 Nevada Bar No. 2326  
6 1000 S. Valley View Blvd.  
7 Las Vegas, Nevada 89107  
8 Telephone: (702) 870-1000  
courtnotices@injuryhelpnow.com

9 4. Respondents and Counsel for Respondents:

10 Respondents:

11 Dave & Buster's of Nevada, Inc dba Dave & Buster's

12 Counsel:

13 Michael Lowry, Esq.  
14 Wilson Elser Moskowitz Edelman & Dicker, LLP  
15 6689 Las Vegas Blvd. South, Suite 200  
16 Las Vegas, NV 89119  
17 Telephone: (702) 727-1400  
michael.lowry@wilsonelser.com

18 5. Are the identified counsel licensed to practice law in Nevada? Yes.

19 6. Was Appellant represented by retained or appointed counsel in District Court:

20 Appellant was and is represented by retained counsel.

21 7. Is Respondent represented by retained or appointed counsel on appeal:

22 Respondent was and is represented by retained counsel on appeal.

23 8. Was Appellant granted leave to proceed in forma pauperis, and date of order:

24 Appellant was not granted leave to proceed in forma pauperis.

25 9. The date the proceedings commenced in District Court: April 17, 2020.

26 10. Brief Description of the Nature of the Action and the Result:

27  
28

1 On May 15, 2018, two Nevada citizens were killed when stopped at a light and rear-ended  
2 at high speed. Allegations of the complaint alleged facts which supported causes of action against  
3 Appellant Dave & Buster's of Nevada, Inc., (hereinafter "Dave & Buster's") including Dave and  
4 Buster's wrongful act, neglect or default under NRS 41.130 as a matter of law for violation by  
5 Dave and Busters's of codes making it illegal to serve alcohol to an intoxicated person.  
6 Plaintiff's Complaint alleged facts supporting causes of action against Dave & Buster's for  
7 negligence, gross negligence, willful and wanton misconduct, strict products liability, breach of  
8 express and implied warranties, acting in concert in an abnormally dangerous activity, negligent  
9 supervision and hiring. The allegations in the complaint against Dave & Buster's alleged actions  
10 and inactions some of which were wanton and willful misconduct which have resulted in liability  
11 under the common law. See *Davies v. Butler*, 95 Nev. 763, 773 (Nev. 1980).  
12

13  
14 Plaintiff further alleged that NRS 41.1305(1) was not intended by the legislature to  
15 eliminate or limit any common law causes of action nor restrict the continuing development of  
16 the common law as it relates to these causes of action. NRS 41.1305(1) has never been  
17 interpreted by a Nevada appellate court but if interpreted as a complete bar to the above causes of  
18 action it would be unconstitutional.  
19

20 Dave and Buster's filed a Motion to Dismiss. In response to Dave & Buster's Motion to  
21 Dismiss, Plaintiff argued NRS 41.1305(1), which has yet to be interpreted by any appellate court  
22 in Nevada, by its language, does not eliminate any of the Plaintiffs' causes of action, nor give  
23 liquor vendors a license to kill in Nevada. Plaintiffs argued the statute does not authorize serving  
24 alcohol to an already drunk individual minor or adult. Dave & Buster's alleged that NRS  
25 41.1305 is a complete bar to all causes of action for licensees legally providing alcohol in  
26 Nevada. The Court denied the Motion and Ordered Plaintiff to file an amended Complaint.  
27  
28

1 (Order dated July 1,2020). The Amended Complaint alleged that NRS 41.1305, if applied as  
2 Dave & Buster's suggested in its Motion to Dismiss, is unconstitutional.  
3

4 Dave & Buster's then filed a Renewed Motion to Dismiss. The Court determined Plaintiffs  
5 could prove one set of facts that could support a claim for relief and Granted in Part and Denied  
6 in Part the Motion. (Order dated December 14, 2020). Therein, the Court concluded NRS  
7 41.1305 did not bar a negligence cause of action, but only to the extent Dave & Buster's assisted  
8 Mr. Aparicio to the vehicle he drove.  
9

10 Following initial discovery, Dave & Buster's then filed a Motion for Summary Judgment,  
11 claiming no issues of fact with regard to anyone from Dave & Buster's assisting Mr. Aparicio to  
12 the vehicle he drove. The summary judgment was opposed by plaintiff's with evidence of  
13 violations of internal protocols by Dave and Buster's at least as negligent as helping the drive to  
14 his vehicle and a request for NRCP 56(d) relief since discovery had only recently commenced  
15 and the Plaintiffs were the survivors and therefore had no ability to contest the motion without  
16 discovery. The Court agreed with Dave & Buster's and granted its Motion for Summary  
17 Judgment and certified the order per Rule 54(b). (Order dated January 26, 2021).  
18

19 11. Prior Appeals or Writ Proceedings

20 There are no prior appeals or writ proceedings related to this matter.

21 12. Child Custody and Visitation

22 This case does not involve issues of child custody or visitation.

23 13. If this is a civil case indicate whether this appeal involves the possibility of  
24 settlement.  
25

26  
27 ///  
28

1 This is a civil case. Appellant believes there is a possibility of settling this matter.

2 Dated this 24th day of February, 2021.

3  
4 CHRISTENSEN LAW OFFICES, LLC

5  
6 THOMAS F. CHRISTENSEN, ESQ.

7 Nevada Bar No. 2326

8 1000 S. Valley View Blvd.

9 Las Vegas, Nevada 89107

10 Telephone: (702) 870-1000

11 courtnotices@injuryhelpnow.com

12 **CERTIFICATE OF SERVICE**

13 Pursuant to NRCP 5(b), I certify that I am an employee of CHRISTENSEN LAW  
14 OFFICES, LLC and that on this 24th day of February, 2021, I served a copy of the foregoing

15 **CASE APPEAL STATEMENT** as follows:

16 XX E-Served through the Court's e-service system to all registered users on the case.

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
An employee of CHRISTENSEN LAW OFFICES, LLC.

## EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY****CASE NO. A-20-813787-C**

**Damaso Puente, Plaintiff(s)**  
**vs.**  
**Henry Aparicio, Defendant(s)**

§  
 §  
 §  
 §  
 §

Location: **Department 18**  
 Judicial Officer: **Holthus, Mary Kay**  
 Filed on: **04/17/2020**  
 Cross-Reference Case Number: **A813787**

**CASE INFORMATION**Case Type: **Negligence - Auto**

Case  
 Status: **04/17/2020 Open**

**DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number A-20-813787-C  
 Court Department 18  
 Date Assigned 04/17/2020  
 Judicial Officer Holthus, Mary Kay

**PARTY INFORMATION**

<b>Plaintiff</b>	<b>Estate of Christa Puente</b>	<i>Lead Attorneys</i> <b>Christensen, Thomas F.</b> <i>Retained</i> 7028701000(W)
	<b>Estate of Damaso I Puente</b>	<b>Christensen, Thomas F.</b> <i>Retained</i> 7028701000(W)
	<b>Malone, Daniel</b>	<b>Christensen, Thomas F.</b> <i>Retained</i> 7028701000(W)
	<b>Malone, Diane</b>	<b>Christensen, Thomas F.</b> <i>Retained</i> 7028701000(W)
	<b>Puente, Damaso S</b>	<b>Christensen, Thomas F.</b> <i>Retained</i> 7028701000(W)
	<b>Puente, Maria</b>	<b>Christensen, Thomas F.</b> <i>Retained</i> 7028701000(W)
<b>Defendant</b>	<b>Aparicio, Henry Biderman</b>	<b>Backus, Shea A.</b> <i>Retained</i> 702-872-5555(W)
	<b>Dave &amp; Busters Inc</b> Removed: 06/09/2020 Dismissed	
	<b>Dave &amp; Busters of Nevada Inc</b>	<b>Lowry, Michael P.</b> <i>Retained</i> 702-727-1400(W)
	<b>Hurley, Morgan</b>	<b>Backus, Shea A.</b> <i>Retained</i> 702-872-5555(W)



**CASE SUMMARY****CASE NO. A-20-813787-C****MAT Summerlin LLC****Koning, Michael A.**  
*Retained*  
702-258-6238(W)**Matador Investments LLC**Removed: 06/19/2020  
Dismissed**Mel-Opp & Griff LLC**Removed: 06/19/2020  
Dismissed**Mocore LLC****Koning, Michael A.**  
*Retained*  
702-258-6238(W)**Opp Mel & Griff Inc**Removed: 06/19/2020  
Dismissed**Opper Meland 5410 LLC**Removed: 06/19/2020  
Dismissed**Special  
Administrator****Malone, Diane****Christensen, Thomas F.**  
*Retained*  
7028701000(W)**Puente, Damaso S****Christensen, Thomas F.**  
*Retained*  
7028701000(W)

DATE

EVENTS &amp; ORDERS OF THE COURT

INDEX

**EVENTS**

04/17/2020

**Complaint**Filed By: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente  
*Complaint*

04/17/2020

**Initial Appearance Fee Disclosure**Filed By: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente  
*Initial Appearance Fee Disclosure*

04/17/2020

**Summons Electronically Issued - Service Pending**Party: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente  
*Summons*

04/17/2020

**Summons Electronically Issued - Service Pending***Summons*

04/17/2020

**Summons Electronically Issued - Service Pending***Summons*

04/17/2020

**Summons Electronically Issued - Service Pending***Summons*













# CASE SUMMARY

CASE NO. A-20-813787-C

04/17/2020	 Summons Electronically Issued - Service Pending <i>Summons</i>
04/17/2020	 Summons Electronically Issued - Service Pending <i>Summons</i>
04/17/2020	 Summons Electronically Issued - Service Pending <i>Summons</i>
04/17/2020	 Summons Electronically Issued - Service Pending <i>Summons</i>
04/17/2020	 Summons Electronically Issued - Service Pending <i>Summons</i>
04/17/2020	 Summons Electronically Issued - Service Pending <i>Summons</i>
05/14/2020	 Waiver Filed by: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente <i>Waiver</i>
05/19/2020	 Waiver Filed by: Special Administrator Puente, Damaso S; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane <i>Waiver</i>
05/20/2020	 Motion to Dismiss Filed By: Defendant Dave & Busters of Nevada Inc <i>Dave &amp; Buster's of Nevada, Inc.'s Motion to Dismiss</i>
05/20/2020	 Initial Appearance Fee Disclosure Filed By: Defendant Dave & Busters of Nevada Inc <i>Dave &amp; Buster s of Nevada, Inc. s Initial Appearance Fee Disclosure</i>
05/20/2020	 Disclosure Statement Party: Defendant Dave & Busters of Nevada Inc <i>Dave &amp; Buster s of Nevada, Inc. s NRCP 7.1 Disclosure</i>
05/21/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
06/02/2020	 Answer to Complaint Filed by: Defendant MAT Summerlin LLC; Defendant Mocore LLC <i>Defendants Mocore LLC and Mat-Summerlin LLC d/b/a The Matador's Answer to Plaintiff's Complaint</i>
06/02/2020	 Initial Appearance Fee Disclosure Filed By: Defendant MAT Summerlin LLC; Defendant Mocore LLC <i>Defendants Mocore LLC and Mat-Summerlin LLC d/b/a The Matador Initial Appearance Fee Disclosure</i>













