

IN THE SUPREME COURT OF THE STATE OF NEVADA

VIVIA HARRISON,

Appellant,

vs.

RAMPARTS INC., LUXOR HOTEL &
CASINO, A DOMESTIC
CORPORATION,

Respondent.

Case No. 80167

Electronically Filed
Jul 09 2020 02:21 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Appeal from the Eighth Judicial
District Court, the Honorable David
M. Jones Presiding

APPELLANT'S APPENDIX, VOLUME 2
(Nos. 163–292)

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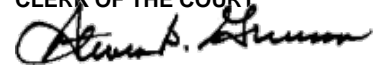
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Vivia Harrison

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

Vivia Harrison, an individual,

Plaintiff,

vs.

Case No.: A-16-732342-C

Dept. No.: XXIX

Ramparts, Inc., dba Luxor Hotel & Casino, a Nevada Domestic Corporation;
Desert Medical Equipment, a Nevada Domestic Corporation; **Pride Mobility Products Corp.**, a Nevada Domestic Corporation; Does I-X; Roe Corporations I-X,

Defendants.

Joint Pre-Trial Memorandum

Desert Medical Equipment, a Nevada Domestic Corporation;
Third-Party Plaintiff,

vs.

Stan Sawamoto, an individual;
Third-Party Defendant.

Plaintiff, Vivia Harrison, through her attorney of record, Matthew G. Pfau, Esq. and Defendant, Ramparts, Inc. dba Luxor Hotel & Casino through their attorneys of record, Loren S. Young, Esq. and Thomas W. Maroney, Esq. of Lincoln, Gustafson &

1 Cercos, Defendant and Third-Third Plaintiff, Desert Medical Equipment, through their
2 attorneys of record, LeAnn Sanders, Esq. and Courtney Christopher, Esq. of Alverson
3 Taylor & Sanders and Third-Party Defendant, Stan Sawamoto, through his attorney
4 of record, Stacey A. Upson, Esq. of the Law Offices of Karl H. Smith hereby submit
5 their Joint Pre-Trial Memorandum pursuant to EDCR 2.67(b), in connection with this
6 matter in which the Jury Trial is set to commence on December 10, 2018 at 9:00 a.m.,
7 before the Honorable Judge David M Jones. The pretrial meeting of counsel was held
8 on Wednesday, November 14, 2018 at 8:50 a.m.

9
10 **I.**

11 **Brief Statement of Facts**

12 On December 10, 2014, Vivia Harrison was a guest at the Luxor Hotel and Casino,
13 owned and operated by Ramparts, Inc., in Las Vegas, Nevada. To accommodate her
14 mobility, Vivia rented a motorized scooter. The scooter was owned by Desert Medical
15 Equipment and rented to Vivia by an employee of the Luxor.

16 Around 3:30 p.m., employees of the Luxor's Backstage Deli began shifting dining
17 tables and chairs in anticipation of Vivia entering the restaurant. As Vivia attempted
18 to navigate through the passageway on the scooter, the front wheel slacked over the
19 base of a table. This caused the scooter to tip over and propel Viva to the ground.

20 Vivia was transported to a nearby hospital to treat for her injuries. Vivia
21 underwent surgery to repair a fractured femur. While in the hospital, Vivia suffered
22 a stroke. Since, her mental, physical, and emotional state has continued to
23 deteriorate.

24
25 **II.**

26 **Vivia Harrison's Causes of Action**

- 27 1. Claims against Ramparts, Inc. dba Luxor Hotel & Casino:
28 a. Negligence;

- 2 -

JOINT PRE-TRIAL MEMORANDUM

- 1 b. Negligent Hiring, Training, and Maintenance.
- 2 2. Claims against Desert Medical Equipment:
- 3 a. Negligence;
- 4 b. Negligent Hiring, Training, and Maintenance.

III.

Desert Medical Equipment's Causes of Action

- 8 1. Claims against Stan Sawamoto:
 - 9 a. Breach of Contract;
 - 10 b. Breach of Implied Covenant of Good Faith and Fair Dealing;
 - 11 c. Contractual Indemnity;
 - 12 d. Implied or Equitable Indemnity;
 - 13 e. Contribution;
 - 14 f. Negligence;

IV.

Ramparts, Inc. dba Luxor Hotel & Casino Affirmative Defenses

- 18 1. Plaintiffs' Complaint fails to state a claim against this answering Defendant
- 19 upon which relief can be granted.
- 20 2. The damages and injuries, if any, incurred by Plaintiff are not attributable to
- 21 any act, conduct, or omission on the part of the Defendant.
- 22 3. The Plaintiffs' has failed to mitigate her damages, if any, which Defendant
- 23 denies, and Plaintiffs' claims are therefor barred in whole or in part.
- 24 4. The occurrence referred to in the Complaint, and all injuries and damages, if
- 25 any, resulting therefrom were caused by the acts or omissions of a third party, or
- 26 third parties over whom Defendant had no control.
- 27 5. The occurrence referred to in the compliant, and all injuries and damages, if
- 28 any, resulting therefrom were the result of subsequent intervening cause and not

1 the alleged negligence of Defendant.

2 6. The incident alleged in the Complaint and the resulting damages, if any, to
3 Plaintiff, was proximately caused or contributed to by Plaintiff's own negligence and
4 such negligence was greater than the negligence, if any, of the Defendant.

5 7. The incident and/or Plaintiff's injuries were caused by Plaintiff's pre-existing
6 and/or physical condition and not by the negligence of the Defendant.

7 8. Plaintiff's claims for punitive damages are limited by Nevada Revised Statutes
8 42.001 – 42.007 and other statutes, and Plaintiff's claims for punitive damages are
9 limited by the principles of due process as articulated by the United States Supreme
10 Court in *State Farm v. Campbell*, 538 U.S. 408, 123 S. Ct. 1513 (2003).

11 9. Plaintiff's claims for punitive damages are barred because there is no evidence
12 that any officer, director, or managing agent of this Defendant authorized or ratified
13 any alleged intentional torts.

14 10. Plaintiff's claims for punitive damages are further barred because there is no
15 evidence of intent on the part of Defendant to cause hardship to Plaintiff or of
16 conscious disregard for her rights.

17 11. Defendant reserves the right to assert any additional affirmative defenses and
18 matters in avoidance as may be disclosed during the course of additional
19 investigation and discovery. Pursuant to NRCP 11, as amended, all possible
20 affirmative defenses may not have been alleged herein insofar as sufficient facts
21 were not plead and are not available after reasonable inquiry upon the filing of
22 Defendant's Answer, and therefore Defendant reserves the right to amend its
23 answer to allege additional affirmative defenses if so warranted.

24 12. Defendant hereby incorporate by reference those affirmative defenses
25 enumerated in Rule 8 of Nevada Rules of Civil Procedure as if fully set forth herein.
26 In the event further investigation or discovery reveals the applicability of such
27 defenses, Defendant reserves the right to seek leave of Court to amend its Answer
28 to specifically assert the same. Such defenses are herein incorporated by reference

for the specific purpose of not waiving the same.

V. Desert Medical Equipment's Affirmative Defenses

1. Defendant alleges that Plaintiff's First Amended Complaint on file herein fails to state a claim upon which relief can be granted.

2. Defendant alleges that the damages, if any, were caused in whole or in part, or where contributed to by reason of the negligence or wrongful conduct of the Plaintiff.

3. All risks and dangers involved in the factual situation described in the Complaint were open, obvious, and known to the Plaintiff and said Plaintiff voluntarily assumed said risks and dangers.

4. The incident alleged in the Complaint and the resulting damages, if any, to Plaintiff were proximately caused or contributed to by Plaintiff's own negligence, and such negligence was greater than the alleged negligence of Defendants.

5. Defendant alleges that the occurrence referred to in the Complaint, and all injuries and damages, if any, resulting therefrom were caused by the acts or omissions of a third part over whom Defendants had no control.

6. Defendant has fully performed and discharged all obligations owed to Plaintiff, including meeting the requisite standard of care to which Plaintiff was entitled.

7. If Plaintiff has sustained any injuries or damages, such were the result of intervening and/or superseding events, factors, occurrences, or conditions, which were in no way caused by Defendant, and for which Defendant is not liable.

8. Plaintiff is barred from recovering any special damages herein as a result of the failure to comply with the provisions of N.R.C.P. 9(g).

9. Defendant alleges that Plaintiff has a duty to mitigate her damages and has failed to do so.

10. Plaintiff's claims are barred by the applicable statutes of limitations and/or

1 repose.

2 11. Plaintiff did not exercise ordinary care, caution or prudence in the conduct
3 of her affairs relating to the allegations contained in Plaintiff's Complaint herein for
4 damages in order to avoid the injuries or damages of which Plaintiff complains, and
5 said injuries or damages, if any, were directly and proximately contributed to or
6 caused by the fault, carelessness and negligence of the Plaintiff.

7 12. Pursuant to N.R.C.P. 11, as amended, all possible Affirmative Defenses may
8 not have been alleged herein insofar as sufficient facts were not available after
9 reasonable inquiry upon the filing of Defendant's Answer, and therefore, Defendant
10 reserves the right to amend its Answer, and therefore, Defendant reserves the right
11 to amend its Answer to allege additional Affirmative Defenses if subsequent
12 investigation warrants.

13 13. That it has been necessary for Defendant to employ the services of an
14 attorney to defend this action and a reasonable sum should be allowed Defendant
15 for attorneys' fees, together with costs of suit incurred herein.

16 14. Defendant hereby incorporates by reference those affirmative defenses
17 enumerated in Rule 8 and Rule 12 of the Nevada Rules of Civil Procedure as if fully
18 set forth herein. In the event further investigation or discovery reveals the
19 applicability of any such defenses, Defendant reserves the right to seek leave of
20 Court to amend its Answer to specifically assert the same. Such defenses are herein
21 incorporated by reference for the specific purpose of not waiving the same.

22 15. Plaintiff's First Amended Complaint, and each claim asserted therein and
23 the relief sought, is barred by the statute of frauds.

24 16. Plaintiff failed to allege facts in support of any award of pre-judgment
25 interest.

26 17. Plaintiff failed to name the proper part or parties as Defendants.

27 18. All possible Affirmative Defenses may not have been alleged herein insofar
28 as sufficient facts were not available after reasonable inquiry upon the filing of

1 Defendant's Answer and, therefore, Defendant reserves the right to amend their
2 Answer to allege additional Affirmative Defenses if subsequent investigation
3 warrants.

4 19. Plaintiff is comparatively at fault; Plaintiffs' recovery, if any, should be
5 reduced in proportion to their own fault, or in the event his fault exceeds that of
6 Defendant, they are not entitled to any recovery.

7 20. Defendant denies each and every allegation of Plaintiff's First Amended
8 Complaint not specifically admitted or otherwise pled to herein.

9 21. Defendants allege that at all relevant times motioned in of Plaintiff's First
10 Amended Complaint, Plaintiff was suffering from a medical condition(s) which
11 Defendant did not cause, not was Defendant responsible for said medical
12 condition(s).

13 22. Plaintiff is barred from any recovery in this action by their own conduct
14 that operates as a waiver of their rights.

15 23. Plaintiff is barred from recovery in this action by the doctrine of unclean
16 hands.

17 24. No privity of contract exists between Plaintiff and Defendant such that
18 Defendant cannot be liable as a matter of law.

19 25. Plaintiff's claims, or parts thereof, are barred by the doctrine of waiver and
20 estoppel.

21 26. Plaintiff's damages, if any, were directly and proximately caused by the
22 misuse, abuse of, improper repair and maintenance of, alteration and the
23 unreasonable and improper use of the scooter. Further, the misuse, abuse, improper
24 repair and maintenance of, alteration, or failure to use the scooter properly
25 contributed to the loss or damages alleged in Plaintiff's First Amended Complaint.
26 The damages, if any, are recoverable by Plaintiff herein must be diminished in
27 proportion to the amount of fault attributable to such misuse, abuse, unreasonable
28 use, alteration, or improper use.

1 27. Plaintiff's damages were the result of unrelated pre-existing, or
2 subsequent conditions unrelated to Defendant's conduct.

3
4 **VI. Stan Sawamoto's Affirmative Defenses**

5 1. This Answering Third-Party Defendant denies the allegations of the Third
6 Party Plaintiff's First Amended Third-Party Complaint, and each cause of action, and
7 each paragraph in each cause of action, and each and every part thereof, including
8 a denial that the Plaintiff was damaged in the sum or sums alleged, or to be alleged,
9 or any other sum or sums whatsoever.

10 2. This Answering Third-Party Defendant denies that by reason of any act or
11 omission, fault, conduct, or liability on the part of this Answering Third-Party
12 Defendant, whether negligent, careless, unlawful, or whether as alleged, or
13 otherwise, that Third Party Plaintiff was injured or damaged in any of the amounts
14 alleged, or in any other manner or amount whatsoever, this Answering Third-Party
15 Defendant further denies that this Answering Third-Party Defendant was negligent,
16 careless, reckless, wanton, acted unlawfully or is liable, whether in the manner
17 alleged or otherwise.

18 3. This Answering Third-Party Defendant is informed and believes, and
19 thereon alleges, that Third-Party Plaintiff's Amended Third-Party Complaint, and
20 each and every cause of action stated therein, fails to state facts sufficient to
21 constitute a cause of action, or any cause of action, as against this Answering Third-
22 Party Defendant.

23 4. This Answering Third-Party Defendant is informed and believes, and
24 thereon alleges, that this This Answering Third-Party Defendant is not legally
25 responsible acts and/or omissions of those Defendant named by the Plaintiff as
26 fictitious Defendants.

27 5. This Answering Third-Party Defendant is informed and believes, and
28 thereon alleges, that if the Third Party Plaintiff herein suffered sustained any loss,

1 injury, damage or detriment, the same is directly and proximately caused and
2 contributed to, in whole or in part, by the breach of warranty, conduct, acts,
3 omissions, activities, carelessness, recklessness, negligence and/or intentional
4 misconduct of this Answering Third-Party Defendant, thereby completely or partially
5 barring the Third-Party Plaintiff's recovery herein.