# CASE SUMMARY

CASE NO. A-20-813787-C

06/02/2020	 Demand for Jury Trial Filed By: Defendant MAT Summerlin LLC; Defendant Mocore LLC <i>Defendants Mocore LLC and Mat-Summerlin LLC d/b/a The Matador's Demand for Jury Trial</i>
06/02/2020	 Disclosure Statement Party: Defendant MAT Summerlin LLC <i>Defendant Mat-Summerlin LLC d/b/a The Matador's NRCP 7.1 Disclosure Statement</i>
06/02/2020	 Disclosure Statement Party: Defendant Mocore LLC <i>Defendant Mocore LLC's NRCP 7.1 Disclosure Statement</i>
06/09/2020	 Opposition to Motion to Dismiss Filed By: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente <i>Plaintiffs' Opposition to Dave &amp; Buster's Motion to Dismiss</i>
06/09/2020	 Notice of Voluntary Dismissal Filed By: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente <i>Notice of Voluntary Dismissal</i>
06/15/2020	 Waiver Filed by: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente <i>Notice of Waiver</i>
06/15/2020	 Waiver Filed by: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente <i>Notice of Waiver</i>
06/16/2020	 Answer to Complaint Filed by: Defendant Hurley, Morgan <i>Defendant Morgan Hurley's Answer to Complaint</i>
06/16/2020	 Initial Appearance Fee Disclosure <i>Initial Appearance Fee Disclosure</i>
06/16/2020	 Demand for Jury Trial Filed By: Defendant Aparicio, Henry Biderman <i>Demand for Jury Trial</i>
06/16/2020	 Initial Appearance Fee Disclosure Filed By: Defendant Aparicio, Henry Biderman <i>Initial Appearance Fee Disclosure</i>
06/16/2020	 Answer to Complaint Filed by: Defendant Aparicio, Henry Biderman <i>Henry Aparicio's Answer to Complaint</i>

# CASE SUMMARY

CASE NO. A-20-813787-C

06/19/2020	 Stipulation and Order for Dismissal Without Prejudice <i>STIPULATION AND ORDER TO DISMISS MATADOR INVESTMENTS LLC; OPPER MELANG 5410, LLC; MEL-OPP AND GRIFF, LLC; AND OPPMEL AND GRIFF, INC. WITHOUT PREJUDICE</i>
06/19/2020	 Notice of Entry Filed By: Defendant Matador Investments LLC <i>Notice of Entry of Stipulation and Order to Dismiss Matador Investments LLC, Opper Melang 5410 LLC, Mel-Opp and Griff, LLC and Opp Mel Griff, Inc. Without Prejudice</i>
06/22/2020	 Request for Exemption From Arbitration Filed by: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente <i>Request for Exemption from Arbitration</i>
06/24/2020	 Reply to Opposition Filed by: Defendant Dave & Busters of Nevada Inc <i>Dave &amp; Buster's of Nevada, Inc's Reply re Motion to Dismiss</i>
07/09/2020	 Commissioners Decision on Request for Exemption - Granted <i>Commissioner's Decision on Request for Exemption - GRANTED</i>
07/14/2020	 Order Denying Motion Filed By: Defendant Dave & Busters of Nevada Inc <i>Order on Dave &amp; Buster s of Nevada, Inc s Motion to Dismiss</i>
07/24/2020	 Notice of Early Case Conference Filed By: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente <i>Notice of Early Case Conference</i>
08/07/2020	 First Amended Complaint Filed By: Special Administrator Puente, Damaso S; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane <i>First Amended Complaint</i>
08/14/2020	 Motion to Dismiss Filed By: Defendant Dave & Busters of Nevada Inc <i>Dave &amp; Buster's of Nevada, Inc.'s Renewed Motion to Dismiss</i>
08/18/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
08/25/2020	 Answer Filed By: Defendant Aparicio, Henry Biderman <i>Henry Aparicio's Answer to First Amended Complaint</i>
08/25/2020	 Answer to Amended Complaint Filed By: Defendant Hurley, Morgan <i>Defendant Morgan Hurley's Answer to First Amended Complaint</i>
09/01/2020	 Answer to Amended Complaint Filed By: Defendant MAT Summerlin LLC; Defendant Mocore LLC

# CASE SUMMARY

CASE NO. A-20-813787-C

*Defendant's Mocore LLC and Mat-Summerlin LLC d/b/a The Matador's Answer to Plaintiff's First Amended Complaint*

09/02/2020



Opposition to Motion to Dismiss

Filed By: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente

*Plaintiffs' Opposition to Dave & Buster's Renewed Motion to Dismiss*

09/09/2020



Reply to Motion

Filed By: Defendant Dave & Busters of Nevada Inc

*Dave & Buster s of Nevada, Inc. s Reply re Renewed Motion to Dismiss*

10/20/2020



Joint Case Conference Report

Filed By: Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente

*Joint Case Conference Report*

10/21/2020



Recorders Transcript of Hearing

*Recorder's Transcript Re: Dave & Buster's of Nevada, Inc.'s Renewed Motion to Dismiss - September 16, 2020*

11/14/2020



Motion to Quash

*Nevada Defense Group's Motion to Quash Subpoena Duces Tecum for Business Records*

11/16/2020



Clerk's Notice of Hearing

*Notice of Hearing*

11/16/2020



Opposition to Motion

*Dave & Buster s of Nevada, Inc s Opposition to Motion to Quash*

11/17/2020



Motion to Quash

*Nevada Defense Group's Motion to Quash Subpoena Duces Tecum for Business Records*

11/18/2020



Clerk's Notice of Hearing

*Notice of Hearing*

11/23/2020



Notice of Change

Filed By: Defendant Mocore LLC

*Defendant Mocore LLC dba Mat-Summerlin LLC dba The Matador Notice of Change of Handling Attorney*

12/02/2020



Order

*ORDER SCHEDULING MANDATORY CASE MANAGEMENT CONFERENCE*

12/02/2020



Answer

Filed By: Defendant Dave & Busters of Nevada Inc

*Dave & Buster's of Nevada, Inc's Answer to Amended Complaint*

12/02/2020



Demand for Jury Trial

*Dave & Buster s of Nevada, Inc s Jury Demand*

12/03/2020



Motion for Summary Judgment

Filed By: Defendant Dave & Busters of Nevada Inc

# CASE SUMMARY

CASE NO. A-20-813787-C

*Dave & Buster s of Nevada, Inc's Motion for Summary Judgment*

12/04/2020



Clerk's Notice of Hearing  
*Notice of Hearing*

12/14/2020



Order  
Filed By: Plaintiff Estate of Damaso I Puente; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente  
*Order Dave & Buster's Renewed Motion to Dismiss*

12/15/2020



Notice of Entry  
Filed By: Special Administrator Puente, Damaso S; Special Administrator Malone, Diane  
*Notice of Entry of Order*

12/17/2020



Opposition to Motion For Summary Judgment  
Filed By: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente  
*Plaintiff's Opposition to Dave & Buster's of Nevada, Inc.'s Motion for Summary Judgment*

12/23/2020



Scheduling and Trial Order  
*Scheduling Order and Order Setting Civil Jury Trial, Pre-Trial Conference/ Calendar Call*

12/28/2020



Reply to Motion  
Filed By: Defendant Dave & Busters of Nevada Inc  
*Dave & Buster's of Nevada, Inc.'s Reply re Motion for Summary Judgment*

01/26/2021



Order Granting Summary Judgment  
*Order re Dave & Buster's of Nevada, Inc's Motion for Summary Judgment*

01/26/2021



Notice of Entry of Order  
Filed By: Defendant Dave & Busters of Nevada Inc  
*Notice of Entry*

01/28/2021



Memorandum of Costs and Disbursements  
*Dave & Buster's of Nevada, Inc's Memorandum of Costs*

01/29/2021



Order  
Filed By: Defendant Dave & Busters of Nevada Inc  
*Order re Nevada Defense Group's Motion to Quash*

01/29/2021



Notice of Entry of Order  
Filed By: Defendant Dave & Busters of Nevada Inc  
*Notice of Entry of Order*

02/03/2021



Amended Certificate of Service  
*Amended Certificate of Service for Dave & Buster's of Nevada, Inc.'s Memorandum of Costs*

02/15/2021



Motion for Attorney Fees  
Filed By: Defendant Dave & Busters of Nevada Inc  
*Dave & Buster s of Nevada, Inc's Motion for Fees*

02/16/2021



Clerk's Notice of Hearing  
*Notice of Hearing*

# CASE SUMMARY

CASE NO. A-20-813787-C

02/17/2021



Order

Filed By: Defendant Dave & Busters of Nevada Inc  
*Order Granting Dave and Buster 's Of Nevada Memorandum of Cost*

02/17/2021



Notice of Entry of Order

Filed By: Defendant Dave & Busters of Nevada Inc  
*Notice of Entry*

02/24/2021



Notice of Appeal

Filed By: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente  
*Notice of Appeal*

02/24/2021



Case Appeal Statement

Filed By: Special Administrator Puente, Damaso S; Plaintiff Estate of Damaso I Puente; Plaintiff Puente, Maria; Plaintiff Malone, Daniel; Special Administrator Malone, Diane; Plaintiff Estate of Christa Puente  
*Case Appeal Statement*

## **DISPOSITIONS**

06/15/2020

**Dismissal Pursuant to NRCP 41** (Judicial Officer: Holthus, Mary Kay)

Debtors: Dave & Busters Inc (Defendant)

Creditors: Damaso S Puente (Plaintiff), Estate of Damaso I Puente (Plaintiff), Maria Puente (Plaintiff), Daniel Malone (Plaintiff), Diane Malone (Plaintiff), Estate of Christa Puente (Plaintiff)

Judgment: 06/15/2020, Docketed: 06/16/2020

06/19/2020

**Order of Dismissal Without Prejudice** (Judicial Officer: Holthus, Mary Kay)

Debtors: Damaso S Puente (Plaintiff), Estate of Damaso I Puente (Plaintiff), Maria Puente (Plaintiff), Daniel Malone (Plaintiff), Diane Malone (Plaintiff), Estate of Christa Puente (Plaintiff)

Creditors: Matador Investments LLC (Defendant), Opper Meland 5410 LLC (Defendant), Mel-Opp & Griff LLC (Defendant), Opp Mel & Griff Inc (Defendant)

Judgment: 06/19/2020, Docketed: 06/22/2020

01/26/2021

**Summary Judgment** (Judicial Officer: Holthus, Mary Kay)

Debtors: Damaso S Puente (Plaintiff), Estate of Damaso I Puente (Plaintiff), Maria Puente (Plaintiff), Daniel Malone (Plaintiff), Diane Malone (Plaintiff), Estate of Christa Puente (Plaintiff)

Creditors: Dave & Busters of Nevada Inc (Defendant)

Judgment: 01/26/2021, Docketed: 01/28/2021

02/17/2021

**Judgment** (Judicial Officer: Holthus, Mary Kay)

Debtors: Damaso S Puente (Special Administrator, Plaintiff), Estate of Damaso I Puente (Plaintiff), Maria Puente (Plaintiff), Daniel Malone (Plaintiff), Diane Malone (Special Administrator, Plaintiff), Estate of Christa Puente (Plaintiff)

Creditors: Dave & Busters of Nevada Inc (Defendant)