6 6. This Answering Third-Party Defendant is informed and believes, and
7 thereon alleges, that it is not legally responsible in any fashion with respect to the
8 damages and injuries claimed by Third-Party Plaintiff; however, if this Answer
9 Third-Party Defendant is subjected to any liability to the Plaintiff or to any other party
10 herein, it will be due, in whole or in part, to the breach of warranty, acts, omissions,
11 activities, carelessness, recklessness, and negligence of others; wherefore any
12 recovery obtained by the Third Party Plaintiff or any other party herein against this
13 Answering Third-Party Defendant should be reduced in proportion to the respective
14 negligence and fault and legal responsibility of all other parties, persons and entities
15 their agents, servants and employees who contributed and/or caused any such
16 injury and/or damages, in accordance with the law of comparative negligence;
17 consequently, this Answering Third-Party Defendant is informed and believes, and
18 thereon alleges, that the liability of this Answering Third-Party Defendant, if any, is
19 limited in direct proportion to the percentage of fault actually attributed to this
20 Answering Third-Party Defendant.

21 7. This Answering Third-Party Defendant is found responsible in damages to
22 Third Party Plaintiff or some other party, whether as alleged or otherwise, then this
23 Answering Third-Party Defendant is informed and believes, and thereon alleges, that
24 the liability will be predicated upon the active conduct of the Third Party Plaintiff
25 whether by negligence, breach of warranty, strict liability in tort or otherwise, which
26 unlawful conduct proximately caused the alleged incident and that Third Party
27 Plaintiff's action against this Answering Third-Party Defendant is barred by that active
28 and affirmative conduct.

1 8. This Answering Third-Party Defendant is informed and believes, and
2 thereon alleges, that at the time or place of the incidents alleged in the Amended
3 Third Party Complaint, Plaintiff knew of and fully understood the danger and risks
4 incident to undertaking, but despite such knowledge, freely and voluntarily assumed
5 and exposed themselves to all risk of harm and the consequent injuries and
6 damages, if any, resulting therefrom.

7 9. This Answering Third-Party Defendant alleges that there exists an honest
8 and good faith disagreement as to the evaluation of the amount of damages being
9 alleged by Third Party Plaintiff.

10 10. This Answering Third-Party Defendant is informed and believes, and
11 thereon alleges, that the Third Party expressly, voluntarily, and knowingly assumed
12 all risks about which it complains about in the Third Party Complaint, and therefore,
13 is barred either totally, or to the extent of said assumption, from any damages.

14 11. This Answering Third-Party Defendant is informed and believes, and
15 thereon alleges, that all times mentioned, there was, has been, and continues to be a
16 material failure of consideration on the part of Third Party Plaintiff herein, as a
17 consequence of which this Answering Third Party Defendant's duty of performance
18 has been discharged.

19 12. This Answering Third-Party Defendant is informed and believes, and
20 thereon alleges, that Plaintiff unreasonably delayed of the filing of the Third Party
21 Complaint notification to this Answering Third-Party Defendant of the alleged claims,
22 the alleged negligence and the basis for the causes of action against this Answering
23 Third-Party Defendant, all of which has unduly and severely prejudiced this
24 Answering Third Party Defendant in its defense of the action, thereby barring or
25 diminishing Third Party Plaintiff's recovery herein under the Doctrine of Estoppel.

26 13. This Answering Third-Party Defendant is informed and believes, and
27 thereon alleges, that Third Party Plaintiff unreasonably delayed both the filing of the
28 Third Party Complaint and notification to this Answering Third Party Defendant of

1 the alleged claims, the alleged negligence and the basis for the causes of action
2 alleged against this Answering Third Party Defendant, all of which has unduly and
3 severely prejudiced this Answering Third-Party Defendant in its defense of the action,
4 thereby barring or diminishing the Third Party Plaintiff's recovery herein under the
5 Doctrine of Waiver.

6 14. This Answering Third-Party Defendant is informed and believes, and
7 thereon alleges, that Third Party Plaintiff unreasonably delayed both the filing of the
8 Third Party Complaint and notification to this Answering Third-Party Defendant of
9 the alleged claims, the alleged negligence and the basis for the causes of action
10 alleged against this Answering Third-Party Defendant, all of which has unduly and
11 severely prejudiced this Answering Third-Party Defendant in its defense of the action,
12 thereby barring or diminishing the Third Party Plaintiff's recovery herein under the
13 Doctrine of Laches.

14 15. This Answering Third-Party Defendant is informed and believes, and
15 thereon alleges, that Third Party Plaintiff has failed to join all necessary and
16 indispensable parties to this lawsuit.

17 16. This Answering Third-Party Defendant is informed and believes, and
18 thereon alleges, that the injuries and damages of which Third Party Plaintiff
19 complains were proximately caused by, or contributed to by, the acts of other
20 Defendants, persons, and/or other entities, and that said acts were intervening and
21 superseding cause of the injuries and damages, if any, of which Third Party Plaintiff
22 complains, thus barring Third Party Plaintiff from any recovery against this
23 Answering Third-Party Defendant.

24 17. This Answering Third-Party Defendant is informed and believes, and
25 thereon alleges, that the Third Party Plaintiff's damages, if any, proximately resulted
26 from the use of products in an unintended and abnormal manner and not from any
27 defect or mechanical failure of, failure to service properly, or failure to install
28 properly, said product or any of its components.

1 18. It has been necessary for this Answering Third-Party Defendant to retain
2 the services of an attorney to defend this action, and this Answering Third-Party
3 Defendant is entitled to a reasonable sum as and for attorney's fees.

4 19. This Answering Third-Party Defendant is informed and believes, and
5 thereon alleges, that the claims of the Third Party Plaintiff are reduced, modified
6 and/or barred by Doctrine of Unclean Hands.

7 20. This Answering Third-Party Defendant is informed and believes, and
8 thereon alleges, that actions and omissions by Third Party Plaintiff constituted a
9 breach of contract, and such breach excuse any nonperformance by this Answering
10 Third-Party Defendant.

11 21. This Answering Third-Party Defendant is informed and believes, and
12 thereon alleges, that at no time prior to the filing of this action did Third Party Plaintiff,
13 or any agent, representative or employee thereof, notify this Answering Third-Party
14 Defendant of any breach of any contract, warranty, or duty to Third Party Plaintiff;
15 therefore, Third Party Plaintiff is barred from any right of recovery.

16 22. This Answering Third-Party Defendant is informed and believes, and
17 thereon alleges, that the Third Party Plaintiff failed to perform express contractual
18 conditions precedent to this Answering Third-Party Defendant's performance, and
19 such failure excuses any nonperformance by this Answering Third-Party Defendant.

20 23. Pursuant to N.R.C.P. 11, as amended, all possible affirmative defenses may
21 not have been alleged herein so far as sufficient facts were not available for this
22 Answering Third-Party Defendant after reasonable inquiry, and therefore, this
23 Answering Third-Party Defendant reserves the right to amend his Answer to allege
24 additional affirmative defenses, if subsequent investigation so warrants.

25 24. This Answering Third-Party Defendant is informed and believes, and
26 thereon alleges, that Third Party Plaintiff modified the terms of the Agreement,

27 25. This Answering Third-Party Defendant is informed and believes, and
28 thereon alleges, a valid agreement did not exist based upon the actions of the Third-

1 Party Plaintiff's agent/employee an accordingly, no meeting of the minds occurred.

2 26. This Answering Third-Party Defendant is informed and believes, and
3 thereon alleges, no Agreement existed due to mistake.

4 27. This Answering Third-Party Defendant is informed and believes, and
5 thereon alleges, Third-Party Plaintiff waived its rights under the agreement.

6 28. This Answering Third-Party Defendant is informed and believes, and
7 thereon alleges, a novation has occurred thereby preceding any claim.

8 29. This Answering Third-Party Defendant is informed and believes, and
9 thereon alleges, any alleged failure to perform was either due to Third-Party
10 Plaintiff's actions and/or ratification.

11 12 **VII.**

13 **Abandoned Claims or Defenses**

14 **A. Vivia Harrison's Abandoned Claims against Ramparts, Inc. dba Luxor** 15 **Hotel and Casino**

16 a. Negligent Hiring, Training, and Maintenance.

17 **B. Vivia Harrison's Abandoned Claims against Desert Medical Equipment**

18 a. None.

19 **C. Desert Medical Equipment's Abandoned Claims against Stan Sawamoto**

20 a. *Opposing Counsel input requested.*

21 **D. Ramparts, Inc. dba Luxor Hotel and Casino Abandoned Defenses**

22 a. *Opposing Counsel input requested.*

23 **E. Desert Medical Equipment's Abandoned Demesnes**

24 a. *Opposing Counsel input requested.*

25 **F. Stan Sawamoto's Abandoned Defenses**

26 a. None.
27
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IX.

Proposed Amendments to the Pleadings

None.

X.

Vivia Harrison's List of Exhibits

1. Scene Photos as HARRISON 1-6;
2. Desert Medical Equipment Scooter Rental Agreement as HARRISON 7;
3. Hospital Photos as HARRISON 8-9;
4. Billing and Medical Records from American Medical Response as HARRISON 10-26;
5. Complete Medical Records- Spring Valley Hospital as HARRISON 27-2038;
6. Billing Records from Spring Valley Hospital Medical Center as HARRISON 2039-2084;
7. Billing Statement from Shadow Emergency Physicians as HARRISON 2085;
8. Billing Statement from Desert Radiologists as HARRISON 2086;
9. Billing and Medical Records from HealthSouth as HARRISON 2087-2499;
10. Billing and Medical Records from Ridgeview Health Services as HARRISON 2500-3513;
11. Billing and Medical Records from Encore Rehabilitation as HARRISON 3514-3637;
12. Medical Records from Southern Orthopedic & Sports Medicine as HARRISON 3638-3663;
13. Victory Scooter Product Manuel as HARRISON 3664;
14. Timothy Hicks CV and Fee Schedule, as HARRISON 3665-3668;
15. Claude Osula (Walker Diagnostics) Medical Records, as HARRISON 3669-3823;
16. Advanced Health Care of Summerlin Records, as HARRISON 3824-3957;
17. Drayer Medical Records, as HARRISON 3958-4003;

- 1 18.Claude Osula Prior Records, as HARRISON 4004-4110;
- 2 19.Gary Russell Records (Southern Ortho), as HARRISON 4111-4154;
- 3 20.Scooter Products available from Desert Medical Equipment's website, as
- 4 HARRISON 4155-56;
- 5 21.Maxima 3-wheel Scooter description and pricing from Pride Mobility Products
- 6 Corp. website, as HARRISON 4157-58;
- 7 22.Dr. Gary Russell's recommendations for future medical treatment, as
- 8 HARRISON 4159-60;
- 9 23.Additional Medical Records from Claude Osula, as HARRISON 4161-86;
- 10 24.Simon Williamson Clinic Medical Records, as HARRISON 4187-4342;
- 11 25.Dr. Leo Germin's Report, CV, Testimony History, and Fee Schedule as
- 12 HARRISON 4343-84;
- 13 26.Sarah Lustig's Reports, CV, Testimony History, and Fee Schedule as HARRISON
- 14 4385-4417;
- 15 27.Timothy Hicks' Report, CV, Testimony History, and Fee Schedule as HARRISON
- 16 4418-4441;
- 17 28.Michael Gibbens' Report, CV Fee Schedule, and Testimony List as HARRISON
- 18 4442-64;
- 19 29.Timothy Hicks' Rebuttal Expert Report, as HARRISON 4465-72;
- 20 30.Scooter Pictures from Wal-Mart, as HARRISON 4473-81;
- 21 31.Medical and Billing Records from Encore Rehabilitation, as HARRISON 4482-
- 22 4748;
- 23 32.Additional Medical Records from Simon Williamson Clinic, as HARRISON 4749-
- 24 4846;
- 25 33.Scene inspection photographs from the Backstage Deli, as HARRISON 4847-
- 26 4930;
- 27 34.Timothy Hicks' Second Supplemental Report, as HARRISON 4931-37; and
- 28 35. All documents identified by any other party in this case.

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XI.

Vivia Harrison's Demonstrative Exhibits

1. Summaries of Vivia's medical treatment;
2. Timeline of events;
3. Graphic representation of witness testimony;
4. Graphic representation of the Luxor Deli dining room layout measurements;
5. Slides in aid of opening statement and closing argument highlighting certain admitted or demonstrative evidence; and
6. Any deposition transcript or video testimony.

XII.

Ramparts, Inc. dba Luxor Hotel and Casino's List of Exhibits

1. *Opposing Counsel input requested.*

XIII.

Desert Medical Equipment's List of Exhibits

1. *Opposing Counsel input requested.*

XIV.

Stan Sawamoto's List of Exhibits

1. Pride Invoice No. 12102894
2. Pride Victory 10 Specifications.
3. Pride's In Process-Final Release Section for Order No. 363154.
4. Pride's Owners Manual, Victory Series
5. Incident Report.
6. Media Attachments listed in Joint Case Conference Report.
7. Security Video.

- 1 8. Terms and Conditions of Rental Agreement executed by Stan Sawamoto.
- 2 9. Scene Photographs.
- 3 10. Desert Medical Equipment Scooter Rental Agreement.
- 4 11. Hospital Photographs.
- 5 12. All documents listed by any party to this action.
- 6 13. Medical records from Spring Valley Hospital Medical Center.
- 7 14. Billing records from Spring Valley Hospital Medical Center.
- 8 15. Billing records from Shadow Emergency Physicians.
- 9 16. Billing records from Desert Radiologists.
- 10 17. Medical records from HealthSouth.
- 11 18. Billing records from HealthSouth.
- 12 19. Medical records from Ridgeview Health Services.
- 13 20. Billing records from Ridgeview Health Services.
- 14 21. Medical records from Encore Rehabilitation.
- 15 22. Billing records from Encore Rehabilitation.
- 16 23. Medical records from Southern Orthopedic & Sports Medicine.
- 17 24. All documents produced by any party to this action in discovery responses.
- 18 25. Victory Scooter product manual.
- 19 26. Security Video VTS-01_0.
- 20 27. Security Video VTS-01_1.
- 21 28. Security Video VTS-01_2.
- 22 29. Security Video VTS-01_3.
- 23 30. Color photographs of Backstage Deli taken October 24, 2017.
- 24 31. 42 photographs of Backstage Deli taken October 24, 2017.
- 25 32. Desert Medical Equipment's inspection photographs.
- 26 33. Pride Mobility Products Corporation Invoice 12102894.
- 27 34. Pride Mobility Products Corporation Victory 10 specifications.
- 28 35. Pride Mobility Products Corporation in Process Final Release Inspection.