Judgment: 02/17/2021, Docketed: 02/18/2021

Total Judgment: 866.19

## **HEARINGS**

07/01/2020



**Motion to Dismiss** (10:00 AM) (Judicial Officer: Holthus, Mary Kay)

*Dave & Buster's of Nevada, Inc.'s Motion to Dismiss*

Denied;

Journal Entry Details:

*Thomas Christensen, Esq., Michael Rawlings, Esq., Michael Lowry, Esq. present via Bluejeans video conference. Statements by Mr. Lowry. Colloquy between parties. Arguments by Mr. Christensen. Following colloquy, COURT ORDERED, Dave & Buster's of Nevada, Inc.'s Motion to Dismiss was hereby DENIED; however, Court noted it would deny for now and*

# CASE SUMMARY

CASE NO. A-20-813787-C

allow amendment. Mr. Christensen to prepare Order and submit to opposing counsel for approval as to form and content. Mr. Christensen indicated in Order he would grant Deft. leave to amend and deny without prejudice. COURT DIRECTED Mr. Christensen to clear up which Deft. did what. Mr. Christensen concurred. ;

09/16/2020



**Motion to Dismiss** (10:00 AM) (Judicial Officer: Holthus, Mary Kay)

*Dave & Buster's of Nevada, Inc.'s Renewed Motion to Dismiss*

Granted in Part;

Journal Entry Details:

*Thomas Christensen, Esq., Michael Rawlings, Esq., Michael Lowry, Esq. and Jacqueline Franco, Esq. present via Bluejeans video conference. Upon Court's inquiry, Mr. Lowry indicated the instant Motion was a renewed Motion to Dismiss which was previously denied without prejudice; additionally, Mr. Lowry indicated they reassessed the Complaint and re-filed. Arguments by Mr. Christensen. Statements by Mr. Lowry. Court noted it did believe statute was clear and would leave the first cause of action that would appear to take it out the door. Additionally, Court noted there may had been liability that Deft. couldn't find his car which Dave & Buster's facilitated getting Deft. to his car; however, it wasn't comfortable dismissing that cause of action at the instant time. Further Court indicated with respect to the remainder the statute stated Dave & Buster's just wasn't liable as to damages as to the service of alcohol. Statements by Mr. Lowry. COURT ORDERED, Dave & Buster's of Nevada, Inc.'s Renewed Motion to Dismiss was hereby GRANTED IN PART, DENIED IN PART. Mr. Lowry to prepare Order and submit to opposing counsel for approval as to form and content. ;*

12/16/2020

**CANCELED Motion to Quash** (10:00 AM) (Judicial Officer: Holthus, Mary Kay)

*Vacated*

*Nevada Defense Group's Motion to Quash Subpoena Duces Tecum for Business Records*

12/16/2020



**Mandatory Rule 16 Conference** (10:00 AM) (Judicial Officer: Holthus, Mary Kay)

Matter Heard;

Journal Entry Details:

*Dawn Hooker, Esq., Michael Koning, Esq. and Jeremy Robins, Esq. present via Bluejeans video conference. Court referred parties to Judge Wiese's Department; further, advised parties to contact Department 30 to set up a settlement conference if needed. COURT ORDERED, discovery cutoff is January 24, 2022; adding parties, amended pleadings, and initial expert disclosures DUE October 26, 2021; rebuttal expert disclosures DUE November 25, 2021; dispositive motions TO BE FILED BY February 23, 2022, trial ready date April 25, 2022. 6/15/22 9:00 AM CALENDAR CALL 6/27/22 1:00 PM JURY TRIAL ;*

01/06/2021



**Motion to Quash** (10:00 AM) (Judicial Officer: Holthus, Mary Kay)

**01/06/2021, 01/13/2021**

*Nevada Defense Group's Motion to Quash Subpoena Duces Tecum for Business Records*

Matter Continued;

Granted in Part;

Matter Continued;

Granted in Part;

Journal Entry Details:

*Thomas Christensen, Esq., Dawn Hooker, Esq., Shannon Mitchell, Esq., Virginia Tomova, Esq. and Jeremy Robins, Esq. present via Bluejeans video conference. Counsel from Nevada Defense Group not present. Court noted it assumed counsel wasn't seeking any privileged documents or information, which Ms. Tomova concurred, noting they weren't seeking any information that hadn't been disclosed. COURT ORDERED, matter CONTINUED to the following week to see if Nevada Defense Group would be present. Court advised parties it was inclined to grant the instant Motion; however, it needed clarification that no one was seeking privileged and confidential information. Colloquy between parties. 1/13/21 10:00 AM CONTINUED: NEVADA DEFENSE GROUP'S MOTION TO QUASH SUBPOENA DUCES TECUM FOR BUSINESS RECORDS CLERK'S NOTE: The above minute order has been distributed to: Damian Sheets, Esq. (dsheets@defendingnevada.com)/1-7-21/ dy;*

01/13/2021

**Motion for Summary Judgment** (10:00 AM) (Judicial Officer: Holthus, Mary Kay)

*Dave & Buster s of Nevada, Inc's Motion for Summary Judgment*


Granted;



EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-20-813787-C**

01/13/2021	 <b>All Pending Motions</b> (10:00 AM) (Judicial Officer: Holthus, Mary Kay) Matter Heard; Journal Entry Details: <i>Thomas Christensen, Esq., Michael Koning, Esq., Michael Lowry, Esq. and Jeremy Robins, Esq. present via Bluejeans video conference. Kelsey Bernstein, Esq. present on behalf of the Nevada Defense Group. DAVE &amp; BUSTER'S OF NEVADA, INC'S MOTION FOR SUMMARY JUDGMENT...NEVADA DEFENSE GROUP'S MOTION TO QUASH SUBPOENA DUCES TECUM FOR BUSINESS RECORDS As to NEVADA DEFENSE GROUP'S MOTION TO QUASH SUBPOENA DUCES TECUM FOR BUSINESS RECORDS: Upon Court's inquiry, Ms. Bernstein noted the discovery was received from the criminal case and is confidential due to that case being active; therefore, without a Court Order, she didn't believe they could give that up. Court noted it could sign a Court Order; therefore, DIRECTED Ms. Bernstein to submit a Court Order to that effect and to the extent reports were redacted. Mr. Lowry noted he would prepare an Order and that should take care of the Motion to Quash. COURT ORDERED, the instant Motion was hereby GRANTED IN PART. Mr. Lowry to prepare the Order and submit to opposing counsel for approval as to form and content. As to DAVE &amp; BUSTER'S OF NEVADA, INC'S MOTION FOR SUMMARY JUDGMENT: Statements by Mr. Christensen. Colloquy between parties. Following colloquy, COURT ORDERED, Dave &amp; Buster's of Nevada, Inc's Motion for Summary Judgment was hereby GRANTED; therefore, Dave &amp; Buster's was out. Mr. Robins stipulated on the certification. No opposition by Mr. Koning. Mr. Lowry to prepare the Order and submit to opposing counsel for approval as to form and content.;</i>
03/24/2021	<b>Motion for Fees</b> (10:00 AM) (Judicial Officer: Holthus, Mary Kay) <i>Dave &amp; Buster s of Nevada, Inc's Motion for Fees</i>
06/15/2022	<b>Calendar Call</b> (10:00 AM) (Judicial Officer: Holthus, Mary Kay)
06/27/2022	<b>Jury Trial</b> (1:00 PM) (Judicial Officer: Holthus, Mary Kay)

DATE	FINANCIAL INFORMATION
	<b>Defendant</b> Aparicio, Henry Biderman Total Charges 223.00 Total Payments and Credits 223.00 <b>Balance Due as of 2/25/2021 0.00</b>
	<b>Defendant</b> Dave & Busters of Nevada Inc Total Charges 423.00 Total Payments and Credits 423.00 <b>Balance Due as of 2/25/2021 0.00</b>
	<b>Defendant</b> Hurley, Morgan Total Charges 223.00 Total Payments and Credits 223.00 <b>Balance Due as of 2/25/2021 0.00</b>
	<b>Defendant</b> Mocore LLC Total Charges 253.00 Total Payments and Credits 253.00 <b>Balance Due as of 2/25/2021 0.00</b>
	<b>Plaintiff</b> Estate of Christa Puentes Total Charges 30.00 Total Payments and Credits 30.00 <b>Balance Due as of 2/25/2021 0.00</b>
	<b>Plaintiff</b> Estate of Damaso I Puentes Total Charges 30.00 Total Payments and Credits 30.00 <b>Balance Due as of 2/25/2021 0.00</b>
	<b>Plaintiff</b> Malone, Daniel Total Charges 30.00 Total Payments and Credits 30.00

# CASE SUMMARY

CASE NO. A-20-813787-C

<b>Balance Due as of 2/25/2021</b>	<b>0.00</b>
<b>Special Administrator</b> Malone, Diane	
Total Charges	30.00
Total Payments and Credits	30.00
<b>Balance Due as of 2/25/2021</b>	<b>0.00</b>
<b>Special Administrator</b> Puente, Damaso S	
Total Charges	294.00
Total Payments and Credits	294.00
<b>Balance Due as of 2/25/2021</b>	<b>0.00</b>
<b>Plaintiff</b> Puente, Maria	
Total Charges	30.00
Total Payments and Credits	30.00
<b>Balance Due as of 2/25/2021</b>	<b>0.00</b>

# DISTRICT COURT CIVIL COVER SHEET

County, Nevada

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

(Assigned by Clerk's Office)

CASE NO: A-20-813787-C  
Department 18

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

Plaintiff(s) (name/address/phone):  Damaso S. Puente, individually and on behalf of  the Estate of Damaso I. Puente, Maria Puente,  Daniel Malone, and Diane Malone, individually  and on behalf of the Estate of Christa Puente,	Henry Biderman Aparicio, Morgan Hurley, Dave & Buster's of Nevada, Inc dba Dave & Buster's; Dave & Buster's Inc; MAT-SUMMERLIN LLC, dba Casa del Matador Summerlin; MATADOR INVESTMENTS, LLC; OPPER MELANG 5410, LLC; MEL-OPP & GRIFF, LLC; OPP MEL & GRIFF, INC.; MOCORE, LLC
Attorney (name/address/phone):  Thomas Christensen  Christensen Law Office, LLC  1000 S. Valley View Blvd., Ste. P  Las Vegas, NV 89107	Attorney (name/address/phone):  Shea Backus  Backus Carranza and Burden  3050 South Durango Drive  Las Vegas, Nevada 89117

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


### Civil Case Filing Types

<b>Real Property</b>  <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input checked="" type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Torts</b>  <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<b>Probate</b> <i>(select case type and estate value)</i> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction Defect &amp; Contract</b>  <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Judicial Review/Appeal</b>  <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b>  <b>Civil Writ</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		<b>Other Civil Filing</b>  <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

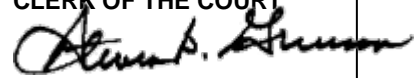
*Business Court filings should be filed using the Business Court civil coversheet.*

4/16/2020

Date

  
 Signature of initiating party or representative

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



MICHAEL P. LOWRY, ESQ.  
Nevada Bar No. 10666  
E-mail: [Michael.Lowry@wilsonelser.com](mailto:Michael.Lowry@wilsonelser.com)  
VIRGINIA T. TOMOVA, ESQ.  
Nevada Bar No. 12504  
E-mail: [Virginia.Tomova@wilsonelser.com](mailto:Virginia.Tomova@wilsonelser.com)  
6689 Las Vegas Blvd. South, Suite 200  
Las Vegas, Nevada 89119  
Tel: 702.727.1400/Fax: 702.727.1401  
Attorneys for Dave & Buster's of Nevada, Inc.

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

Damaso S. Puente, individually and on behalf of the  
Estate of Damaso I. Puente; Maria Puente; Daniel  
Malone; and Diane Malone, individually and on  
behalf of the Estate of Christa Puente,

Plaintiffs,

vs.

Henry Biderman Aparicio; Morgan Hurley; Dave &  
Buster's of Nevada, Inc. dba Dave & Buster's; MAT-  
Summerlin, LLC dba Casa del Matador Summerlin;  
Mocore, LLC; Does I-V, and Roe Corporations I-V,  
Roe Manufacturer I-V; Roe Wholesaler I-V; Roe  
Retailer I-V,

Defendants.

Case No.: A-20-813787-C

Dept. No.: 18


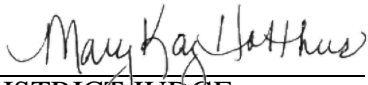
**Order on Dave & Buster's of Nevada,  
Inc's Motion to Dismiss**

///

///

///

Dave & Buster's of Nevada, Inc. moved to dismiss per NRCP 12(b)(5). Plaintiffs opposed and the motion was heard on July 1, 2020. Michael Lowry appeared for Dave & Buster's, Thomas Christensen appeared for Plaintiffs. The Court denies Dave & Buster's motion without prejudice. As pled, it is unclear to the Court what Plaintiffs allege Dave and Buster's did. Plaintiffs are granted leave to file an amended complaint.

  <u>/s/ Michael Lowry</u> MICHAEL P. LOWRY, ESQ. Nevada Bar No. 10666 6689 Las Vegas Blvd. South, Suite 200 Las Vegas, Nevada 89119 Attorneys for Dave & Buster's of Nevada, Inc.	CHRISTENSEN LAW  <u>/s/ Tom Christensen</u> THOMAS F. CHRISTENSEN, ESQ. Nevada Bar No. 2326 1000 S Valley View Blvd Las Vegas, Nevada 89107 Attorney for Plaintiffs
	It is so ordered.  DISTRICT JUDGE  Date: <u>July 13th, 2020</u>

**Kelley, Cynthia H.**

---

**From:** Dawn Hooker <dawnh@injuryhelpnow.com>  
**Sent:** Wednesday, July 8, 2020 4:05 PM  
**To:** Lowry, Michael  
**Subject:** Re: Puente: Proposed Order

**[EXTERNAL EMAIL]**

Yes, that looks fine.  
You may use my esignature. Thank you very much.

Dawn Allysa Hooker, Esq.  
Nevada Bar 7019  
Christensen Law Offices, LLC  
1000 S Valley View Blvd.  
Las Vegas, NV 89107  
Office: (702) 870-1000  
Direct Line: (702) 204-8490  
Fax: (702) 870-6152  
[www.injuryhelpnow.com](http://www.injuryhelpnow.com)

\*\*\*\*\* PLEASE NOTE \*\*\*\*\* This E-Mail/telefax message and any documents accompanying this transmission may contain privileged and/or confidential information and is intended solely for the addressee(s) named above. If you are not the intended addressee/recipient, you are hereby notified that any use of, disclosure, copying, distribution, or reliance on the contents of this E-Mail/telefax information is strictly prohibited and may result in legal action against you. Please reply to the sender advising of the error in transmission and immediately delete/destroy the message and any accompanying documents. Thank you.\*\*\*\*\*

On Wed, Jul 8, 2020 at 4:00 PM Lowry, Michael <[Michael.Lowry@wilsonelser.com](mailto:Michael.Lowry@wilsonelser.com)> wrote:

I could live with that. Attached is a revised order. Will it work for you too?

**From:** Dawn Hooker [mailto:[dawnh@injuryhelpnow.com](mailto:dawnh@injuryhelpnow.com)]  
**Sent:** Wednesday, July 8, 2020 15:43  
**To:** Lowry, Michael <[Michael.Lowry@wilsonelser.com](mailto:Michael.Lowry@wilsonelser.com)>  
**Cc:** [courtnotices@injuryhelpnow.com](mailto:courtnotices@injuryhelpnow.com)  
**Subject:** Re: Puente: Proposed Order

**[EXTERNAL EMAIL]**

Okay, keeping that sentence would be okay to keep. So, it would say :

"The Court denies Dave & Buster's motion without prejudice. As pled, it is unclear to the Court what Plaintiffs allege Dave and Buster's did. Plaintiffs are granted leave to file an amended complaint."

Dawn Allysa Hooker, Esq.  
Christensen Law Offices, LLC  
1000 S Valley View Blvd.  
Las Vegas, NV 89107  
Office: (702) 870-1000  
Direct Line: (702) 204-8490  
Fax: (702) 870-6152  
[www.injuryhelpnow.com](http://www.injuryhelpnow.com)

\*\*\*\*\* PLEASE NOTE \*\*\*\*\* This E-Mail/telefax message and any documents accompanying this transmission may contain privileged and/or confidential information and is intended solely for the addressee(s) named above. If you are not the intended addressee/recipient, you are hereby notified that any use of, disclosure, copying, distribution, or reliance on the contents of this E-Mail/telefax information is strictly prohibited and may result in legal action against you. Please reply to the sender advising of the error in transmission and immediately delete/destroy the message and any accompanying documents. Thank you.\*\*\*\*\*

On Tue, Jul 7, 2020 at 5:40 PM Lowry, Michael <[Michael.Lowry@wilsonelser.com](mailto:Michael.Lowry@wilsonelser.com)> wrote:

Thank you, but the order needs to state some reason why the court ruled as it did. I kept it as simple as I could based upon what the judge said during the hearing. If you have alternative language to "As pled it is unclear to the court what Plaintiffs' allege Dave & Buster's did" I'm willing to consider it.

**From:** Dawn Hooker [mailto:[dawnh@injuryhelpnow.com](mailto:dawnh@injuryhelpnow.com)]  
**Sent:** Tuesday, July 7, 2020 15:55  
**To:** Lowry, Michael <[Michael.Lowry@wilsonelser.com](mailto:Michael.Lowry@wilsonelser.com)>  
**Cc:** [courtnotices@injuryhelpnow.com](mailto:courtnotices@injuryhelpnow.com)  
**Subject:** Re: Puente: Proposed Order

**[EXTERNAL EMAIL]**

Hello Michael:

I spoke to Mr. Christensen, who appeared at the hearing on this and he would prefer to have more simple language in the order.

After the introductory sentences regarding the motion, date and appearances, etc. could you change it to read as follows:

"The Court denies Dave and Buster's Motion without prejudice. Plaintiffs are granted leave to file an amended complaint."

If you are okay with that language, you may affix my electronic signature. (Bar number 7019). Thank you.

Dawn Allysa Hooker, Esq.



Christensen Law Offices, LLC  
1000 S Valley View Blvd.  
Las Vegas, NV 89107  
Office: (702) 870-1000  
Direct Line: (702) 204-8490  
Fax: (702) 870-6152  
[www.injuryhelpnow.com](http://www.injuryhelpnow.com)

\*\*\*\*\* PLEASE NOTE \*\*\*\*\* This E-Mail/telefax message and any documents accompanying this transmission may contain privileged and/or confidential information and is intended solely for the addressee(s) named above. If you are not the intended addressee/recipient, you are hereby notified that any use of, disclosure, copying, distribution, or reliance on the contents of this E-Mail/telefax information is strictly prohibited and may result in legal action against you. Please reply to the sender advising of the error in transmission and immediately delete/destroy the message and any accompanying documents. Thank you.\*\*\*\*\*

On Fri, Jul 3, 2020 at 8:43 AM Lowry, Michael <[Michael.Lowry@wilsonelser.com](mailto:Michael.Lowry@wilsonelser.com)> wrote:

Hello,

A draft of the proposed order from the July 1 hearing is attached. If acceptable, please just reply and confirm that. I will then submit it to the court electronically.

Michael Lowry  
Attorney at Law  
Wilson Elser Moskowitz Edelman & Dicker LLP  
6689 Las Vegas Blvd. South, Suite 200  
Las Vegas, NV 89119  
702.727.1267 (Direct)  
702.727.1400 (Main)  
702.727.1401 (Fax)  
[michael.lowry@wilsonelser.com](mailto:michael.lowry@wilsonelser.com)

CONFIDENTIALITY NOTICE: This electronic message is intended to be viewed only by the individual or entity to whom it is addressed. It may contain information that is privileged, confidential and exempt from disclosure under applicable law. Any dissemination, distribution or copying of this communication is strictly prohibited without our prior permission. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, or if you have received this communication in error, please notify us immediately by return e-mail and delete the original message and any copies of it from your computer system.

For further information about Wilson, Elser, Moskowitz, Edelman & Dicker LLP, please see our website at [www.wilsonelser.com](http://www.wilsonelser.com) or refer to any of our offices.

Thank you.



CONFIDENTIALITY NOTICE: This electronic message is intended to be viewed only by the individual or entity to whom it is addressed. It may contain information that is privileged, confidential and exempt from disclosure under applicable law. Any dissemination, distribution or copying of this communication is strictly prohibited without our prior permission. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, or if you have received this communication in error, please notify us immediately by return e-mail and delete the original message and any copies of it from your computer system.

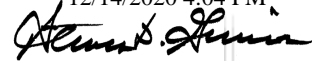
For further information about Wilson, Elser, Moskowitz, Edelman & Dicker LLP, please see our website at [www.wilsonelser.com](http://www.wilsonelser.com) or refer to any of our offices.

Thank you.

CONFIDENTIALITY NOTICE: This electronic message is intended to be viewed only by the individual or entity to whom it is addressed. It may contain information that is privileged, confidential and exempt from disclosure under applicable law. Any dissemination, distribution or copying of this communication is strictly prohibited without our prior permission. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, or if you have received this communication in error, please notify us immediately by return e-mail and delete the original message and any copies of it from your computer system.

For further information about Wilson, Elser, Moskowitz, Edelman & Dicker LLP, please see our website at [www.wilsonelser.com](http://www.wilsonelser.com) or refer to any of our offices.

Thank you.



CLERK OF THE COURT

**ORDR**

THOMAS F. CHRISTENSEN, ESQ.  
Nevada Bar No. 2326  
CHRISTENSEN LAW OFFICES, LLC  
1000 S. Valley View Blvd.  
Las Vegas, Nevada 89107  
T: 702-870-1000  
courtnotices@injuryhelpnow.com

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Damaso S. Puente, individually and on behalf of  
the Estate of Damaso I. Puente, Maria Puente,  
Daniel Malone, and Diane Malone, individually  
and on behalf of the Estate of Christa Puente,

CASE NO:A-20-813787-C  
DEPT. NO: XVIII

Plaintiffs,

vs.