- 1 36. Pride Mobility Products Corporation Victory Series Owner's Manual.
- 2 37. Consumer Safety Guide.
- 3 38. Pride Mobility Products Corporation Providers Standards.
- 4 39. Pride Mobility Products Corporation Seminar Attendance.
- 5 40. Pride Mobility Products Corporation Internet & E-Commerce Provider
- 6 Standards.
- 7 41. Credit Application.
- 8 42. Pride Mobility Products Corporation's Test Summary Report, Test Request 782-
- 9 12, Dynamic Stability.
- 10 43. Pride Mobility Products Corporation's Test Summary Report, Test Request 782-
- 11 12, Power & Controls.
- 12 44. Pride Mobility Products Corporation's Test Summary Report, Test Request 782-
- 13 12, Specification/Performance.
- 14 45. Pride Mobility Products Corporation's Test Report, ANSI/RESNA 1998 section
- 15 14, Power and Control Systems for Electric Wheelchairs and Scooters.
- 16 46. Pride Mobility Products Corporation's Test Report – ISO 7176-14 – RESNA 14.
- 17 47. Complaint 2454, Date of Incident July 16, 2010.
- 18 48. Complaint 2541, Date of Incident September 18, 2011.
- 19 49. Complaint 2822, Date of Incident December 7, 2012.
- 20 50. Complaint 3045, Date of Incident December 10, 2013.
- 21 51. Complaint 3211, Date of Incident November 14, 2013.
- 22 52. Complaint 3246, Date of Incident September 4, 2014.
- 23 53. Complaint 3388, Date of Incident October 10, 2014.
- 24 54. Surveillance footage.
- 25 55. Photograph of serial number on scooter.
- 26 56. Photograph of scooter.
- 27 57. Evidence Record.
- 28 58. Incident Reports dated December 9, 2014.

- 1 59. Photographs regarding incident on December 9, 2014.
- 2 60. Video from December 9, 2014 incident.
- 3 61. Desert Medical Equipment Rental Agreement No. 10325.
- 4 62. OPERA Notes and Revenue Comps
- 5 63. Photographs produced by Defendant Ramparts, Inc.
- 6 64. Backstage Deli layout.
- 7 65. Security Video of December 10, 2014.
- 8 66. Hamilton Anderson Associates plans.
- 9 67. Expert report, dated May 8, 2018 from Madsen Kneppers & Associates, Inc.
- 10 68. Vocational Diagnostics, Inc.'s rebuttal expert report, dated June 14, 2018.
- 11 69. Rebuttal report, dated June 14, 2018 from Madsen, Kneppers & Associates,
- 12 Inc.
- 13 70. Rebuttal report, dated June 11, 2018 from Clifford Segil.
- 14 71. Scooter instructions.
- 15 72. Employee Policy Manual.
- 16 73. Sample Service Log.
- 17 74. New Hire Job Description for Delivery Driver/Maintenance Technician.
- 18 75. Redacted Master Services Agreement.
- 19 76. Medical records from Walker Diagnostics.
- 20 77. Medical records from Advanced Health Care of Summerlin.
- 21 78. Medical records from Drayer.
- 22 79. Medical records of prior care from Claude Osula.
- 23 80. Medical records from Gary Russell.
- 24 81. Scooter products available from Desert Medical Equipment's website.
- 25 82. Maxima 3-wheel scooter description and pricing from Pride Mobility Products
- 26 Corporation's website.
- 27 83. Medical records from Simon Williamson Clinic.
- 28 84. Medical records from Claude Osula

- 1 85. Medical report from Dr. Leo Germin.
- 2 86. Reports from Sarah Lustig.
- 3 87. Report from Timothy Hicks.
- 4 88. Report from Michael Gibbens.
- 5 89. Rebuttal expert report from Timothy Hicks.
- 6 90. Scooter pictures from Wal-Mart.
- 7 91. Medical records and medical billing from Encore Rehabilitation.
- 8 92. Additional medical records from Simon Williamson Clinic.
- 9 93. Scene inspection photographs from Backstage Deli.
- 10 94. Second supplemental report from Timothy Hicks.
- 11 95. Medical records from Dr. Claude Osula.
- 12 96. Medical records from Southern Orthopedic & Sports Medicine.
- 13 97. Medical records and billing records from Encore Rehabilitation.
- 14 98. Medical records and billing records from American Medical Response.
- 15 99. Films and radiology studies from Walker Medical Diagnostics.
- 16 100. Medical records from Desert Radiologists.
- 17 101. Medical records from HealthSouth Desert Canyon Rehabilitation
- 18 Hospital.
- 19 102. Medical records from Ridgeview Health Services.
- 20 103. Affidavit of Jessica Gandy, Esq. regarding inspection of Backstage Deli on
- 21 October 24, 2017.
- 22 104. Letter from attorney Pfau dated December 24, 2014.
- 23 105. Test Report from Ammer Consulting.
- 24 106. Bill Ammer's Initial Expert Report and Addendum to Initial Expert Report.
- 25 107. Bill Ammer's Rebuttal Expert Report.
- 26 108. Clifford Segil, DO's Rebuttal Expert Report.
- 27 109. Aubrey Corwin's Rebuttal Expert Report.
- 28

XV.

Ramparts, Inc. dba Luxor Hotel and Casino's Demonstrative Exhibits

1. *Opposing Counsel input requested.*

XVI.

Desert Medical Equipment's Demonstrative Exhibits

1. *Opposing Counsel input requested.*

XVII.

Stan Sawamoto's List of Demonstrative Exhibits

1. All Custodian of Record Affidavits produced by all parties;
2. Any or all written discovery responses provided by the parties to this action herein;
3. Maps, diagrams or models of the scene of the incident that is the subject of this litigation
4. Power point images, blowups and transparencies of exhibits;
5. Models of various parts of the human body;
6. Diagrams, drawings, pictures, photos, film, video, DVD and CD ROM of various parts of the human body, diagnostic tests and surgical procedures;
7. Power point images, drawings, diagrams, animations, story boards of the incident, the location of the incident;
8. Power point images and blowups of deposition transcripts, discovery responses, and jury instructions;
9. Demonstrative or exemplar medical devices, tools or hardware;
10. Curriculum Vitae of Kenneth A. Solomon, PhD., P.E., Post PhD. of Institute of Risk & Safety Analysis.
11. Fee schedule of Kenneth A. Solomon, PhD., P.E., Post PhD. of Institute of Risk

- 1 & Safety Analysis.
- 2 12. Testimony List of Kenneth A. Solomon, PhD., P.E., Post PhD. of Institute of Risk
- 3 & Safety Analysis.
- 4 13. Curriculum Vitae of Wei-Kuang Chao of Institute of Risk & Safety Analysis.
- 5 14. Curriculum Vitae of Timothy Hicks.
- 6 15. Fee schedule of Timothy Hicks.
- 7 16. Testimony history of Timothy Hicks.
- 8 17. Curriculum Vitae of Dr. Leo Germin.
- 9 18. Fee schedule of Dr. Leo Germin.
- 10 19. Testimony history of Dr. Leo Germin.
- 11 20. Curriculum Vitae of Sarah Lustig.
- 12 21. Fee schedule of Sarah Lustig.
- 13 22. Testimony history of Sarah Lustig.
- 14 23. Curriculum Vitae of Michael Gibbens.
- 15 24. Fee schedule of Michael Gibbens.
- 16 25. Testimony history of Michael Gibbens.
- 17 26. Curriculum Vitae of Bill Ammer of Ammer Consulting.
- 18 27. Fee schedule of Bill Ammer of Ammer Consulting.
- 19 28. Testimony List of Bill Ammer of Ammer Consulting.
- 20 29. Curriculum Vitae of Clifford Segil, D.O.
- 21 30. Fee schedule of Clifford Segil, D.O.
- 22 31. Testimony list of Clifford Segil, D.O.
- 23 32. Curriculum Vitae of Aubrey Corwin.
- 24 33. Fee schedule of Aubrey Corwin.
- 25 34. Testimony list of Aubrey Corwin.
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XVIII.

Viva Harrison's Objections to Ramparts, Inc. dba Luxor Hotel and Casino Exhibits

None at this time as Luxor did not provide a list of exhibits. Vivia reserves the right to object to Luxor's exhibits once they are disclosed.

XIX.

Vivia Harrison's Objections to Desert Medical Equipment's Exhibits

None at this time as Desert Medical did not provide a list of exhibits. Vivia reserves the right to object to Desert Medical's exhibits once they are disclosed.

XX.

Desert Medical Equipment's Objections to Stan Sawamoto's Exhibits

1. *Opposing Counsel input requested.*

XXI.

Ramparts, Inc. dba Luxor Hotel and Casino's Objections to Vivia Harrison's Exhibits

1. *Opposing Counsel input requested.*

XXII.

Desert Medical Equipment's Objection's to Vivia Harrison's Exhibits

1. *Opposing Counsel input requested.*

XXIII.

Stan Sawamoto's Objection's to Vivia Harrison's Exhibits

1. Hearsay.
2. Lack of Foundation.
3. Lack of Authenticity and Genuineness.

Stan Sawamoto reserves the right to additional objections at the time of trial,

if necessary.

XIV.

Agreements as to the Limitation or Exclusion of Evidence

None

XXV.

Vivia Harrison's List of Witnesses and Their Expected Testimony

A. Witnesses Vivia Harrison Expects to Call at Trial

1. Vivia Harrison
c/o Parry & Pfau
880 Seven Hills Drive, Suite 210
Henderson, Nevada 89052
T: (702) 879-9555; and
Vivia Harrison
491 County Road 404
Haleyville, Alabama 35565
T: (205) 486-7799

Vivia Harrison is expected to testify regarding the condition of the subject scooter when she occupied it, including, but not limited to any safety features that were not present at the time of the subject injury. Ms. Harrison is also expected to testify regarding the condition of the physical facilities, including, but not limited to, the placement of furniture and ease of mobility while riding the subject scooter. Ms. Harrison is further expected to testify regarding the nature of her fall and the extent of her injury caused by the subject physical facilities and subject scooter. Ms. Harrison's testimony will be via deposition transcript.

2. Person(s) Most Knowledgeable of Rampart, Inc. dba Luxor Hotel & Casino
c/o Loren S. Young, Esq.
LINCOLN, GUSTAFSON & CERCOS
3960 Howard Hughes Parkway, Suite 200
Las Vegas, Nevada 891169
T: (702) 257-1997

Person(s) Most Knowledgeable of Rampart, Inc. dba Luxor Hotel & Casino is/are

expected to testify regarding the facts and circumstances surrounding the incident in question.

3. Person(s) Most Knowledgeable of Desert Medical Equipment
c/o Leanna Sanders, Esq. and Courtney Christopher, Esq.
ALVERSON TAYLOR AND SANDERS
6605 Grand Montecito Parkway, Suite 200
Las Vegas, Nevada 89149
T: (702) 384-7000

Person(s) Most Knowledgeable of Desert Medical Equipment is/are expected to testify regarding the facts and circumstances surrounding the rented motorized scooter.

4. Stan Sawamoto
c/o Stacey Upson, Esq.
The Law Offices of Karl H. Smith
7455 Arroyo Crossing Parkway, Suite 200
Las Vegas, Nevada 89133
T: (702) 408-3807

Stan Sawamoto is expected to testify regarding the facts and circumstances surrounding the rented motorized scooter he rented from Desert Medical Equipment. Mr. Sawamoto is also expected to testify as to how Vivia's life has changed since her fall and subsequent stroke at the Luxor.

5. Diane Lucas
5270 Southwest 193rd Lane
Fort Lauderdale, Florida 3332
T: (954) 802-7251; or
(954) 434-7099

Ms. Lucas is expected to testify regarding the condition of the subject scooter when Ms. Harrison occupied it, including, but not limited to any safety features that were not present at the time of the subject injury. Ms. Lucas is also expected to testify regarding the condition of the physical facilities, including, but not limited to, the placement of furniture and ease of mobility while Ms. Harrison was riding the subject scooter. Ms. Lucas is further expected to testify regarding the nature of Ms. Harrison's fall and how Vivia's life has changed since her fall and subsequent stroke at the Luxor.

6. Chuck Denmark
10890 129th Road
Live Oak, Florida 32060
T: 386-688-0998; or
386-364-5220

Mr. Denmark is expected to testify regarding the condition of the subject scooter when Ms. Harrison occupied it, including, but not limited to any safety features that were not present at the time of the subject injury. Mr. Denmark is also expected to testify regarding the condition of the physical facilities, including, but not limited to, the placement of furniture and ease of mobility while Ms. Harrison was riding the subject scooter. Mr. Denmark is further expected to testify regarding the nature of Ms. Harrison's fall and how Vivian's life has changed since her fall and subsequent stroke at the Luxor.

7. Claude Osula, M.D.
1450 Jones Dairy Road, Bldg. 700
Jasper, AL 35501
T: 205-295-4200

Dr. Claude Osula is an internist that is expected to testify regarding the facts and the circumstances surrounding Ms. Harrison's overall health and medical conditions before and after her personal injury. Prior to Ms. Harrison's incident, Dr. Osula noted the following diagnoses:

- 781.2 - Abnormal Gait
- 250.60 - Diabetes Neuropathy
- 244.9 - Hypothyroidism
- V15.88 - History of Fall

After her fall, Dr. Osula noted the following diagnoses:

- 250.40 - Diabetes Type II Nephropathy
- 404.10 - Hypertensive Heart and Chronic Kidney Disease
- 244.9 - Hypothyroidism
- 433.10 - Carotid Stenosis

- 695.89 – Other Erythematous Conditions
- 709-8 – Other Skin Disorder
- 564-00 – Constipation
- 781.2 – Abnormal Gait

Dr. Osula's testimony will be consistent with HARRISON 3669-3719, AND 4004-1440.

8. David Harrison
439 County Road
Haleyville, AL 35565
T: 205-485-2052

David Harrison is expected to testify regarding as to what Vivia's life was like before her fall, and how the injuries she sustained has impacted her life since. He is also expected to testify to the health needs of Vivia and the type of mobility scooter that Vivia used before the fall.

9. Bobbie L. Cavender
380 County Road 402
Haleyville, AL 35565
T: 205-485-9309

Bobbie Cavender is going to offer testimony about how Vivia was prior to the fall and how Vivia has changed since the events that are the subject of this litigation.

10. Earl Cavender
385 County Road 402
Haleyville, AL 35565
T: 205-486-7499

Earl Cavender is expected to provide eyewitness testimony pertaining to the observable changes Vivia has gone through since her fall.

11. John Posey
41744 Highway 195
Haleyville, AL 35565
T: 205-486-8633

John Posey will provide testimony concerning the changes in Vivia's life following the fall.

12. LaShanda Harrison
4935 Dime Road
Haleyville, AL 35565
T: 719-309-7780

LaShanda Harrison will testify about Vivia's life before her fall and how the injuries Vivia has had to endure continue to affect her life to this day.

13. Gabriella Bush
1890 Casey Drive
Las Vegas, NV 89119
(702) 471-0333

Gabriella is expected to testify regarding her rental of the scooter to Vivia and the Luxor's rental policies she was trained on.

14. Leo Germin, MD, FAANEM
Clinical Neurology Specialists
1691 Horizon Ridge Parkway
Henderson, NV 89012
T: 702-804-1212
F: 702-804-1273

Dr. Germin is expected to offer his expert opinion that Vivia suffered significant medical problems as a result of her fall. Dr. Germin's report states that:

It is my professional opinion to the reasonable degree of medical probability that Ms. Harrison's fracture of the left distal femur, which led to hospitalization on 12/10/2014 to SVH and required left femur ORIF (Left periprosthetic distal femur between knee arthroplasty and hip arthroplasty, Zimmer distal femoral plate 12-hole with nonlocking) and locking screws, open reduction and internal fixation complicated by intraoperative hypotension had caused perioperative left ACA watershed infarction which is a direct sequela of the fall from electrical wheelchair sustained at Luxor Hotel and casino premises on 12/10/2014.

Additionally, Dr. Germin states:

"It is my professional opinion to the reasonable degree of medical probability that Ms. Harrison multiple residual neurological deficits which do include severe right sided hemiparesis with complete loss of independent mobility, dysphagia, cognitive deficit and loss of ability for all independent activities of the daily living is a direct sequelae of the fracture of the left distal femur, which required left femur ORIF (Left periprosthetic distal femur between knee arthroplasty and hip arthroplasty, Zimmer distal femoral plate 12-hole with nonlocking and locking screws, open reduction and internal fixation) complicated by intraoperative hypotension causing perioperative left ACA watershed infarction is a direct sequela of the fall from electrical wheelchair which this individual sustained at Luxor Hotel and casino premises on 12/10/2014.

1 Dr. Germin's testimony will be consistent with HARRISON 4343-4374.

2 15. Michael P. Gibbens, CASp, ICC, CASI
 3 Gibbens & Associates, LLC
 4 4258 N. Avenida Prado
 5 Thousand Oaks, CA 91360
 6 T: 805-870-0900

7 Michael P. Gibbens is expected to offer expert testimony at the time of trial
 8 regarding whether or not the Backstage Deli design and furniture layout was in
 9 compliance with the Americans with Disabilities Act (ADA). After reviewing the
 10 materials provided, Mr. Gibbens concluded that "it appeared that the amount of
 11 furniture and spacing of the tables and chairs as detailed would not provide and
 12 accessible route as required by the ADA." Mr. Gibbens finished his report by stating:

13 Accordingly, in my opinion it is plausible that the configuration of the tables,
 14 chairs, and other related elements within the subject restaurant constituted
 15 an illegal barrier or barriers under Title III of the Americans with Disabilities
 16 Act (ADA) that contributed to, or were the proximate cause of, the damages to
 17 Plaintiff Vivia Harrison, as alleged.

18 Mr. Gibbens' testimony will be consistent with HARRISON 4442-64.

19 16. Shannon Gilliam
 20 PO Box 752
 21 Haleyville, AL 35565
 22 T: 205-269-2420

23 Shannon Gilliam will testify about Vivia's life before her fall and how the injuries
 24 Vivia has had to endure continue to affect her life to this day.

25 17. Patricia Watts
 26 215 Old Mayo Rd.
 27 Haleyville, AL 35565
 28 T: 205-486-9776

Patricia Watts will provide testimony concerning the changes in Vivia's life
 following the fall.

18. Sandy Jenkins
 245 Davis Loop
 Haleyville, AL 35565
 T: 205-494-6174

Sandy Jenkins will testify about the impact her fall has had on Vivia's everyday life

1 and how Vivia continues to struggle with the injuries she sustained.

2
3 19. Johnny Jenkins
4 245 Davis Loop
5 Haleyville, AL 35565
6 T: 205-494-6174

7
8 Johnny Jenkins will provide testimony concerning the changes in Vivia's life
9 following her fall.

10 **B. Witnesses Vivia Harrison Reserves the Right to Call**

11 1. Oreyne Setliff
12 1113 Georgia Ave.
13 Bristol, TN 37620
14 T: 205-269-9278

15 Oreyne Setliff is expected to provide eyewitness testimony pertaining to the
16 observable changes Vivia has gone through since her fall.

17 2. Paul Harrison
18 1499 NW 100 Dr.
19 Coral Springs, FL 33071
20 T: 954-804-8246

21 Paul Harrison is expected to testify regarding as to what Vivia's life was like before
22 her fall, and how the injuries she sustained has impacted her life since.

23 3. Timothy M. Hicks, P.E.
24 301 North Lake Avenue, Suite 420
25 Pasadena, California 91101
26 T: 626-795-5000; or
27 (800)-555-5422

28 Timothy M. Hicks, P.E., is expected to offer expert testimony at trial regarding the
type of scooter Ms. Harrison was using at the time of the incident and the steps the

1 Defendants should have taken to prevent her fall. In his report, Mr. Hicks explains
2 that:

3 Desert Medical Equipment and the Luxor Hotel & Casino should have better
4 evaluated who the intended user of the rental scooter was going to be. They
5 should have taken more time to determine Ms. Harrison's ability to safely
6 operate the scooter, in order to secure an acceptable, more stable, scooter
7 was available to her for rental, including having a Victory 10 with four-wheels,
8 or providing her with the heavy-duty Maxima.

9 Mr. Hicks also explains that "the three-wheel scooter was inappropriate for Ms.
10 Harrison's use. Pride Mobility's heavy duty and four-wheel versions were more
11 applicable given their stability improvements and less probability for rollovers."
12 Additionally, Mr. Hicks goes into detail about the preventative measures Desert
13 Medical and the Luxor could have taken to ensure that Vivia was properly trained to
14 operate the scooter. Mr. Hicks' testimony will be consistent with HARRISON 4418-
15 4427.

16 Additionally, Mr. Hicks will provide rebuttal expert testimony at trial regarding not
17 only his initial expert report, but also his analysis of Defendant Desert Medical
18 Equipment's export reports, created by William A. Ammer. After reviewing Mr.
19 Ammer's report, Timothy Hicks concludes that:

20 Mr. Ammer has provided no test data or analysis to support his opinion that
21 anti-tip wheels make the scooters more dangerous. The inability for the anti-
22 tip wheel to turn with the direction of the scooter has a minimal impact on the
23 handling of the scooter, as compared to the diameter and surface contact area
24 of the main wheels, combined with the weight of the scooter.

25 Additionally, Timothy Hicks explains that:

26 Mr. Ammer further states that it has been his experience over the last 18 years
27 that, "side anti-tips on scooters offer more hazard than without." He does not
28 specify what the hazard is, or if they apply to the incident. He also offers no
specific examples, analysis, or test data to support these statements. In any
case, it is clear that industry practice does not support this opinion, since there
are manufacturers that sell scooters with anti-tip wheels.

Timothy Hicks' testimony will be consistent with HARRISON 4465-72.

4. Sarah Lustig, BSN, RN, CLCP, CNLCP, CBIS
Lustig Consulting, LLC
410 Mill Street, Suite 101

Mount Pleasant, SC 29464
T: 843-884-4618
F: 843-884-4607

Sarah Lustig is a life care planner that is expected to offer expert testimony regarding Vivia's quality of life and needs. Ms. Lustig reviewed records from Vivia's medical providers and conducted interviews with Ms. Harrison and her son and caretaker, David. After extensive research, Ms. Lustig concluded that Vivia is still currently a fall risk and has significantly impaired mobility. Furthermore, after completing the PHQ-9 (Patient Depression Questionnaire), Ms. Lustig concluded that Vivia is suffering from severe depression as a result of the injuries she sustained due to the incident that is the subject of this litigation. Ms. Lustig's report also includes recommendations from Dr. Gary Russell concerning future treatment and itemized expenses. Ms. Lustig's testimony will be consistent with HARRISON 4385-4400.

5. Darryl Watts, AMR
American Medical Response
655 Sierra Rose Drive
Reno, Nevada 89511
T: (775)-829-7600

Darryl Watts is expected to testify regarding the facts and circumstances surrounding the patient care report that documents Ms. Harrison's transportation from Luxor Hotel to Spring Valley Hospital and the treatment she received relating to her personal injuries.

6. Custodian of Records
Spring Valley Hospital
5400 S Rainbow Blvd
Las Vegas, NV 89118
T: (702)853-3000

Custodian of Records is expected to authenticate medical records.

7. Lina C. Pezzella, MD
Spring Valley Hospital
5400 S Rainbow Blvd
Las Vegas, NV 89118
T: (702)853-3000

Lina C. Pezzella, MD is expected to testify regarding the facts and circumstances surrounding the medical treatment that Ms. Harrison received in the Emergency

1 Department relating to her personal injuries, and as to the authenticity of medical
2 records.

3 8. Manoj Nath, MD
4 Spring Valley Hospital
5 5400 S Rainbow Blvd
6 Las Vegas, NV 89118
7 T: (702)853-3000

8 Manoj Nath, MD of Spring Valley Hospital is expected to testify regarding the facts
9 and circumstances surrounding the medical treatment that Ms. Harrison received
10 relating to her personal injuries, and as to the authenticity of medical records.

11 9. Custodian of Records
12 Ridgeview Health Services
13 907 11th St. NE
14 Jasper, AL 35504
15 T: 205-221-9111

16 Custodian of Records is expected to authenticate medical records.

17 10. Jerry Harrison, MD
18 Ridgeview Health Services
19 907 11th St. NE
20 Jasper, AL 35504
21 T: 205-221-9111

22 Dr. Jerry Harrison is expected to testify regarding the facts and the circumstances
23 surrounding the medical treatment that Ms. Harrison received relating to her
24 personal injuries.

25 11. Rebecca Charles
26 10890 129th Road
27 Live Oak, Florida 32060
28 T: 386-688-0998; or
(386)-364-5220

Ms. Charles is expected to testify regarding the condition of the subject scooter
when Ms. Harrison occupied it, including, but not limited to any safety features that
were not present at the time of the subject injury. Ms. Charles is also expected to
testify regarding the condition of the physical facilities, including, but not limited to,
the placement of furniture and ease of mobility while Ms. Harrison was riding the
subject scooter. Ms. Charles is further expected to testify regarding the nature of Ms.
Harrison's fall and how Vivia's life has changed since her fall and subsequent stroke

1 at the Luxor.

2 12. Rich Lucas
3 5270 Southwest 193rd Lane
4 Fort Lauderdale, Florida 3332
T: (954) 802-7251; or
(954) 434-7099

5 Mr. Lucas is expected to testify regarding the condition of the subject scooter
6 when Ms. Harrison occupied it, including, but not limited to any safety features that
7 were not present at the time of the subject injury. Mr. Lucas is also expected to testify
8 regarding the condition of the physical facilities, including, but not limited to, the
9 placement of furniture and ease of mobility while Ms. Harrison was riding the subject
10 scooter. Mr. Lucas is further expected to testify regarding the nature of Ms.
11 Harrison's fall and how Vivia's life has changed since her fall and subsequent stroke
12 at the Luxor.

13 13. Gary Russell, M.D.
14 2950 Highway 78 East
Jasper, AL 35501
15 T: 205-221-5374

16 Dr. Gary Russell is an orthopedist that is expected to testify regarding the facts
17 and circumstances surrounding Ms. Harrison's hip replacement and knee surgeries
18 prior to her incident at the Luxor. Additionally, Dr. Russell will testify as to the
19 subsequent healing of her hip after the incident, and current state of mobility.

20 Dr. Russell's testimony will be consistent with HARRISON 3638-3663, and
21 HARRISON 4111-4154.

22 14. Charles Fagan, MD
23 Simon Williamson Clinic
832 Princeton Ave.
24 Birmingham, AL 35211
T: 205-503-4281

25 Charles Fagan, MD is expected to testify regarding the facts and circumstances
26 surrounding the lab tests that Ms. Harrison received at the Simon Williamson Clinic.

27 The tests included:

- 28
 - CBC;

- Comprehensive Metabolic panel;
- Lipid Panel;
- Hemoglobin A1c;
- Thyroid Profile;
- TSH;
- Prealbumin;
- Gentamicin level, trough;
- Glucose – BMM/BMP POC Testing;
- CBC W/O Diff;
- Vitamin B12;
- Urinalysis;

Dr. Fagan testimony will be consistent with HARRISON 4187–4336.

15. Wilkes Banks Petrey, MD
Simon Williamson Clinic
832 Princeton Ave.
Birmingham, AL 35211
T: 205-503-4281

Wilkes Banks Petrey, MD is expected to testify regarding the results of Vivia’s latest radiological examinations, which were ordered due to her “altered mental status,” and “alteration in consciousness.” Dr. Petrey’s testimony will be consistent with HARRISON 4337–42.

16. All witnesses identified by any other party in this case.

XXVI.

Rampart, Inc. dba Luxor Hotel and Casino’s List of Witnesses and Their Expected Testimony

A. Witnesses Ramparts, Inc. dba Luxor Hotel and Casino Expects to Call at Trial

1. *Opposing Counsel input requested.*

B. Witnesses Ramparts, Inc. dba Luxor Hotel and Casino Reserves the Right to Call at Trial

1. *Opposing Counsel input requested.*

XXVII.