Henry Biderman Aparicio, Morgan Hurley, Dave  
& Buster's of Nevada, Inc dba Dave & Buster's;  
Dave & Buster's Inc; MAT-SUMMERLIN LLC,  
dba Casa del Matador Summerlin; MATADOR  
INVESTMENTS, LLC; OPPER MELANG 5410,  
LLC; MEL-OPP & GRIFF, LLC; OPP MEL &  
GRIFF, INC.; MOCORE, LLC; DOES I - V, and  
ROE CORPORATIONS I - V, ROE  
MANUFACTURER I - V; ROE WHOLESALER,  
I - V; ROE RETAILER, I - V;

Defendants.

**ORDER RE: DAVE & BUSTER'S RENEWED MOTION TO DISMISS**

Dave & Buster's of Nevada, Inc. moved to dismiss the amended complaint per NRC  
12(b)(5). Dave & Buster's argued that NRS 41.1305(1) bars and eliminates all causes of action  
against Dave and Buster's. Plaintiffs opposed and the motion was heard on September 16, 2020.  
Michael Lowry appeared for Dave & Buster's, Thomas Christensen appeared for Plaintiffs.

1 When evaluating a motion to dismiss per NRCP 12(b)(5), the district court accepts all  
2 factual allegations in the complaint as true and draws all inferences in the plaintiffs' favor.  
3 Dismissal is appropriate "only if it appears beyond a doubt that [the plaintiff] could prove no set  
4 of facts, which, if true, would entitle [her] to relief." *Buzz Stew, LLC v. City of N. Las Vegas*, 124  
5 Nev. 224, 228, 181 P.3d 670, 672 (2008).  
6

7 Dave & Buster's argued that the facts alleged in the amended complaint are all subject to  
8 NRS 41.1305(1). If so, then Dave & Buster's argues Plaintiffs' causes of action against it are  
9 barred. Plaintiffs opposed, arguing NRS 41.1305(1) did not abrogate the common law causes of  
10 action against liquor providers pled in their complaint, including negligence, gross negligence,  
11 willful and wanton misconduct, strict products liability, breach of express and implied warranties,  
12 acting in concert in an abnormally dangerous activity, negligent supervision and hiring, and  
13 negligence per se. The Plaintiff argued that NRS 41.1305(1) did not abrogate any common law  
14 causes of action against liquor providers, but only served to protect licensees from strict liability  
15 for reasonable service of alcohol, while making social hosts strictly liable for any amount of  
16 alcohol served to minors. Plaintiff argued that if NRS 41.1305(1) is interpreted more broadly,  
17 then it is unconstitutional. Dave & Buster's replied and disputed Plaintiffs' opposition.  
18  
19

20 The Court concludes Plaintiffs could prove one set of facts that could support a claim for  
21 relief, so the motion is GRANTED IN PART and DENIED IN PART.

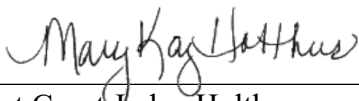
22 As to the negligence cause of action, the court concludes that NRS 41.1305(1) does not bar  
23 a cause of action against Dave & Buster's to the extent that Dave & Buster's agents or employees  
24 may have assisted Mr. Aparicio to the vehicle he drove that was then involved in the collision  
25 that killed Damaso & Christa Puente. The motion to dismiss is denied on that point only. The  
26 motion is granted as to all other remaining causes of action including negligence, gross  
27 negligence, willful and wanton misconduct, strict products liability, breach of express and  
28

1 implied warranties, acting in concert in an abnormally dangerous activity, negligent supervision  
2 and hiring, and negligence per se.

3  
4 Plaintiffs further argued NRS 41.1305(1) is ambiguous, so it is necessary to consider its  
5 legislative history. “Statutory interpretation concerns determining legislative intent, and the  
6 starting point is the statute’s plain language. When the meaning of the language is clear, the  
7 analysis ends....” Considering legislative history becomes necessary only when the statute’s  
8 language could support two or more reasonable interpretations. The Court finds NRS  
9 41.1305(1)’s language is clear and unambiguous. Consequently, the Court did not consider NRS  
10 41.1305(1)’s legislative history.

11  
12 Plaintiffs alternatively argued NRS 41.1305(1) is unconstitutional because it results in a  
13 denial of their right to a jury trial on the issues of negligence, gross negligence, willful and  
14 wanton misconduct, strict products liability, breach of express and implied warranties, acting in  
15 concert in an abnormally dangerous activity, negligent supervision and hiring, and negligence per  
16 se. The Court finds the statute is constitutional because the restrictions are rationally related to a  
17 legitimate state purpose.

18  
19 DATED THIS \_\_\_\_ day of October, 2020. Dated this 14th day of December, 2020

20   
21 \_\_\_\_\_  
22 District Court Judge Holthus

23 Submitted by:

24 CHRISTENSEN LAW OFFICES, LLC

25 **F39 8C4 E8FC A3AB**  
26 **Mary Kay Holthus**  
27 **District Court Judge**

28 BY: \_\_/s/Thomas Christensen\_\_\_\_\_  
THOMAS CHRISTENSEN, ESQ.

Nevada Bar No. 2326

1000 S. Valley View Blvd.

Las Vegas, Nevada 89107

Attorney for Damaso Puente, Maria Puente,

Daniel Malone and Diane Malone

1 Approved as to form and content by:

2 Wilson, Elser Moskowitz Edelman & Dicker LLP

3 BY:     /s/Michael Lowry                     

4 MICHAEL LOWRY, ESQ.

5 Nevada Bar No. 10666

6 6689 Las Vegas Blvd. South, Suite 200

7 Las Vegas, NV 89119

8 Attorney for Dave & Buster's



Stephanie Martinez &lt;stephaniem@injuryhelpnow.com&gt;

**[courtnotices] RE: Puente: Proposed Order**

1 message

**Lowry, Michael** <Michael.Lowry@wilsonelser.com>

Wed, Oct 14, 2020 at 10:46 AM

To: Dawn Hooker &lt;dawnh@injuryhelpnow.com&gt;

Cc: "CourtNotices@InjuryHelpNow.com" &lt;courtnotices@injuryhelpnow.com&gt;

Thank you. I can accept that if you can insert the signature block and submit it to the court.

**From:** Dawn Hooker [mailto:[dawnh@injuryhelpnow.com](mailto:dawnh@injuryhelpnow.com)]**Sent:** Friday, October 9, 2020 13:04**To:** Lowry, Michael <[Michael.Lowry@wilsonelser.com](mailto:Michael.Lowry@wilsonelser.com)>**Cc:** CourtNotices@InjuryHelpNow.com**Subject:** Re: Puente: Proposed Order**[EXTERNAL EMAIL]**

Hello Michael:

Please see the attached proposed order (in word format). I have attempted to combine your language with ours a little bit more comprehensively.

I have not added your signature line yet, but obviously if you are agreeable to this version, that would be an easy fix.

Please let me know if this proposed Order is acceptable or if you have proposed modifications that would make it acceptable. Thank you.

Dawn Allysa Hooker, Esq.  
Christensen Law Offices, LLC  
[1000 S Valley View Blvd.](#)  
[Las Vegas, NV 89107](#)  
[Office: \(702\) 870-1000](#)  
Direct Line: (702) 204-8490  
Fax: (702) 870-6152  
[www.injuryhelpnow.com](http://www.injuryhelpnow.com)

\*\*\*\*\* PLEASE NOTE \*\*\*\*\* This E-Mail/telefax message and any documents accompanying this transmission may contain privileged and/or confidential information and is intended solely for the addressee(s) named above. If you are not the intended addressee/recipient, you are hereby notified that any use of, disclosure, copying, distribution, or reliance on the contents of this E-Mail/telefax information is strictly prohibited and may result in legal action against you. Please reply to the sender advising of the error in transmission and immediately delete/destroy the message and any accompanying documents. Thank you.\*\*\*\*\*

On Thu, Oct 8, 2020 at 11:25 PM Lowry, Michael <[Michael.Lowry@wilsonelser.com](mailto:Michael.Lowry@wilsonelser.com)> wrote:

Dawn, your response?

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4	
5	
6 Damaso Puente, Plaintiff(s)	CASE NO: A-20-813787-C
7 vs.	DEPT. NO. Department 18
8 Henry Aparicio, 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: 12/14/2020

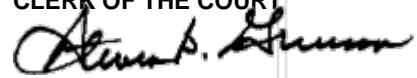
15 Eservice Irvine	wiznet@wolfewyman.com
16 Jeremy Robins	jrobins@backuslaw.com
17 Michael Lowry	michael.lowry@wilsonelser.com
18 Shea Backus	sbackus@backuslaw.com
19 Anne Raymundo	anneraymundo@backuslaw.com
20 Efile LasVegas	efilelasvegas@wilsonelser.com
21 Evelyn Pastor	empastor@ww.law
22 BCB Clerk	rec@backuslaw.com
23 Kait Chavez	kait.chavez@wilsonelser.com
24 Agnes Wong	agnes.wong@wilsonelser.com
25 Thomas Christensen	courtnotices@injuryhelpnow.com
26	
27	
28	

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

Thomas Christensen                      courtnotices@injuryhelpnow.com

Virginia Tomova                      virginia.tomova@wilsonelser.com





1 **NOE**  
2 THOMAS F. CHRISTENSEN, ESQ.  
3 Nevada Bar No. 2326  
4 CHRISTENSEN LAW OFFICES, LLC  
5 1000 S. Valley View Blvd.  
6 Las Vegas, Nevada 89107  
7 T: 702-870-1000  
8 courtnotices@injuryhelpnow.com

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

11 Damaso S. Puente, individually and on behalf of  
12 the Estate of Damaso I. Puente, Maria Puente,  
13 Daniel Malone, and Diane Malone, individually  
14 and on behalf of the Estate of Christa Puente,

CASE NO:A-20-813787-C  
DEPT. NO: XVIII

15 Plaintiffs,

16 vs.

17 Henry Biderman Aparicio, Morgan Hurley, Dave  
18 & Buster's of Nevada, Inc dba Dave & Buster's;  
19 Dave & Buster's Inc; MAT-SUMMERLIN LLC,  
20 dba Casa del Matador Summerlin; MATADOR  
21 INVESTMENTS, LLC; OPPER MELANG 5410,  
22 LLC; MEL-OPP & GRIFF, LLC; OPP MEL &  
23 GRIFF, INC.; MOCORE, LLC; DOES I - V, and  
24 ROE CORPORATIONS I - V, ROE  
25 MANUFACTURER I - V; ROE WHOLESALER,  
26 I - V; ROE RETAILER, I - V;

27 Defendants.

28 **NOTICE OF ENTRY OF ORDER**

TO: ALL PARTIES AND THEIR COUNSEL

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that an Order was entered  
in the above-entitled matter on the 14th day of December, 2020, a copy of which is attached

///

///

1 hereto.

2 Dated this 15<sup>th</sup> day of December, 2020.

3 CHRISTENSEN LAW OFFICES

4 

5 THOMAS F. CHRISTENSEN, ESQ.

6 Nevada Bar 2326

7 1000 S. Valley View Blvd.