Desert Medical Equipment's List of Witnesses and Their Expected Testimony

A. Witnesses Desert Medical Equipment Expects to Call at Trial

1. *Opposing Counsel input requested.*

B. Witnesses Desert Medical Equipment Reserves the Right to Call at Trial

1. *Opposing Counsel input requested.*

XXVIII.

Stan Sawamoto's List of Witnesses and Their Expected Testimony

A. Witnesses Stan Sawamoto Expects to Call at Trial

1. Plaintiff, Vivia Harrison
Pickard Parry Pfau
10120 South Eastern Avenue, Suite 140
Henderson, NV 89052
2. Authorized representative of Defendant
Ramparts, Inc., dba Luxor Hotel & Casino
c/o Lincoln, Gustofson & Ceros
3960 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
3. Authorized representative of Defendant

- 1 Desert Medical Equipment
c/o Alverson, Taylor, Mortensen & Sanders
2 6605 Grand Montecito Parkway, Suite 200
3 Las Vegas, NV 89149
- 4 4. Authorized representative of Defendant
Pride Mobility Products Corp.
5 c/o Thorndal, Armstrong, Delk, Balkenbush & Eisinger
6 1100 East Bridger Avenue
Las Vegas, NV 89101
- 7 5. Third Party Defendant, Stan Sawamoto
8 c/o Law Offices of Karl H. Smith
9 7455 Arroyo Crossing Parkway, Suite 200
Las Vegas, NV 89113
- 10 6. All witnesses listed by the Plaintiff.
- 11 7. All witnesses listed by any party to this action.
- 12 8. Witness, Diane Lucas
13 5070 SW 193 Lane
14 SW Ranches, FL 33332
15 (954) 802-7251
- 16 9. Security Officer, Marylou Tapat
17 c/o Luxor Hotel & Casino
3900 Las Vegas Boulevard
Las Vegas, NV 89109
- 18 10. Security Manager, Marcus Braithwaite
19 c/o Luxor Hotel & Casino
20 3900 Las Vegas Boulevard
Las Vegas, NV 89109
- 21 11. Security Officer Aaron Panem
22 c/o Luxor Hotel & Casino
23 3900 Las Vegas Boulevard
Las Vegas, NV 89109
- 24 12. Security Officer Tyrone Richard
25 c/o Luxor Hotel & Casino
26 3900 Las Vegas Boulevard
Las Vegas, NV 89109
- 27 13. Security Officer Barbara Bradley
28 c/o Luxor Hotel & Casino
3900 Las Vegas Boulevard

- 1 Las Vegas, NV 89109
- 2 14. Security Officer Michelle Whitaker
- 3 c/o Luxor Hotel & Casino
- 4 3900 Las Vegas Boulevard
- 5 Las Vegas, NV 89109
- 6 15. Security Officer Donald Henderson
- 7 c/o Luxor Hotel & Casino
- 8 3900 Las Vegas Boulevard
- 9 Las Vegas, NV 89109
- 10 16. Security Investigator Jose Villacreses
- 11 c/o Luxor Hotel & Casino
- 12 3900 Las Vegas Boulevard
- 13 Las Vegas, NV 89109
- 14 17. Senior Watch Engineer Tom Burris
- 15 c/o Luxor Hotel & Casino
- 16 3900 Las Vegas Boulevard
- 17 Las Vegas, NV 89109
- 18 18. Deli Supervisor Lucky Jackson
- 19 Luxor Hotel & Casino
- 20 3900 Las Vegas Boulevard
- 21 Las Vegas, NV 89109
- 22 19. Witness Nicholas Sanchez
- 23 Luxor Hotel & Casino
- 24 3900 Las Vegas Boulevard
- 25 Las Vegas, NV 89109
- 26 20. Witness Jessica Atchley
- 27 Luxor Hotel & Casino
- 28 3900 Las Vegas Boulevard
- Las Vegas, NV 89109
21. Witness Melissa Meyers
- Luxor Hotel & Casino
- 3900 Las Vegas Boulevard
- Las Vegas, NV 89109
22. Witness Vanna Bounnavalithy
- Luxor Hotel & Casino
- 3900 Las Vegas Boulevard
- Las Vegas, NV 89109
23. Custodian of Records Darryl Watts,
- c/o American Medical Response

- 1 655 Sierra Rose Drive
- 2 Reno, NV 89511
- 3 (775) 829-7600
- 4 24. Operations Manager, Health Information Management Department - Eric Leveille
- 5 c/o Spring Valley Hospital
- 6 5400 South Rainbow Boulevard
- 7 Las Vegas, NV 89118
- 8 (702) 853-3000
- 9 25. Dr. Lina C. Pezzella
- 10 c/o Spring Valley Hospital
- 11 5400 South Rainbow Boulevard
- 12 Las Vegas, NV 89118
- 13 (702) 853-3000
- 14 26. Dr. Manoj Nath
- 15 c/o Spring Valley Hospital
- 16 5400 South Rainbow Boulevard
- 17 Las Vegas, NV 89118
- 18 (702) 853-3000
- 19 27. Custodian of Records Erin White
- 20 c/o Ridgeview Health Services
- 21 907 11th Street NE
- 22 Jasper, AL 35504
- 23 (205) 221-9111
- 24 28. Dr. Jerry Harrison
- 25 c/o Ridgeview Health Services
- 26 907 11th Street NE
- 27 Jasper, AL 35504
- 28 (205) 221-9111
29. Person Most Knowledgeable and/or Custodian of Records for
- Shadow Emergency Physicians
- PO Box 13917
- Philadelphia, PA
- (800) 355-2470
30. Person Most Knowledgeable and/or Custodian of Records for
- Desert Radiologists
- PO Box 3057
- Indianapolis, IN 46206
- (888) 727-1074
31. Person Most Knowledgeable and/or Custodian of Records for
- HealthSouth Desert Canyon
- 9175 West Oquendo Road

- 1 Las Vegas, NV 89148
- 2 32. Person Most Knowledgeable and/or Custodian of Records for
- 3 Encore Rehabilitation, Inc.
- 4 42465 AL-195
- 5 Haleyville, AL 35565
- 6 (205) 486-2753
- 7 33. Person Most Knowledgeable and/or Custodian of Records for
- 8 South Orthopedic & Sports Medicine
- 9 2950 Highway 78 East
- 10 Jasper, AL 35501
- 11 34. Person Most Knowledgeable and/or Custodian of Records for
- 12 Walker Medical Diagnostics
- 13 1450 Jones Dairy Road #800
- 14 Jasper, AL 35501
- 15 (205) 295-4100
- 16 35. Person Most Knowledgeable and/or Custodian of Records for
- 17 Desert Orthopedic Center
- 18 2800 East Desert Inn, Suite 100
- 19 Las Vegas, NV 89121
- 20 (702) 731-1616
- 21 36. Dr. Daniel D. Lee
- 22 c/o Desert Orthopedic Center
- 23 2800 East Desert Inn, Suite 100
- 24 Las Vegas, NV 89121
- 25 37. Witness Rebecca Charles
- 26 10890 129th Road
- 27 Live Oak, FL 32060
- 28 (386) 688-0998
38. Witness Chuck Denmark
- 10890 129th Road
- Live Oak, FL 32060
- (386) 688-0998
39. Witness Rich Lucas
- 5270 SW 193 Lane
- SW Ranches, FL 33332
- (954) 802-7251
40. Dr. Mark Stafford
- c/o Kirklin Clinic
- 2000 6th Avenue South #5

- 1 Birmingham, AL 35233
- 2 41. Dr. Gary Russell
- 3 2950 Highway 78 East
- 4 Jasper, AL 35501
- 5 (205) 221-5374
- 6 42. Dr. Charles Fagan
- 7 c/o Simon Williamson Clinic
- 8 832 Princeton Avenue
- 9 Birmingham, AL 35211
- 10 (205) 503-4281
- 11 43. Dr. Claude Osula
- 12 1450 Jones Dairy Road, Building 700
- 13 Jasper, AL 35501
- 14 (205) 295-4200
- 15 44. Dr. Wilkes Banks Petrey
- 16 c/o Simon Williamson Clinic
- 17 832 Princeton Avenue
- 18 Birmingham, AL 35211
- 19 (205) 503-4281
- 20 45. Kenneth A. Solomon, PhD.,P.E., Post PhD
- 21 c/o Institute of Risk Safety Analysis
- 22 5324 Canoga Avenue
- 23 Woodland Hills, CA 91364
- 24 (818) 348-1133
- 25 46. Michael Zablocky, Senior Vice President of Quality and Regulatory Compliance for
- 26 Pride Mobility Products Corporation
- 27 c/o Thorndal, Armstrong, Delk, Balkenbush & Eisinger
- 28 1100 East Bridger Avenue
- Las Vegas, NV 89101
47. Timothy M. Hicks, P.E.
- 301 North Lake Avenue, Suite 420
- Pasadena, CA 91101
- (626) 795-5000
48. Angela (last name unknown), Manager at Desert Medical Equipment
- c/o Alverson, Taylor, Mortensen & Sanders
- 7401 West Charleston Boulevard
- Las Vegas, NV 89119
49. Brian (last name unknown), Owner at Desert Medical Equipment
- c/o Alverson, Taylor, Mortensen & Sanders

- 1 7401 West Charleston Boulevard
2 Las Vegas, NV 89119
- 3 50. Michelle J. Robbins, AIA
4 c/o Madsen, Kneppers & Associates, Inc. Construction Consultants & Engineers
5 4025 S. El Capitan Way
6 Las Vegas, NV 89147
- 7 51. Aubrey A. Corwin, M.S., L.P.C., C.R.C., C.L.C.P.
8 c/o Vocational Diagnostics, Inc.
9 1942 Broadway, Suite 314
10 Boulder, CO 80302
11 (602) 285-0625
- 12 52. Clifford Segil, D.O.
13 2001 Santa Monica Boulevard, Suite 1170W
14 Santa Monica, CA 90404
15 (310) 828-8838
- 16 53. William A. Ammer
17 c/o Ammer Consulting
18 1050 Saxonburg Boulevard
19 Glenshaw, PA 15116
20 (412) 389-4429
- 21 54. Witness David Harrison
22 439 County Road
23 Haleyville, AL 35565
24 (205) 485-2052
- 25 55. Witness Sandy Jenkins
26 245 Davis Loop
27 Haleyville, AL 35565
28 (205) 494-6174
56. Witness Johnny Jenkins
245 Davis Loop
Haleyville, AL 35565
(205) 494-6174
57. Witness Carol Billings
245 Davis Loop
Haleyville, AL 35565
(205) 494-6174
58. Witness Bobbie L. Cavender
380 County Road 402
Haleyville, AL 35565

- 1 (205) 485-9309
- 2 59. Witness Earl Cavender
- 3 380 County Road 402
- 4 Haleyville, AL 35565
- 5 (205) 485-9309
- 6 60. Witness LaShanda Harrison
- 7 4935 Dime Road
- 8 Haleyville, AL 35565
- 9 (719) 309-7785
- 10 61. Witness Oreyn Setliff
- 11 1113 Georgia Avenue
- 12 Bristol, TN 37620
- 13 (205) 269-9278
- 14 62. Witness Shannon Gilliam
- 15 PO Box 752
- 16 Haleyville, AL 35565
- 17 (205) 269-2420
- 18 63. Witness John Posey
- 19 41744 Highway 195
- 20 Haleyville, AL 35565
- 21 (205) 486-8633
- 22 64. Witness Paul Harrison
- 23 1499 NW 100 Drive
- 24 Coral Springs, FL 33071
- 25 (954) 804-8246
- 26 65. Witness Penny Harrison
- 27 1499 NW 100 Drive
- 28 Coral Springs, FL 33071
- (954) 804-8246
66. Witness Patricia Watts
- 215 Old Mayo Road
- Haleyville, AL 35565
- (205) 486-9776
67. Witness Kevin Timmoy
- 6906 Sebastian Road
- Fort Pierce, FL 34951
- (772) 579-6599
68. Bryan Schultz as PMK for
- Desert Medical Equipment

- 1 c/o Alverson, Taylor, Mortensen & Sanders
- 2 6605 Grand Montecito Parkway, Suite 200
- 3 Las Vegas, NV 89149
- 4
- 5 69. Gary Russell, MD
- 6 c/o Encore Rehabilitation, Inc.
- 7 42465 AL-195
- 8 Haleyville, AL 35565
- 9 (205) 486-2753
- 10
- 11 70. Safdar A. Qureshi, MD
- 12 c/o Ridgeview Health Services
- 13 907 11th Street NE
- 14 Jasper, AL 35504
- 15 (205) 221-9111
- 16
- 17 71. Ronald Kong, MD
- 18 c/o HealthSouth Desert Canyon
- 19 9175 West Oquendo Road
- 20 Las Vegas, NV 89148
- 21
- 22 72. Bevins Chue, MD
- 23 c/o HealthSouth Desert Canyon
- 24 9175 West Oquendo Road
- 25 Las Vegas, NV 89148
- 26
- 27 73. Anoush Tacvorian, MD
- 28 c/o HealthSouth Desert Canyon
- 9175 West Oquendo Road
- Las Vegas, NV 89148
74. Daniel Lee, MD
- c/o HealthSouth Desert Canyon
- 9175 West Oquendo Road
- Las Vegas, NV 89148
75. Manoj Nath, MD
- c/o Spring Valley Hospital
- 5400 South Rainbow Boulevard
- Las Vegas, NV 89118
- (702) 853-3000
76. Stuart Engel, MD
- c/o Spring Valley Hospital
- 5400 South Rainbow Boulevard
- Las Vegas, NV 89118
- (702) 853-3000