8 Las Vegas, NV 89107

9 courtnotices@injuryhelpnow.com

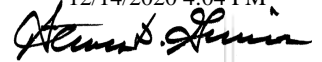
10 **CERTIFICATE OF SERVICE**

11 Pursuant to NRCP 5(b), I certify that I am an employee of CHRISTENSEN LAW  
12 OFFICES, LLC and that on this 15<sup>th</sup> day of December, 2020, I served a copy of the foregoing  
13 **NOTICE OF ENTRY OF ORDER** via the Court's e-service system to all registered users for  
14 this case number.  
15

16 

17 An employee of CHRISTENSEN LAW OFFICES, LLC  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

EXHIBIT 1

  
CLERK OF THE COURT

**ORDR**

THOMAS F. CHRISTENSEN, ESQ.  
Nevada Bar No. 2326  
CHRISTENSEN LAW OFFICES, LLC  
1000 S. Valley View Blvd.  
Las Vegas, Nevada 89107  
T: 702-870-1000  
courtnotices@injuryhelpnow.com

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Damaso S. Puente, individually and on behalf of  
the Estate of Damaso I. Puente, Maria Puente,  
Daniel Malone, and Diane Malone, individually  
and on behalf of the Estate of Christa Puente,

CASE NO:A-20-813787-C  
DEPT. NO: XVIII

Plaintiffs,

vs.

Henry Biderman Aparicio, Morgan Hurley, Dave  
& Buster's of Nevada, Inc dba Dave & Buster's;  
Dave & Buster's Inc; MAT-SUMMERLIN LLC,  
dba Casa del Matador Summerlin; MATADOR  
INVESTMENTS, LLC; OPPER MELANG 5410,  
LLC; MEL-OPP & GRIFF, LLC; OPP MEL &  
GRIFF, INC.; MOCORE, LLC; DOES I - V, and  
ROE CORPORATIONS I - V, ROE  
MANUFACTURER I - V; ROE WHOLESALER,  
I - V; ROE RETAILER, I - V;

Defendants.

**ORDER RE: DAVE & BUSTER'S RENEWED MOTION TO DISMISS**

Dave & Buster's of Nevada, Inc. moved to dismiss the amended complaint per NRCP  
12(b)(5). Dave & Buster's argued that NRS 41.1305(1) bars and eliminates all causes of action  
against Dave and Buster's. Plaintiffs opposed and the motion was heard on September 16, 2020.  
Michael Lowry appeared for Dave & Buster's, Thomas Christensen appeared for Plaintiffs.

1 When evaluating a motion to dismiss per NRCP 12(b)(5), the district court accepts all  
2 factual allegations in the complaint as true and draws all inferences in the plaintiffs' favor.  
3 Dismissal is appropriate "only if it appears beyond a doubt that [the plaintiff] could prove no set  
4 of facts, which, if true, would entitle [her] to relief." *Buzz Stew, LLC v. City of N. Las Vegas*, 124  
5 Nev. 224, 228, 181 P.3d 670, 672 (2008).  
6

7 Dave & Buster's argued that the facts alleged in the amended complaint are all subject to  
8 NRS 41.1305(1). If so, then Dave & Buster's argues Plaintiffs' causes of action against it are  
9 barred. Plaintiffs opposed, arguing NRS 41.1305(1) did not abrogate the common law causes of  
10 action against liquor providers pled in their complaint, including negligence, gross negligence,  
11 willful and wanton misconduct, strict products liability, breach of express and implied warranties,  
12 acting in concert in an abnormally dangerous activity, negligent supervision and hiring, and  
13 negligence per se. The Plaintiff argued that NRS 41.1305(1) did not abrogate any common law  
14 causes of action against liquor providers, but only served to protect licensees from strict liability  
15 for reasonable service of alcohol, while making social hosts strictly liable for any amount of  
16 alcohol served to minors. Plaintiff argued that if NRS 41.1305(1) is interpreted more broadly,  
17 then it is unconstitutional. Dave & Buster's replied and disputed Plaintiffs' opposition.  
18  
19

20 The Court concludes Plaintiffs could prove one set of facts that could support a claim for  
21 relief, so the motion is GRANTED IN PART and DENIED IN PART.

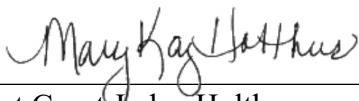
22 As to the negligence cause of action, the court concludes that NRS 41.1305(1) does not bar  
23 a cause of action against Dave & Buster's to the extent that Dave & Buster's agents or employees  
24 may have assisted Mr. Aparicio to the vehicle he drove that was then involved in the collision  
25 that killed Damaso & Christa Puente. The motion to dismiss is denied on that point only. The  
26 motion is granted as to all other remaining causes of action including negligence, gross  
27 negligence, willful and wanton misconduct, strict products liability, breach of express and  
28

1 implied warranties, acting in concert in an abnormally dangerous activity, negligent supervision  
2 and hiring, and negligence per se.

3  
4 Plaintiffs further argued NRS 41.1305(1) is ambiguous, so it is necessary to consider its  
5 legislative history. “Statutory interpretation concerns determining legislative intent, and the  
6 starting point is the statute’s plain language. When the meaning of the language is clear, the  
7 analysis ends....” Considering legislative history becomes necessary only when the statute’s  
8 language could support two or more reasonable interpretations. The Court finds NRS  
9 41.1305(1)’s language is clear and unambiguous. Consequently, the Court did not consider NRS  
10 41.1305(1)’s legislative history.

11  
12 Plaintiffs alternatively argued NRS 41.1305(1) is unconstitutional because it results in a  
13 denial of their right to a jury trial on the issues of negligence, gross negligence, willful and  
14 wanton misconduct, strict products liability, breach of express and implied warranties, acting in  
15 concert in an abnormally dangerous activity, negligent supervision and hiring, and negligence per  
16 se. The Court finds the statute is constitutional because the restrictions are rationally related to a  
17 legitimate state purpose.

18  
19 DATED THIS \_\_\_\_ day of October, 2020. Dated this 14th day of December, 2020

20   
21 \_\_\_\_\_  
22 District Court Judge Holthus

23 Submitted by:

24 CHRISTENSEN LAW OFFICES, LLC

25 **F39 8C4 E8FC A3AB**  
26 **Mary Kay Holthus**  
27 **District Court Judge**

28 BY: \_\_/s/Thomas Christensen\_\_\_\_\_  
THOMAS CHRISTENSEN, ESQ.

Nevada Bar No. 2326  
1000 S. Valley View Blvd.  
Las Vegas, Nevada 89107  
Attorney for Damaso Puente, Maria Puente,  
Daniel Malone and Diane Malone

1 Approved as to form and content by:

2 Wilson, Elser Moskowitz Edelman & Dicker LLP

3 BY:     /s/Michael Lowry                     

4 MICHAEL LOWRY, ESQ.

5 Nevada Bar No. 10666

6 6689 Las Vegas Blvd. South, Suite 200

7 Las Vegas, NV 89119

8 Attorney for Dave & Buster's



Stephanie Martinez &lt;stephaniem@injuryhelpnow.com&gt;

**[courtnotices] RE: Puente: Proposed Order**

1 message

**Lowry, Michael** <Michael.Lowry@wilsonelser.com>

Wed, Oct 14, 2020 at 10:46 AM

To: Dawn Hooker &lt;dawnh@injuryhelpnow.com&gt;

Cc: "CourtNotices@InjuryHelpNow.com" &lt;courtnotices@injuryhelpnow.com&gt;

Thank you. I can accept that if you can insert the signature block and submit it to the court.

**From:** Dawn Hooker [mailto:[dawnh@injuryhelpnow.com](mailto:dawnh@injuryhelpnow.com)]**Sent:** Friday, October 9, 2020 13:04**To:** Lowry, Michael <[Michael.Lowry@wilsonelser.com](mailto:Michael.Lowry@wilsonelser.com)>**Cc:** CourtNotices@InjuryHelpNow.com**Subject:** Re: Puente: Proposed Order**[EXTERNAL EMAIL]**

Hello Michael:

Please see the attached proposed order (in word format). I have attempted to combine your language with ours a little bit more comprehensively.

I have not added your signature line yet, but obviously if you are agreeable to this version, that would be an easy fix.

Please let me know if this proposed Order is acceptable or if you have proposed modifications that would make it acceptable. Thank you.

Dawn Allysa Hooker, Esq.  
Christensen Law Offices, LLC  
[1000 S Valley View Blvd.](#)  
[Las Vegas, NV 89107](#)  
**Office:** (702) 870-1000  
Direct Line: (702) 204-8490  
Fax: (702) 870-6152  
[www.injuryhelpnow.com](http://www.injuryhelpnow.com)

\*\*\*\*\* PLEASE NOTE \*\*\*\*\* This E-Mail/telefax message and any documents accompanying this transmission may contain privileged and/or confidential information and is intended solely for the addressee(s) named above. If you are not the intended addressee/recipient, you are hereby notified that any use of, disclosure, copying, distribution, or reliance on the contents of this E-Mail/telefax information is strictly prohibited and may result in legal action against you. Please reply to the sender advising of the error in transmission and immediately delete/destroy the message and any accompanying documents. Thank you.\*\*\*\*\*

On Thu, Oct 8, 2020 at 11:25 PM Lowry, Michael <[Michael.Lowry@wilsonelser.com](mailto:Michael.Lowry@wilsonelser.com)> wrote:

Dawn, your response?



1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4	
5	
6 Damaso Puente, Plaintiff(s)	CASE NO: A-20-813787-C
7 vs.	DEPT. NO. Department 18
8 Henry Aparicio, 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: 12/14/2020

15 Eservice Irvine	wiznet@wolfewyman.com
16 Jeremy Robins	jrobins@backuslaw.com
17 Michael Lowry	michael.lowry@wilsonelser.com
18 Shea Backus	sbackus@backuslaw.com
19 Anne Raymundo	anneraymundo@backuslaw.com
20 Efile LasVegas	efilelasvegas@wilsonelser.com
21 Evelyn Pastor	empastor@ww.law
22 BCB Clerk	rec@backuslaw.com
23 Kait Chavez	kait.chavez@wilsonelser.com
24 Agnes Wong	agnes.wong@wilsonelser.com
25 Thomas Christensen	courtnotices@injuryhelpnow.com
26	
27	
28	

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

Thomas Christensen

courtnotices@injuryhelpnow.com

Virginia Tomova

virginia.tomova@wilsonelser.com



MICHAEL P. LOWRY, ESQ.  
Nevada Bar No. 10666  
E-mail: [Michael.Lowry@wilsonelser.com](mailto:Michael.Lowry@wilsonelser.com)  
VIRGINIA T. TOMOVA, ESQ.  
Nevada Bar No. 12504  
E-mail: [Virginia.Tomova@wilsonelser.com](mailto:Virginia.Tomova@wilsonelser.com)  
6689 Las Vegas Blvd. South, Suite 200  
Las Vegas, Nevada 89119  
Tel: 702.727.1400/Fax: 702.727.1401  
Attorneys for Dave & Buster's of Nevada, Inc.

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

Damaso S. Puente, individually and on behalf of the  
Estate of Damaso I. Puente; Maria Puente; Daniel  
Malone; and Diane Malone, individually and on  
behalf of the Estate of Christa Puente,

Plaintiffs,

vs.

Henry Biderman Aparicio; Morgan Hurley; Dave &  
Buster's of Nevada, Inc.; MAT-Summerlin, LLC dba  
Casa del Matador Summerlin; Mocore, LLC; Does I-  
V, and Roe Corporations I-V, Roe Manufacturer I-V;  
Roe Wholesaler I-V; Roe Retailer I-V,

Defendants.