- 1 77. Kevin A. Tsui, MD
2 c/o Spring Valley Hospital
3 5400 South Rainbow Boulevard
4 Las Vegas, NV 89118
5 (702) 853-3000
- 6 78. Elan Bomszyk, MD
7 c/o Spring Valley Hospital
8 5400 South Rainbow Boulevard
9 Las Vegas, NV 89118
10 (702) 853-3000
- 11 79. Naima Zeheer, MD
12 c/o Spring Valley Hospital
13 5400 South Rainbow Boulevard
14 Las Vegas, NV 89118
15 (702) 853-3000
- 16 80. Amandeep K. Khillion, MD
17 c/o Spring Valley Hospital
18 5400 South Rainbow Boulevard
19 Las Vegas, NV 89118
20 (702) 853-3000
- 21 81. Daniel D. Lee, MD
22 c/o Spring Valley Hospital
23 5400 South Rainbow Boulevard
24 Las Vegas, NV 89118
25 (702) 853-3000
- 26 82. Chima A. Osuoha, MD
27 c/o Spring Valley Hospital
28 5400 South Rainbow Boulevard
Las Vegas, NV 89118
(702) 853-3000
83. Vishal S. Shah, MD
c/o Spring Valley Hospital
5400 South Rainbow Boulevard
Las Vegas, NV 89118
(702) 853-3000
84. Ian G. Haycocks, MD
c/o Spring Valley Hospital
5400 South Rainbow Boulevard
Las Vegas, NV 89118

- 1 (702) 853-3000
- 2 85. Trent T. Richardson, MD
- 3 c/o Spring Valley Hospital
- 4 5400 South Rainbow Boulevard
- 5 Las Vegas, NV 89118
- 6 (702) 853-3000
- 7 86. Security Officer Lucio Parolisi
- 8 c/o Luxor Hotel & Casino
- 9 3900 Las Vegas Boulevard
- 10 Las Vegas, NV 89109
- 11 87. Security Officer Lee Smithson
- 12 c/o Luxor Hotel & Casino
- 13 3900 Las Vegas Boulevard
- 14 Las Vegas, NV 89109
- 15 88. Security Officer Nega Ilofa
- 16 c/o Luxor Hotel & Casino
- 17 3900 Las Vegas Boulevard
- 18 Las Vegas, NV 89109
- 19 89. Security Officer Crystal Williams
- 20 c/o Luxor Hotel & Casino
- 21 3900 Las Vegas Boulevard
- 22 Las Vegas, NV 89109
- 23 90. Dr. Claude Osula
- 24 c/o Walker Medical Diagnostic, LLC
- 25 317 2nd Street SW
- 26 Carbon Hill, AL 35549
- 27 91. Witness Rich Lucas
- 28 5070 SW 193 Lane
- SW Ranches, FL 33332

22 The witnesses listed above are expected to offer testimony as outlined in full by
23 the other parties listed above.

24
25 **B. Witnesses Stan Sawamoto Reserves the Right to Call at Trial**

- 26 1. Gabriella Bush
- 27 2. All named witnesses that were timely designated.
- 28

XXIX.

Vivia Harrison's Objections to Ramparts, Inc. dba Luxor Hotel and Casino's Witnesses

1. Vivia Harrison objects to the witnesses identified who were not identified during discovery.

XXX.

Vivia Harrison's Objections to Desert Medical Equipment's Witnesses

1. Vivia Harrison objects to the witnesses indented who were not infantized during discovery.

XXXI.

Desert Medical Equipment's Objections to Stan Sawamoto's Witnesses

1. *Opposing Counsel input requested.*

XXXII.

Ramparts, Inc. dba Luxor Hotel and Casino's Objections to Vivia Harrison's Witnesses

1. *Opposing Counsel input requested.*

XXXIII.

Desert Medical Equipment's Objections to Vivia Harrison's Witnesses

1. *Opposing Counsel input requested.*

XXXIV.

Stan Sawamoto's Objections to Desert Medical Equipment's Witnesses

1. Hearsay.
2. Lack of Foundation.
3. Lack of Authenticity and Genuineness.

Stan Sawamoto reserves the right to additional objections at the time of trial, if necessary.

XXXV.

Principal Contested Issues of Law

1. Whether the Luxor exercised ordinary and reasonable care in maintaining its premises to avoid subjecting others to an unreasonable risk of harm.

2. Whether the Luxor had actual or constructive notice of an alleged condition and failed to remedy it.

3. Whether the Luxor breached its duty of care to Vivia Harrison.

4. Whether Desert Medical Equipment exercised ordinary and reasonable care in maintaining its equipment to avoid subjecting others to unreasonable risk of harm.

5. Whether Desert Medical Equipment failed to properly hire, train, and manage employees to avoid subjecting others to an unreasonable risk of harm.

6. Whether Desert Medical Equipment breached its duty of care to Vivia Harrison.

7. Whether a valid contract existed between Stan Sawamoto and Desert Medical Equipment.

8. Whether Stan Sawamoto breached the contract or failed to render proper performance.

9. Whether Stan Sawamoto exercised ordinary and standard care in upholding the contract to avoid subjecting others to unreasonable risk of harm.

10. To what extent Vivia Harrison's fall proximately caused his injuries.

11. To what extent Vivia Harrison was injured.

12. To what extent Desert Medical Equipment was damaged.

13. Admissibility of evidence as set forth in motions in limine on file.

The principal issues Defendant intends to defend are liability and damages.

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XVI.

Approximate Time Required for Trial

Vivia Harrison anticipates that this matter will require 7 – 10 full trial days.
Stan Sawamoto anticipates that this matter will require 7 – 10 full trial days.

XVII.

Other Matters for The Court’s Attention

None.

Parry & Pfau


Matthew G. Pfau, Esq.
Nevada Bar No.: 11439
880 Seven Hills Dr, Suite 210
Henderson, Nevada 89052
702 879 9555 TEL
702 879 9556 FAX

Attorney for Plaintiff,
Vivia Harrison

Law Offices of Karl H. Smith

s/ Stacey A. Upson

Stacey A. Upson, Esq.
Nevada Bar No.: 4773
7455 Arroyo Crossing Pkwy, Suite 200
Las Vegas, Nevada 89113

Attorney for Third-Party Defendant,
Stan Sawamoto

Certificate of Service

I hereby certify that on the 26th day of November 2018, service of the foregoing **Joint Pre-Trial Memorandum** was made by required electronic service to the following individuals:

Brian K. Terry, Esq.
THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER
Nevada Bar No.: 003171
110 East Bridger Avenue
Las Vegas, Nevada 89101-5315

Attorneys for Defendant,
Pride Mobility Products Corp

Loren S. Young, Esq.
LINCOLN, GUSTAFSON & CERCOS
3960 Howard Hughes Parkway
Suite 200
Las Vegas, Nevada 89169

Attorneys for Defendant,
Ramparts, Inc. d/b/a Luxor Hotel & Casino

Boyd B. Moss, Esq.
MOSS BERG INJURY LAWYERS
4101 Meadows Ln., #110
Las Vegas, Nevada 89107

Co-Counsel for Plaintiff,
Vivia Harrison

LeAnn Sanders, Esq.
Courtney Christopher, Esq.
ALVERSON, TAYLOR, & SANDERS
6605 Grand Montecito Pkwy, Suite 200
Las Vegas, Nevada 89149

Attorneys for Defendant,
Desert Medical Equipment

Stacey A. Upson, Esq.
LAW OFFICES OF KARL H. SMITH
7455 Arroyo Crossing Pkwy., Suite 200
Las Vegas, NV 89113

Attorneys for Third-Party Defendant,
Stan Sawamoto


An Employee of Parry & Pfau

A-16-732342-C Vivian Harrison, Plaintiff(s)
vs.
MGM Resorts International, Defendant(s)

December 10, 2018 09:00 AM Jury Trial

HEARD BY: Jones, David M COURTROOM: RJC Courtroom 15A

COURT CLERK: Tapia, Michaela

RECORDER: Murphy-Delgado, Melissa

REPORTER:

PARTIES PRESENT:

Boyd B. Moss, ESQ	Attorney for Plaintiff
Courtney Christopher	Attorney for Defendant, Third Party Plaintiff
J. Bruce Alverson	Attorney for Defendant, Third Party Plaintiff
Loren Young	Attorney for Defendant
Matthew Pfau	Attorney for Plaintiff
Thomas Maroney	Attorney for Defendant

JOURNAL ENTRIES

OUTSIDE THE PRESENCE OF POTENTIAL JURY. Colloquy regarding stipulated and admitted exhibits. Colloquy regarding deposition delineations. Mr. Alverson stated he would stipulate to the authenticity of the medical records exhibits but would not stipulate to admit them at this time. Mr. Young advised during discovery he was unable to obtain the original depositions from counsel for the third party defendants; Court allowed Mr. Young to admit copies for future publication. POTENTIAL JURY PRESENT. Voire Dire Oath given. OUTSIDE THE PRESENCE OF POTENTIAL JURY. Colloquy regarding signed orders from the Motions in Limine heard the week prior. POTENTIAL JURY PRESENT. Voir Dire began. OUTSIDE THE PRESENCE OF POTENTIAL JURY. Colloquy regarding excusing potential jurors. POTENTIAL JURY PRESENT. Voire Dire continued. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 12/11/18 11:00 AM

Negligence - Premises Liability

COURT MINUTES

December 11, 2018

A-16-732342-C Vivian Harrison, Plaintiff(s)
vs.
MGM Resorts International, Defendant(s)

December 11, 2018 10:00 AM Jury Trial

HEARD BY: Jones, David M COURTROOM: RJC Courtroom 15A

COURT CLERK: Tapia, Michaela

RECORDER: Murphy-Delgado, Melissa

REPORTER:

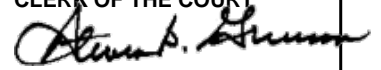
PARTIES PRESENT:

Boyd B. Moss, ESQ	Attorney for Plaintiff
Courtney Christopher	Attorney for Defendant, Third Party Plaintiff
J. Bruce Alverson	Attorney for Defendant, Third Party Plaintiff
Loren Young	Attorney for Defendant
Matthew Pfau	Attorney for Plaintiff
Thomas Maroney	Attorney for Defendant

JOURNAL ENTRIES

OUTSIDE THE PRESENCE OF POTENTIAL JURY. Colloquy regarding potential jurors. Oral Motion to Strike potential juror #165 by Mr. Pfau. Arguments by counsel. COURT ORDERED, oral motion DENIED. Further colloquy regarding potential jurors. Mr. Pfau advised he received notice yesterday defendant's counsel would like to call a new 30(b)(6) and stated his position is that he would prefer to play the video and not have the new 30(b)(6) present. Mr. Young argued he would prefer to present a live witness to testify as to the issues. Court directed parties to go over portions of the deposition together by the end of the day. Potential juror present to discuss scheduling issues. POTENTIAL JURY PRESENT. Voire Dire continued. CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF POTENTIAL JURY. Peremptory Challenges exercised. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 12/12/18 10:30 AM



NTSO
ALVERSON TAYLOR & SANDERS
LEANN SANDERS, ESQ.
Nevada Bar No. 390
COURTNEY CHRISTOPHER, ESQ.
Nevada Bar No. 12717
6605 Grand Montecito Parkway, Suite 200
Las Vegas, Nevada 89149
Phone: (702) 384-7000
E-File: efile@alversontaylor.com
Attorneys for Defendant and
Third-Party Plaintiff
DESERT MEDICAL EQUIPMENT

DISTRICT COURT
CLARK COUNTY, NEVADA

**

VIVIA HARRISON, an individual

Plaintiff,

vs.

RAMPARTS, INC, dba Luxor Hotel & Casino, a
Nevada Domestic Corporation; DESERT MEDICAL
EQUIPMENT, a Nevada Domestic Corporation; PRIDE
MOBILITY PRODUCTS CORPORATION., a Nevada
Domestic Corporation; DOES I through XXX, inclusive
and ROE BUSINESS ENTITIEST I through XXX,
inclusive,

Defendants.

DESERT MEDICAL EQUIPMENT, a Nevada
Domestic Corporation

Third-Party Plaintiff,

vs.

STAN SAWAMOTO, an individual

Third-Party Defendant.

CASE NO.: A-16-732342-C
DEPT. NO.: 29

**NOTICE OF ENTRY OF
STIPULATION AND ORDER
TO DISMISS THIRD-PARTY
DEFENDANT STAN
SAWAMOTO, WITH
PREJUDICE**

ALVERSON TAYLOR & SANDERS
LAWYERS
6605 GRAND MONTECITO PARKWAY, SUITE 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

ALVERSON TAYLOR & SANDERS
LAWYERS
6605 GRAND MONTECITO PARKWAY, SUITE 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

**NOTICE OF ENTRY OF STIPULATION AND ORDER TO DISMISS THIRD-PARTY
DEFENDANT STAN SAWAMOTO, WITH PREJUDICE**

PLEASE TAKE NOTICE that on the 11th day of December, 2018, the Court entered a Stipulation and Order in the above-entitled action. A copy of said Stipulation and Order is attached hereto.

DATED this 11th day of December, 2018.

ALVERSON TAYLOR & SANDERS



LEANN SANDERS, ESQ.

Nevada Bar No. 390

COURTNEY CHRISTOPHER, ESQ.

Nevada Bar No. 12717

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Attorneys for Defendant and

Third-Party Plaintiff

DESERT MEDICAL EQUIPMENT

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LAWYERS
6605 GRAND MONTECITO PARKWAY, SUITE 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 11th day of December, 2018, the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER TO DISMISS THIRD-PARTY DEFENDANT STAN SAWAMOTO, WITH PREJUDICE** was e-filed and e-served on the following by Electronic Service to all parties on the Odyssey Service List.

Zachariah B. Parry, Esq.
Matthew G. Pfau, Esq.
PARRY & PFAU
880 Seven Hills Drive, Suite 210
Henderson, Nevada 89052
Phone: (702) 879-9555
Email: zach@p2lawyers.com

-and-

Boyd B. Moss III, Esq.
Marcus A. Berg, Esq.
MOSS BERG INJURY LAWYERS
4101 Meadows Lane, Suite 110
Las Vegas, Nevada 89107
Telephone: (702) 222-4555
Email: boyd@mossberglv.com

Attorneys for Plaintiff

Loren S. Young, Esq.
LINCOLN, GUSTAFSON & CEROS
3960 Howard Hughes Parkway, Suite 200
Las Vegas, Nevada 89169
Phone: (702) 257-1997
Email: lyoung@lgclawoffice.com
Attorneys for Defendant
Ramparts, Inc., d/b/a Luxor Hotel & Casino

Stacey A. Upson, Esq.
LAW OFFICES OF STACEY UPSON
7455 Arroyo Crossing Pkwy, Suite 200
Las Vegas, NV 89113
Telephone: (702) 408-3800
Email: stacey.upsen@farmersinsurance.com
Attorneys for Third-Party Defendant
Stan Sawamoto

Brian K. Terry, Esq.
THORNDAL, AMRSTRONG, DELK,
BALKENBUSH & EISINGER
1100 East Bridger Avenue
Las Vegas, Nevada 89101
Phone: (702) 366-0622
Email: bkterry@thorndal.com
Attorneys for Defendant
Pride Mobility Products Corporation



An Employee of
Alverson Taylor & Sanders

ALVERSON TAYLOR & SANDERS
LAWYERS
6605 GRAND MONTECITO PARKWAY, SUITE 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

AFFIRMATION
Pursuant to N.R.S. 239B.030

The undersigned does hereby affirm that the preceding **NOTICE OF ENTRY OF STIPULATION AND ORDER TO DISMISS THIRD-PARTY DEFENDANT STAN SAWAMOTO, WITH PREJUDICE** filed in District Court Case No. A-16-732342-C.

X Does not contain the social security number of any person.

-OR-

___ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 16th day of December, 2018.

ALVERSON TAYLOR & SANDERS



LEANN SANDERS, ESQ.

Nevada Bar No. 390

COURTNEY CHRISTOPHER, ESQ.

Nevada Bar No. 12717

6605 Grand Montecito Parkway, Suite 200

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E-File: efile@alversontaylor.com

Attorneys for Defendant and

Third-Party Plaintiff

DESERT MEDICAL EQUIPMENT

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ORIGINAL

Electronically Filed
12/11/2018 9:34 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

ALVERSON TAYLOR & SANDERS
LAWYERS
6605 GRAND MONTECITO PARKWAY, SUITE 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

SODW
ALVERSON TAYLOR & SANDERS
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E-File: efile@alversontaylor.com
Attorneys for Defendant and
Third-Party Plaintiff
DESERT MEDICAL EQUIPMENT

DISTRICT COURT
CLARK COUNTY, NEVADA

**

VIVIA HARRISON, an individual

Plaintiff,

vs.

RAMPARTS, INC, dba Luxor Hotel & Casino, a
Nevada Domestic Corporation; DESERT MEDICAL
EQUIPMENT, a Nevada Domestic Corporation; PRIDE
MOBILITY PRODUCTS CORPORATION., a Nevada
Domestic Corporation; DOES I through XXX, inclusive
and ROE BUSINESS ENTITIEST I through XXX,
inclusive,

Defendants.

DESERT MEDICAL EQUIPMENT, a Nevada
Domestic Corporation

Third-Party Plaintiff,

vs.

STAN SAWAMOTO, an individual

Third-Party Defendant.

CASE NO.: A-16-732342-C
DEPT. NO.: 29

**STIPULATION AND ORDER
TO DISMISS THIRD-PARTY
DEFENDANT STAN
SAWAMOTO, WITH
PREJUDICE**

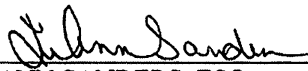
IT IS HEREBY STIPULATED AND AGREED, by and between the parties hereto, by
and through their counsel of record, that Third-Party Defendant, STAN SAWAMOTO be
dismissed from this matter *with prejudice*, the parties each to bear their own fees and costs.

ALVERSON TAYLOR & SANDERS
LAWYERS
6605 GRAND MONTECITO PARKWAY, SUITE 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

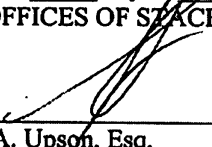
Harrison v. Ramparts Inc. et al
CASE NO.: A-16-732342-C
Stipulation and Order to Dismiss
Third-Party Defendant Stan
Sawamoto, With Prejudice

THE FOREGOING IS HEREBY STIPULATED AND AGREED.

Dated this 5th day of December 2018
ALVERSON TAYLOR & SANDERS

By 
LEANN SANDERS, ESQ.
Nevada Bar No. 390
COURTNEY CHRISTOPHER, ESQ.
Nevada Bar No. 12717
6605 Grand Montecito Parkway, Suite 200
Las Vegas, Nevada 89149
Phone: (702) 384-7000
E-File: efile@alversontaylor.com
Attorneys for Defendant and
Third-Party Plaintiff
DESERT MEDICAL EQUIPMENT

Dated this 1 day of December 2018
LAW OFFICES OF STACEY UPSON

By 
Stacey A. Upson, Esq.
7455 Arroyo Crossing Pkwy, Suite 200
Las Vegas, NV 89113
Telephone: (702) 408-3800
Email: stacey.upson@farmersinsurance.com
Attorneys for Third-Party Defendant
Stan Sawamoto

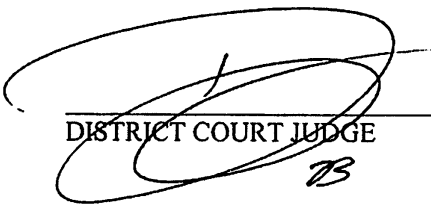
ALVERSON TAYLOR & SANDERS
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Harrison v. Ramparts Inc. et al
CASE NO.: A-16-732342-C
Stipulation and Order to Dismiss
Third-Party Defendant Stan
Sawamoto, With Prejudice

ORDER

IT IS SO ORDERED that Third-Party Defendant Stan Sawamoto be dismissed, with prejudice, and with the parties herein each to bear their own attorney's fees and costs.

Dated this 7 day of Dec., 2018


DISTRICT COURT JUDGE
JB

Submitted by:

ALVERSON TAYLOR & SANDERS



LEANN SANDERS, ESQ.

Nevada Bar No. 390

COURTNEY CHRISTOPHER, ESQ.

Nevada Bar No. 12717

6605 Grand Montecito Parkway, Suite 200

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Phone: (702) 384-7000

E-File: efile@alversontaylor.com

Attorneys for Defendant and

Third-Party Plaintiff

DESERT MEDICAL EQUIPMENT

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LAWYERS
6605 GRAND MONTECITO PARKWAY, SUITE 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 11th day of December, 2018, the foregoing **STIPULATION AND ORDER TO DISMISS THIRD-PARTY DEFENDANT STAN SAWAMOTO, WITH PREJUDICE** was served on the following by Electronic Service to all parties on the Odyssey Service List.

Zachariah B. Parry, Esq.
Matthew G. Pfau, Esq.
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880 Seven Hills Drive, Suite 210
Henderson, Nevada 89052
Phone: (702) 879-9555
Email: zach@p2lawyers.com

-and-

Boyd B. Moss III, Esq.
Marcus A. Berg, Esq.
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Attorneys for Defendant
Ramparts, Inc., d/b/a Luxor Hotel & Casino

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Attorneys for Third-Party Defendant
Stan Sawamoto

Brian K. Terry, Esq.
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Attorneys for Defendant
Pride Mobility Products Corporation

Rosemarie Frederick
An Employee of
Alverson Taylor & Sanders

ALVERSON TAYLOR & SANDERS
LAWYERS
6605 GRAND MONTECITO PARKWAY, SUITE 200
LAS VEGAS, NEVADA 89149
(702) 384-7000

AFFIRMATION
Pursuant to N.R.S. 239B.030

The undersigned does hereby affirm that the preceding **STIPULATION AND ORDER TO DISMISS THIRD-PARTY DEFENDANT STAN SAWAMOTO, WITH PREJUDICE** filed in District Court Case No. A-16-732342-C;

X Does not contain the social security number of any person.

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

[Insert specific law]

-or-

B. For the administration of a public program or for an application for a federal or state grant.

DATED this 5th day of December, 2018.

ALVERSON TAYLOR & SANDERS



LEANN SANDERS, ESQ.
Nevada Bar No. 390
COURTNEY CHRISTOPHER, ESQ.
Nevada Bar No. 12717
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Attorneys for Defendant and
Third-Party Plaintiff
DESERT MEDICAL EQUIPMENT

n:\leann.grp\roelvz-hold for review\23646-sao to dismiss stan sawamoto with prej.doc

A-16-732342-C Vivian Harrison, Plaintiff(s)
vs.
MGM Resorts International, Defendant(s)

December 12, 2018 10:30 AM Jury Trial

HEARD BY: Jones, David M COURTROOM: RJC Courtroom 15A

COURT CLERK: Tapia, Michaela

RECORDER: Murphy-Delgado, Melissa

REPORTER:

PARTIES PRESENT:

Boyd B. Moss, ESQ	Attorney for Plaintiff
Courtney Christopher	Attorney for Defendant, Third Party Plaintiff
J. Bruce Alverson	Attorney for Defendant, Third Party Plaintiff
Loren Young	Attorney for Defendant
Matthew Pfau	Attorney for Plaintiff
Thomas Maroney	Attorney for Defendant

JOURNAL ENTRIES

OUTSIDE THE PRESENCE OF POTENTIAL JURY. Mr. Pfau advised he had received notice Desert Medical's client would be unavailable due to illness. POTENTIAL JURY PRESENT. Jury SELECTED and SWORN. Opening Statement by Plaintiff. Opening Statement by Defendants. OUTSIDE THE PRESENCE OF THE JURY. Upon Court's inquiry, Ms. Christopher advised her client was still sick and was not certain if he could appear tomorrow. Upon Court's inquiry, Mr. Alverson stated the company C.O.O. would be unable to appear as a substitute witness until tomorrow. Mr. Pfau advised he would accept the substitute on the provision that the substitute witness appear today. Court directed Defendant to make the witness available. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding redacting and replacing previously admitted exhibit. JURY PRESENT. Testimony and exhibits presented. (See worksheets) CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY. Colloquy with and regarding Juror #5 who claimed to know a witness. Outside presence of Juror #5. Parties agreed there was no conflict. JURY PRESENT. Testimony and exhibits presented. (See worksheets) CONFERENCE AT BENCH. Testimony and exhibits presented. (See worksheets) COURT ORDERED, matter CONTINUED.

CONTINUED TO: 12/13/18 10:00 AM

A-16-732342-C Vivia Harrison, Plaintiff(s)
vs.
MGM Resorts International, Defendant(s)

December 13, 2018 10:00 AM Jury Trial

HEARD BY: Jones, David M COURTROOM: RJC Courtroom 15A

COURT CLERK: Tapia, Michaela

RECORDER: Murphy-Delgado, Melissa

REPORTER:

PARTIES PRESENT:

Boyd B. Moss, ESQ	Attorney for Plaintiff
Courtney Christopher	Attorney for Defendant, Third Party Plaintiff
J. Bruce Alverson	Attorney for Defendant, Third Party Plaintiff
Loren Young	Attorney for Defendant
Matthew Pfau	Attorney for Plaintiff
Thomas Maroney	Attorney for Defendant

JOURNAL ENTRIES

OUTSIDE THE PRESENCE OF THE JURY. Colloquy. Testimony and exhibits presented. (See worksheets) CONFERENCE AT BENCH. Testimony and exhibits presented. (See worksheets) OUTSIDE THE PRESENCE OF THE JURY. Court noted its admonitions in regards to influencing counsel on the exhibits and video taped depositions and other materials and warned parties the next time it happened, the Court would issue sanctions and strike the testimonies. POTENTIAL JURY PRESENT. Testimony and exhibits presented. (See worksheets) CONFERENCE AT BENCH. Testimony and exhibits presented. (See worksheets) COURT ORDERED, matter CONTINUED.

CONTINUED TO: 12/14/18 8:30 AM

Negligence - Premises Liability

COURT MINUTES

December 14, 2018

A-16-732342-C Vivian Harrison, Plaintiff(s)
vs.
MGM Resorts International, Defendant(s)

December 14, 2018 08:30 AM Jury Trial

HEARD BY: Jones, David M COURTROOM: RJC Courtroom 15A

COURT CLERK:

RECORDER: Murphy-Delgado, Melissa

REPORTER:

PARTIES PRESENT:

Boyd B. Moss, ESQ	Attorney for Plaintiff
Courtney Christopher	Attorney for Defendant, Third Party Plaintiff
J. Bruce Alverson	Attorney for Defendant, Third Party Plaintiff
Loren Young	Attorney for Defendant
Matthew Pfau	Attorney for Plaintiff
Thomas Maroney	Attorney for Defendant

JOURNAL ENTRIES

OUTSIDE THE PRESENCE OF POTENTIAL JURY. Colloquy regarding trial schedule. POTENTIAL JURY PRESENT. Testimony and exhibits presented. (See worksheets) OUTSIDE THE PRESENCE OF POTENTIAL JURY. Colloquy regarding jury instructions. POTENTIAL JURY PRESENT. CONFERENCE AT BENCH. Testimony and exhibits presented. (See worksheets) COURT ORDERED, matter CONTINUED.