Case No.: A-20-813787-C  
Dept. No.: 18

**Order re Dave & Buster's of Nevada,  
Inc's Motion for Summary Judgment**

The court previously granted Dave & Buster's motion to dismiss, except on one, narrow point. The only remaining theory against Dave & Buster's is whether its agents or employees "may have assisted Mr. Aparicio to the vehicle he drove that was then involved in the collision that killed Damaso & Christa Puente." When discovery opened, Dave & Buster's subpoenaed and obtained information from police identifying who "assisted Mr. Aparicio to the vehicle he drove that was then involved in the collision that killed Damaso & Christa Puente." That person was Casa del Matador employee Asa Eubanks. Dave & Buster's then filed this motion for summary judgment because Asa Eubanks was not an agent or employee of Dave & Buster's. Defendants Aparicio, Hurley, MAT-Summerlin, LLC, and Mocore, LLC did not oppose the motion.

1 Plaintiffs did oppose the motion. They asserted the evidence upon which Dave & Buster's  
2 relied for its motion is inadmissible. The court disagrees because this evidence could be presented  
3 in an admissible format. Second, Plaintiffs presented no contrary evidence indicating either 1)  
4 someone other than Mr. Eubanks or 2) someone affiliated with Dave & Buster's assisted Mr.  
5 Aparicio to the vehicle he drove that was then involved with this accident. Plaintiffs agreed at oral  
6 argument they do not have contrary evidence on this point.

7 Plaintiffs' final argument is that summary judgment should be denied per Rule 56(d) to  
8 allow for further discovery. However, the discovery Plaintiffs describe does not pertain to the sole  
9 remaining theory of liability against Dave & Buster's. Even if Plaintiffs were given time to  
10 pursue this discovery, it would not generate a genuine issue of material fact relevant to who  
11 assisted Mr. Aparicio to the vehicle he drove that was then involved in the collision that killed  
12 Damaso & Christa Puente. Plaintiffs have not demonstrated why Rule 56(d) relief is necessary for  
13 that issue.

14 In conclusion, the admissible evidence indicates 1) Mr. Eubanks assisted Mr. Aparicio to  
15 his vehicle; and 2) Mr. Eubanks was not an agent or employee of Dave & Buster's. There is no  
16 genuine issue of material fact on these points, so summary judgment for Dave & Buster's is  
17 appropriate and granted.

18 This ruling disposes of all causes of action against Dave & Buster's. During the hearing  
19 on this motion for summary judgment, Plaintiffs and Dave & Buster's agreed there was no just  
20 reason to delay entry of final judgment as to Plaintiffs' causes of action against Dave & Buster's.  
21 The court agrees and designates this order as the final judgment, per Rule 54(b), as to Plaintiffs'  
22 causes of action against Dave & Buster's only. Plaintiffs' remaining causes of actions against  
23 other Defendants are not subject to Rule 54(b) certification at this time.

24 ///

26 ///


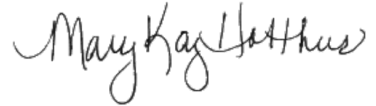
28 ///

1                   **Order re Dave & Buster's of Nevada, Inc's Motion for Summary Judgment**

2   A-20-813787-C

3

4

<p>5                    6                   <u>/s/ Michael Lowry</u> 7                   MICHAEL P. LOWRY, ESQ. 8                   Nevada Bar No. 10666 9                   6689 Las Vegas Blvd. South, Suite 200 10                  Las Vegas, Nevada 89119 11                  Attorneys for Dave &amp; Buster's of Nevada, 12                  Inc.</p>	<p>CHRISTENSEN LAW</p> <p><i>Approval refused.</i></p> <p><u>THOMAS F. CHRISTENSEN, ESQ.</u> Nevada Bar No. 2326 1000 S. Valley View Blvd. Las Vegas, Nevada 89107 Attorney for Plaintiffs</p>
	<p>It is so ordered. Dated this 26th day of January, 2021</p> <p></p> <p><u>DISTRICT JUDGE</u> 399 A42 06A8 6CC7 Mary Kay Holthus District Court Judge</p>

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Damaso Puente, Plaintiff(s) CASE NO: A-20-813787-C  
7 vs. DEPT. NO. Department 18  
8 Henry Aparicio, 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 Summary Judgment was served via the court's  
13 electronic eFile system to all recipients registered for e-Service on the above entitled case as  
14 listed below:

14 Service Date: 1/26/2021

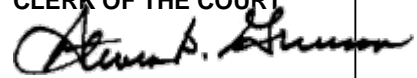
15 Eservice Irvine	wiznet@wolfewyman.com
16 Jeremy Robins	jrobins@backuslaw.com
17 Michael Lowry	michael.lowry@wilsonelser.com
18 Shea Backus	sbackus@backuslaw.com
19 Anne Raymundo	anneraymundo@backuslaw.com
20 Efile LasVegas	efilelasvegas@wilsonelser.com
21 Evelyn Pastor	empastor@ww.law
22 BCB Clerk	rec@backuslaw.com
23 Kait Chavez	kait.chavez@wilsonelser.com
24 Agnes Wong	agnes.wong@wilsonelser.com
25 Thomas Christensen	courtnotices@injuryhelpnow.com

26  
27  
28

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

Thomas Christensen                      courtnotices@injuryhelpnow.com

Virginia Tomova                      virginia.tomova@wilsonelser.com



MICHAEL P. LOWRY, ESQ.  
Nevada Bar No. 10666  
E-mail: [Michael.Lowry@wilsonelser.com](mailto:Michael.Lowry@wilsonelser.com)  
VIRGINIA T. TOMOVA, ESQ.  
Nevada Bar No. 12504  
E-mail: [Virginia.Tomova@wilsonelser.com](mailto:Virginia.Tomova@wilsonelser.com)  
6689 Las Vegas Blvd. South, Suite 200  
Las Vegas, Nevada 89119  
Tel: 702.727.1400/Fax: 702.727.1401  
Attorneys for Dave & Buster's of Nevada, Inc.

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

Damaso S. Puente, individually and on behalf of the  
Estate of Damaso I. Puente; Maria Puente; Daniel  
Malone; and Diane Malone, individually and on  
behalf of the Estate of Christa Puente,

Plaintiffs,

vs.

Henry Biderman Aparicio; Morgan Hurley; Dave &  
Buster's of Nevada, Inc.; MAT-Summerlin, LLC dba  
Casa del Matador Summerlin; Mocore, LLC; Does I-  
V, and Roe Corporations I-V, Roe Manufacturer I-V;  
Roe Wholesaler I-V; Roe Retailer I-V,

Defendants.

Case No.: A-20-813787-C  
Dept. No.: 18

**Notice of Entry**

Please be advised the court entered the attached order.

DATED this 26th day of January, 2021.



BY: /s/ Michael P. Lowry

MICHAEL P. LOWRY, ESQ.  
Nevada Bar No. 10666  
VIRGINIA T. TOMOVA, ESQ.  
Nevada Bar No. 12504  
6689 Las Vegas Blvd. South, Suite 200  
Las Vegas, Nevada 89119  
Attorneys for Dave & Buster's of Nevada, Inc.



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

**Certificate of Service**

Pursuant to NRCP 5, I certify that I am an employee of Wilson Elser Moskowitz Edelman & Dicker LLP, and that on January 26, 2021, I served **Notice of Entry** as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☒ via electronic means by operation of the Court's electronic filing system, upon each party in this case who is registered as an electronic case filing user with the Clerk;

Thomas F. Christensen Christensen Law 1000 S Valley View Blvd Las Vegas, Nevada 89107 Attorneys for Plaintiffs	Shea Backus Backus, Carranza & Burden 3050 S. Durango Dr. Las Vegas, NV 89117 Attorneys for Morgan Hurley; Henry Aparicio
Michael A. Koning Wolfe & Wyman 6757 Spencer St. Las Vegas, NV 89119 Attorneys for Mocore, LLC; MAT-Summerlin, LLC	

BY: /s/ Michael Lowry  
An Employee of



*Heather S. Summerlin*  
CLERK OF THE COURT



MICHAEL P. LOWRY, ESQ.  
Nevada Bar No. 10666  
E-mail: [Michael.Lowry@wilsonelser.com](mailto:Michael.Lowry@wilsonelser.com)  
VIRGINIA T. TOMOVA, ESQ.  
Nevada Bar No. 12504  
E-mail: [Virginia.Tomova@wilsonelser.com](mailto:Virginia.Tomova@wilsonelser.com)  
6689 Las Vegas Blvd. South, Suite 200  
Las Vegas, Nevada 89119  
Tel: 702.727.1400/Fax: 702.727.1401  
Attorneys for Dave & Buster's of Nevada, Inc.

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

Damaso S. Puente, individually and on behalf of the  
Estate of Damaso I. Puente; Maria Puente; Daniel  
Malone; and Diane Malone, individually and on  
behalf of the Estate of Christa Puente,

Plaintiffs,

vs.

Henry Biderman Aparicio; Morgan Hurley; Dave &  
Buster's of Nevada, Inc.; MAT-Summerlin, LLC dba  
Casa del Matador Summerlin; Mocore, LLC; Does I-  
V, and Roe Corporations I-V, Roe Manufacturer I-V;  
Roe Wholesaler I-V; Roe Retailer I-V,

Defendants.

Case No.: A-20-813787-C  
Dept. No.: 18

**Order re Dave & Buster's of Nevada,  
Inc's Motion for Summary Judgment**

The court previously granted Dave & Buster's motion to dismiss, except on one, narrow point. The only remaining theory against Dave & Buster's is whether its agents or employees "may have assisted Mr. Aparicio to the vehicle he drove that was then involved in the collision that killed Damaso & Christa Puente." When discovery opened, Dave & Buster's subpoenaed and obtained information from police identifying who "assisted Mr. Aparicio to the vehicle he drove that was then involved in the collision that killed Damaso & Christa Puente." That person was Casa del Matador employee Asa Eubanks. Dave & Buster's then filed this motion for summary judgment because Asa Eubanks was not an agent or employee of Dave & Buster's. Defendants Aparicio, Hurley, MAT-Summerlin, LLC, and Mocore, LLC did not oppose the motion.

1 Plaintiffs did oppose the motion. They asserted the evidence upon which Dave & Buster's  
2 relied for its motion is inadmissible. The court disagrees because this evidence could be presented  
3 in an admissible format. Second, Plaintiffs presented no contrary evidence indicating either 1)  
4 someone other than Mr. Eubanks or 2) someone affiliated with Dave & Buster's assisted Mr.  
5 Aparicio to the vehicle he drove that was then involved with this accident. Plaintiffs agreed at oral  
6 argument they do not have contrary evidence on this point.

7 Plaintiffs' final argument is that summary judgment should be denied per Rule 56(d) to  
8 allow for further discovery. However, the discovery Plaintiffs describe does not pertain to the sole  
9 remaining theory of liability against Dave & Buster's. Even if Plaintiffs were given time to  
10 pursue this discovery, it would not generate a genuine issue of material fact relevant to who  
11 assisted Mr. Aparicio to the vehicle he drove that was then involved in the collision that killed  
12 Damaso & Christa Puente. Plaintiffs have not demonstrated why Rule 56(d) relief is necessary for  
13 that issue.

14 In conclusion, the admissible evidence indicates 1) Mr. Eubanks assisted Mr. Aparicio to  
15 his vehicle; and 2) Mr. Eubanks was not an agent or employee of Dave & Buster's. There is no  
16 genuine issue of material fact on these points, so summary judgment for Dave & Buster's is  
17 appropriate and granted.

18 This ruling disposes of all causes of action against Dave & Buster's. During the hearing  
19 on this motion for summary judgment, Plaintiffs and Dave & Buster's agreed there was no just  
20 reason to delay entry of final judgment as to Plaintiffs' causes of action against Dave & Buster's.  
21 The court agrees and designates this order as the final judgment, per Rule 54(b), as to Plaintiffs'  
22 causes of action against Dave & Buster's only. Plaintiffs' remaining causes of actions against  
23 other Defendants are not subject to Rule 54(b) certification at this time.

24 ///

26 ///

28 ///

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

2

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto**

**COURT MINUTES**

**July 01, 2020**

---

A-20-813787-C	Damaso Puente, Plaintiff(s) vs. Henry Aparicio, Defendant(s)
---------------	--

---

<b>July 01, 2020</b>	<b>10:00 AM</b>	<b>Motion to Dismiss</b>
----------------------	-----------------	--------------------------

<b>HEARD BY:</b> Holthus, Mary Kay	<b>COURTROOM:</b> RJC Courtroom 03F
------------------------------------	-------------------------------------

**COURT CLERK:** Dara Yorke  
Ro'Shell Hurtado

**RECORDER:** Yvette G. Sison

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Christensen, Thomas F.	Attorney
	Lowry, Michael P.	Attorney
	Rawlings, Michael S.	Attorney
	Robins, Jeremy R.	Attorney

**JOURNAL ENTRIES**

- Thomas Christensen, Esq., Michael Rawlings, Esq., Michael Lowry, Esq. present via Bluejeans video conference.

Statements by Mr. Lowry. Colloquy between parties. Arguments by Mr. Christensen. Following colloquy, COURT ORDERED, Dave & Buster's of Nevada, Inc.'s Motion to Dismiss was hereby DENIED; however, Court noted it would deny for now and allow amendment. Mr. Christensen to prepare Order and submit to opposing counsel for approval as to form and content. Mr. Christensen indicated in Order he would grant Deft. leave to amend and deny without prejudice. COURT DIRECTED Mr. Christensen to clear up which Deft. did what. Mr. Christensen concurred.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto**

**COURT MINUTES**

**September 16, 2020**

---

A-20-813787-C      Damaso Puente, Plaintiff(s)  
vs.  
Henry Aparicio, Defendant(s)

---

**September 16, 2020      10:00 AM      Motion to Dismiss**

**HEARD BY:** Holthus, Mary Kay      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Dara Yorke

**RECORDER:** Yvette G. Sison

**REPORTER:**

**PARTIES**

**PRESENT:**      Christensen, Thomas F.      Attorney  
Franco, Jacquelyn M.      Attorney  
Lowry, Michael P.      Attorney  
Rawlings, Michael S.      Attorney

**JOURNAL ENTRIES**

- Thomas Christensen, Esq., Michael Rawlings, Esq., Michael Lowry, Esq. and Jacqueline Franco, Esq. present via Bluejeans video conference.

Upon Court's inquiry, Mr. Lowry indicated the instant Motion was a renewed Motion to Dismiss which was previously denied without prejudice; additionally, Mr. Lowry indicated they reassessed the Complaint and re-filed. Arguments by Mr. Christensen. Statements by Mr. Lowry. Court noted it did believe statute was clear and would leave the first cause of action that would appear to take it out the door. Additionally, Court noted there may had been liability that Deft. couldn't find his car which Dave & Buster's facilitated getting Deft. to his car; however, it wasn't comfortable dismissing that cause of action at the instant time. Further Court indicated with respect to the remainder the statute stated Dave & Buster's just wasn't liable as to damages as to the service of alcohol. Statements by Mr. Lowry. COURT ORDERED, Dave & Buster's of Nevada, Inc.'s Renewed Motion to Dismiss was hereby GRANTED IN PART, DENIED IN PART. Mr. Lowry to prepare Order and submit to opposing counsel for approval as to form and content.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto**

**COURT MINUTES**

**December 16, 2020**

---

A-20-813787-C      Damaso Puente, Plaintiff(s)  
vs.  
Henry Aparicio, Defendant(s)

---

**December 16, 2020      10:00 AM      Mandatory Rule 16  
Conference**

**HEARD BY:**    Holthus, Mary Kay

**COURTROOM:**    RJC Courtroom 03F

**COURT CLERK:**    Dara Yorke

**RECORDER:**    Yvette G. Sison

**REPORTER:**

**PARTIES**

**PRESENT:**      Hooker, Dawn    Allysa      Attorney  
                      Koning, Michael A.      Attorney  
                      Robins, Jeremy R.      Attorney

**JOURNAL ENTRIES**

- Dawn Hooker, Esq., Michael Koning, Esq. and Jeremy Robins, Esq. present via Bluejeans video conference.

Court referred parties to Judge Wiese's Department; further, advised parties to contact Department 30 to set up a settlement conference if needed. COURT ORDERED, discovery cutoff is January 24, 2022; adding parties, amended pleadings, and initial expert disclosures DUE October 26, 2021; rebuttal expert disclosures DUE November 25, 2021; dispositive motions TO BE FILED BY February 23, 2022, trial ready date April 25, 2022.

6/15/22 9:00 AM CALENDAR CALL

6/27/22 1:00 PM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto**

**COURT MINUTES**

**January 06, 2021**

---

A-20-813787-C	Damaso Puente, Plaintiff(s)
	vs.
	Henry Aparicio, Defendant(s)

---

**January 06, 2021      10:00 AM      Motion to Quash**

**HEARD BY:** Holthus, Mary Kay      **COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Dara Yorke

**RECORDER:** Yvette G. Sison

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Christensen, Thomas F.	Attorney
	Hooker, Dawn Allysa	Attorney
	Mitchell, Shannon L.	Attorney
	Robins, Jeremy R.	Attorney
	Tomova, Virginia T.	Attorney

**JOURNAL ENTRIES**

- Thomas Christensen, Esq., Dawn Hooker, Esq., Shannon Mitchell, Esq., Virginia Tomova, Esq. and Jeremy Robins, Esq. present via Bluejeans video conference.

Counsel from Nevada Defense Group not present. Court noted it assumed counsel wasn't seeking any privileged documents or information, which Ms. Tomova concurred, noting they weren't seeking any information that hadn't been disclosed. COURT ORDERED, matter CONTINUED to the following week to see if Nevada Defense Group would be present. Court advised parties it was inclined to grant the instant Motion; however, it needed clarification that no one was seeking privileged and confidential information. Colloquy between parties.

1/13/21 10:00 AM CONTINUED: NEVADA DEFENSE GROUP'S MOTION TO QUASH SUBPOENA DUCES TECUM FOR BUSINESS RECORDS

CLERK'S NOTE: The above minute order has been distributed to: Damian Sheets, Esq.



(dsheets@defendingnevada.com)//1-7-21/ dy

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto**

**COURT MINUTES**

**January 13, 2021**

---

A-20-813787-C	Damaso Puente, Plaintiff(s) vs. Henry Aparicio, Defendant(s)
---------------	--

---

**January 13, 2021      10:00 AM      All Pending Motions**

**HEARD BY:** Holthus, Mary Kay      **COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Dara Yorke

**RECORDER:** Yvette G. Sison

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Christensen, Thomas F.	Attorney
	Koning, Michael A.	Attorney
	Lowry, Michael P.	Attorney
	Robins, Jeremy R.	Attorney

**JOURNAL ENTRIES**

- Thomas Christensen, Esq., Michael Koning, Esq., Michael Lowry, Esq. and Jeremy Robins, Esq. present via Bluejeans video conference. Kelsey Bernstein, Esq. present on behalf of the Nevada Defense Group.

DAVE & BUSTER'S OF NEVADA, INC'S MOTION FOR SUMMARY JUDGMENT...NEVADA DEFENSE GROUP'S MOTION TO QUASH SUBPOENA DUCES TECUM FOR BUSINESS RECORDS

As to NEVADA DEFENSE GROUP'S MOTION TO QUASH SUBPOENA DUCES TECUM FOR BUSINESS RECORDS:

Upon Court's inquiry, Ms. Bernstein noted the discovery was received from the criminal case and is confidential due to that case being active; therefore, without a Court Order, she didn't believe they could give that up. Court noted it could sign a Court Order; therefore, DIRECTED Ms. Bernstein to submit a Court Order to that effect and to the extent reports were redacted. Mr. Lowry noted he would prepare an Order and that should take care of the Motion to Quash. COURT ORDERED, the instant Motion was hereby GRANTED IN PART. Mr. Lowry to prepare the Order and submit to

opposing counsel for approval as to form and content.

As to DAVE & BUSTER'S OF NEVADA, INC'S MOTION FOR SUMMARY JUDGMENT:  
Statements by Mr. Christensen. Colloquy between parties. Following colloquy, COURT ORDERED,  
Dave & Buster's of Nevada, Inc's Motion for Summary Judgment was hereby GRANTED; therefore,  
Dave & Buster's was out. Mr. Robins stipulated on the certification. No opposition by Mr. Koning.  
Mr. Lowry to prepare the Order and submit to opposing counsel for approval as to form and content.



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

**THOMAS CHRISTENSEN, ESQ.**  
**1000 S. VALLEY VIEW BLVD.**  
**LAS VEGAS, NV 89107**

**DATE: February 25, 2021**  
**CASE: A-20-813787-C**

**RE CASE:** DAMASO S. PUENTE, individually and on behalf of the ESTATE OF DAMASO I, PUENTE; MARIA PUENTE, DANIEL MALONE, AND DIANE MALONE, individually and on behalf of the ESTATE OF CHRISTA PUENTE vs. HENRY BIDERMAN APARICIO; MORGAN HURLEY; DAVE & BUSTER'S OF NEVADA, INC. dba DAVE & BUSTER'S; MAT-SUMMERLIN LLC dba CADA DEL MATADOR SUMMERLIN; MOCORE, LLC

NOTICE OF APPEAL FILED: February 24, 2021

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

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

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
  - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☐ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☒ Notice of Entry of Order *re: Order filed July 14, 2020*

---

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

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

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

---

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

# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER ON DAVE & BUSTER'S OF NEVADA, INC'S MOTION TO DISMISS; ORDER RE: DAVE & BUSTER'S RENEWED MOTION TO DISMISS; NOTICE OF ENTRY OF ORDER; ORDER RE DAVE & BUSTER'S OF NEVADA, INC'S MOTION FOR SUMMARY JUDGMENT; NOTICE OF ENTRY; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

DAMASO S. PUENTE, individually and on behalf of the ESTATE OF DAMASO I, PUENTE; MARIA PUENTE, DANIEL MALONE, AND DIANE MALONE, individually and on behalf of the ESTATE OF CHRISTA PUENTE,

Plaintiff(s),

vs.

HENRY BIDERMAN APARICIO; MORGAN HURLEY; DAVE & BUSTER'S OF NEVADA, INC. dba DAVE & BUSTER'S; MAT-SUMMERLIN LLC dba CADA DEL MATADOR SUMMERLIN; MOCORE, LLC,

Defendant(s),

Case No: A-20-813787-C

Dept No: XVIII

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 25 day of February 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