CONTINUED TO: 12/17/18 9:30 AM

Negligence - Premises Liability

COURT MINUTES

December 17, 2018

A-16-732342-C Vivian Harrison, Plaintiff(s)
vs.
MGM Resorts International, Defendant(s)

December 17, 2018 09:30 AM Jury Trial

HEARD BY: Jones, David M COURTROOM: RJC Courtroom 15A

COURT CLERK: Tapia, Michaela

RECORDER: Murphy-Delgado, Melissa

REPORTER:

PARTIES PRESENT:

Boyd B. Moss, ESQ	Attorney for Plaintiff
Courtney Christopher	Attorney for Defendant, Third Party Plaintiff
J. Bruce Alverson	Attorney for Defendant, Third Party Plaintiff
Loren Young	Attorney for Defendant
Matthew Pfau	Attorney for Plaintiff
Thomas Maroney	Attorney for Defendant

JOURNAL ENTRIES

POTENTIAL JURY PRESENT. Testimony and exhibits presented. (See worksheets) Plaintiff rested their case in chief. OUTSIDE THE PRESENCE OF THE JURY. Oral Motion and argument by Mr. Alverson for dismissal of the verdict based on 50(a). Argument by Mr. Pfau for directed verdict to be denied. Mr. Young indicated he also planned on moving for dismissal. Further arguments by counsel. COURT STATED ITS FINDINGS and ORDERED, oral motion DENIED. POTENTIAL JURY PRESENT. Testimony and exhibits presented. (See worksheets) OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding witnesses and jury instructions. JURY PRESENT. Testimony and exhibits presented. (See worksheets) OUTSIDE THE PRESENCE OF THE JURY. Court directed counsel to submit the stipulated jury instructions to Chambers. Colloquy. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 12/18/18 10:00 AM

A-16-732342-C Vivian Harrison, Plaintiff(s)
vs.
MGM Resorts International, Defendant(s)

December 18, 2018 10:00 AM Jury Trial

HEARD BY: Jones, David M COURTROOM: RJC Courtroom 15A

COURT CLERK:

RECORDER: Murphy-Delgado, Melissa

REPORTER:

PARTIES PRESENT:

Boyd B. Moss, ESQ	Attorney for Plaintiff
Courtney Christopher	Attorney for Defendant, Third Party Plaintiff
J. Bruce Alverson	Attorney for Defendant, Third Party Plaintiff
Loren Young	Attorney for Defendant
Matthew Pfau	Attorney for Plaintiff
Thomas Maroney	Attorney for Defendant

JOURNAL ENTRIES

OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding proposed verdict forms. JURY PRESENT. Testimony and exhibits presented. (See worksheets) CONFERENCE AT BENCH. OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding spoliation motion by Plaintiff. JURY PRESENT. Court instructed the Jury. Closing argument by the Plaintiff. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 12/19/18 11:00 AM

A-16-732342-C Vivia Harrison, Plaintiff(s)
vs.
MGM Resorts International, Defendant(s)

December 19, 2018 11:00 AM Jury Trial

HEARD BY: Jones, David M COURTROOM: RJC Courtroom 15A

COURT CLERK: Tapia, Michaela

RECORDER: Murphy-Delgado, Melissa

REPORTER:

PARTIES PRESENT:

Boyd B. Moss, ESQ	Attorney for Plaintiff
Courtney Christopher	Attorney for Defendant, Third Party Plaintiff
J. Bruce Alverson	Attorney for Defendant, Third Party Plaintiff
Loren Young	Attorney for Defendant
Matthew Pfau	Attorney for Plaintiff
Thomas Maroney	Attorney for Defendant

JOURNAL ENTRIES

OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding admitted exhibits. JURY PRESENT. Closing argument by Defendants. Rebuttal closing argument by the Plaintiff. At the hour of 12:42 p.m., the Jury retired to deliberate. OUTSIDE THE PRESENCE OF THE JURY. Juror questions addressed. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 12/20/18 10:00 AM

A-16-732342-C Vivia Harrison, Plaintiff(s)
vs.
MGM Resorts International, Defendant(s)

December 20, 2018 10:00 AM Jury Trial

HEARD BY: Herndon, Douglas W. COURTROOM: RJC Courtroom 15A

COURT CLERK: Ortega, Natalie

RECORDER: Murphy-Delgado, Melissa

REPORTER:

PARTIES PRESENT:

Boyd B. Moss, ESQ Attorney for Plaintiff

Courtney Christopher Attorney for Defendant, Third Party Plaintiff

Matthew Pfau Attorney for Plaintiff

JOURNAL ENTRIES

Verdict and Jury Instructions FILED IN OPEN COURT.

INSIDE THE PRESENCE OF THE JURY: At the hour of 1:26 p.m. the jury returned with a verdict in favor of the Defendants. Jury polled.

OUTSIDE THE PRESENCE OF THE JURY: Ms. Christopher noted the Defendants name read in the verdict indicated "Desert Mechanical Equipment" and the correct name was "Desert Medical Equipment". Upon Court's inquiry, the parties agreed to bring the jury back into the Courtroom to clarify.

INSIDE THE PRESENCE OF THE JURY: Court inquired and jury affirmed that although the Verdict for Defendant indicated "Desert Mechanical" their verdict applied to "Desert Medical."

OUTSIDE THE PRESENCE OF THE JURY: COURT NOTED it received affirmation from all six jurors through nods that they indicated that they voted in favor of the verdict.



ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

DEC 20 2018

BY Natalie Ortega 126 pm
NATALIE ORTEGA, DEPUTY 12-20-18

VER

DISTRICT COURT

CLARK COUNTY, NEVADA

VIVIA HARRISON, an Individual,

Plaintiff,

v.

RAMPARTS, INC. d/b/a LUXOR HOTEL
& CASINO, a Nevada Domestic
Corporation; DESERT MEDICAL
EQUIPMENT, a Nevada Domestic
Corporation; PRIDE MOBILITY
PRODUCTS CORPORATION, a Nevada
Domestic Corporation; DOES I through X,
inclusive; and ROE BUSINESS ENTITIES I
through X, inclusive,

Defendants.

CASE NO. A-16-732342-C

DEPT. NO. 29

VERDICT

We, the jury in the above-entitled action, find as follows:

1. The percentage of negligence on the part of the Defendant, RAMPARTS, INC.
d/b/a LUXOR HOTEL & CASINO, which was the proximate cause of Plaintiff's injury,
was: _____ %

2. The percentage of negligence on the part of the Defendant, DESERT MEDICAL
EQUIPMENT, which was the proximate cause of Plaintiff's injury, was: _____ %

3. The percentage of negligence on the part of the Plaintiff, VIVIA HARRISON, if
any, which was the proximate cause of Plaintiff's injury, was: _____ %

TOTAL: _____ 100 %

1 Having found for the Plaintiff, VIVIA HARRISON, and against the Defendants,
2 RAMPARTS, INC. d/b/a LUXOR HOTEL & CASINO and DESERT MEDICAL EQUIPMENT,
3 we find:

4 Past Pain, Suffering, and Disability: \$ _____
5
6 Future Pain, Suffering, and Disability: \$ _____
7
8 Total Damages: \$ _____

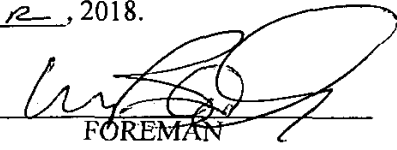
9 DATED this _____ day of _____, 2018.

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12 FOREPERSON _____
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VERDICT FOR DEFENDANT

We, the jury in the above-entitled action, find for the defendant DESERT MECHANICAL EQUIPMENT and against the plaintiff.

DATED this 20th day of DECEMBER, 2018.

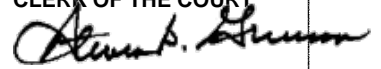

FOREMAN

VERDICT FOR DEFENDANT

We, the jury in the above-entitled action, find for the defendant, RAMPARTS, INC. d/b/a LUXOR HOTEL & CASINO, and against the plaintiff.

DATED this 20th day of DECEMBER, 2018.


FOREMAN



1 **JGJV**
2 **LOREN S. YOUNG, ESQ.**
3 Nevada Bar No. 7567
4 **THOMAS W. MARONEY, ESQ.**
5 Nevada Bar No. 13913
6 **LINCOLN, GUSTAFSON & CERCOS, LLP**
7 **ATTORNEYS AT LAW**
8 3960 Howard Hughes Parkway, Suite 200
9 Las Vegas, Nevada 89169
10 Telephone: (702) 257-1997
11 Facsimile: (702) 257-2203
12 lyoung@lgclawoffice.com
13 tmaroney@lgclawoffice.com

14 Attorneys for Defendant, RAMPARTS, INC.
15 d/b/a LUXOR HOTEL & CASINO
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11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**
13

14 VIVIA HARRISON, an individual,
15 Plaintiff,

CASE NO.: A-16-732342-C
DEPT. NO.: XXIX

16 v.

JUDGMENT ON JURY VERDICT

17 RAMPARTS, INC. d/b/a LUXOR HOTEL &
18 CASINO, a Nevada Domestic Corporation;
19 DESERT MEDICAL EQUIPMENT, a Nevada
20 Domestic Corporation, DOES I through XXX,
21 inclusive, and ROE BUSINESS ENTITIES I
22 through XXX, inclusive,
23 Defendants.

22 DESERT MEDICAL EQUIPMENT, a Nevada
23 Domestic Corporation,

24 Third-Party Plaintiff,

25 v.

26 STAN SAWAMOTO, an individual,

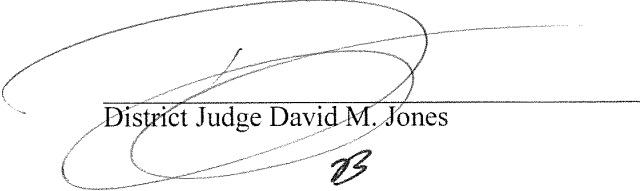
27 Third Party Defendant.
28

1 This action came on for trial before the Court and a Jury, the Honorable David M. Jones,
2 District Court Judge, presiding, and the issues having been duly tried and the jury having duly rendered
3 its Verdict, a copy of the Jury's Verdict for Defendants is attached hereto and marked as Exhibit "A."

4 IT IS HEREBY ORDERED AND ADJUDGED:

5 That the Plaintiff, VIVIA HARRISON, take nothing from Defendants, DESERT MEDICAL
6 EQUIPMENT and RAMPARTS, INC. d/b/a LUXOR HOTEL & CASINO.

7 DATED this 10 day of January, 2019.

8
9
10 
11 District Judge David M. Jones
12

13 Submitted by:

14 **LINCOLN GUSTAFSON & CERCOS, LLP**

15 
16 **LOREN S. YOUNG, ESQ.**

17 Nevada Bar No. 7567

18 **THOMAS W. MARONEY, ESQ.**

19 Nevada Bar No. 13913

20 3960 Howard Hughes Parkway, Suite 200

21 Las Vegas, Nevada 89169

22 Attorneys for Defendant, RAMPARTS, INC.

23 d/b/a LUXOR HOTEL & CASINO
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Exhibit “A”



ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

DEC 20 2018

BY Natalie Ortega
NATALIE ORTEGA, DEPUTY

126 pm
12-20-18

VER

DISTRICT COURT

CLARK COUNTY, NEVADA

VIVIA HARRISON, an Individual,
Plaintiff,

CASE NO. A-16-732342-C
DEPT. NO. 29

v.

RAMPARTS, INC. d/b/a LUXOR HOTEL
& CASINO, a Nevada Domestic
Corporation; DESERT MEDICAL
EQUIPMENT, a Nevada Domestic
Corporation; PRIDE MOBILITY
PRODUCTS CORPORATION, a Nevada
Domestic Corporation; DOES I through X,
inclusive; and ROE BUSINESS ENTITIES I
through X, inclusive,

Defendants.

VERDICT

We, the jury in the above-entitled action, find as follows:

1. The percentage of negligence on the part of the Defendant, RAMPARTS, INC.
d/b/a LUXOR HOTEL & CASINO, which was the proximate cause of Plaintiff's injury,
was: _____ %
2. The percentage of negligence on the part of the Defendant, DESERT MEDICAL
EQUIPMENT, which was the proximate cause of Plaintiff's injury, was: _____ %
3. The percentage of negligence on the part of the Plaintiff, VIVIA HARRISON, if
any, which was the proximate cause of Plaintiff's injury, was: _____ %

TOTAL:

100 %

1 Having found for the Plaintiff, VIVIA HARRISON, and against the Defendants,
2 RAMPARTS, INC. d/b/a LUXOR HOTEL & CASINO and DESERT MEDICAL EQUIPMENT,
3 we find:

4 Past Pain, Suffering, and Disability: \$ _____

5 Future Pain, Suffering, and Disability: \$ _____

6 **Total Damages:** \$ _____

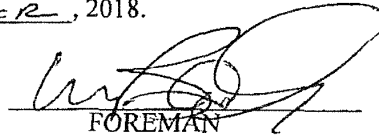
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9 DATED this _____ day of _____, 2018.

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12 _____
13 FOREPERSON
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VERDICT FOR DEFENDANT

We, the jury in the above-entitled action, find for the defendant DESERT MECHANICAL
EQUIPMENT and against the plaintiff.

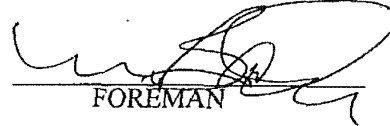
DATED this 20th day of DECEMBER, 2018.

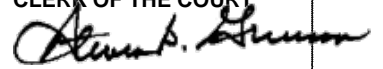

FOREMAN

VERDICT FOR DEFENDANT

We, the jury in the above-entitled action, find for the defendant, RAMPARTS, INC. d/b/a LUXOR HOTEL & CASINO, and against the plaintiff.

DATED this 20th day of DECEMBER, 2018.


FOREMAN



NJUD
LOREN S. YOUNG, ESQ.
Nevada Bar No. 7567
THOMAS W. MARONEY, ESQ.
Nevada Bar No. 13913
LINCOLN, GUSTAFSON & CERCOS, LLP
ATTORNEYS AT LAW
3960 Howard Hughes Parkway, Suite 200
Las Vegas, Nevada 89169
Telephone: (702) 257-1997
Facsimile: (702) 257-2203
lyoung@lgclawoffice.com
tmaroney@lgclawoffice.com

Attorneys for Defendant, RAMPARTS, INC.
d/b/a LUXOR HOTEL & CASINO

DISTRICT COURT
CLARK COUNTY, NEVADA

VIVIA HARRISON, an individual,

Plaintiff,

v.

RAMPARTS, INC. d/b/a LUXOR HOTEL &
CASINO, a Nevada Domestic Corporation;
DESERT MECHANICAL EQUIPMENT, a
Nevada Domestic Corporation, DOES I through
XXX, inclusive, and ROE BUSINESS
ENTITIES I through XXX, inclusive,

Defendants.

DESERT MEDICAL EQUIPMENT, a Nevada
Domestic Corporation,

Third-Party Plaintiff,

v.

STAN SAWAMOTO, an individual,

Third Party Defendant.

CASE NO.: A-16-732342-C
DEPT. NO.: XXIX

**NOTICE OF ENTRY OF JUDGMENT ON
JURY VERDICT**

1 TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:

2 YOU AND EACH OF YOU will please take notice that the Judgment on Jury Verdict was
3 entered on the 16th day of January, 2019. A true and correct copy is attached hereto.

4 DATED this 17 day of January, 2019.

5 **LINCOLN, GUSTAFSON & CERCOS, LLP**

6 

7 **LOREN S. YOUNG, ESQ.**

8 Nevada Bar No. 7567

9 **THOMAS W. MARONEY, ESQ.**

10 Nevada Bar No. 13913

11 3960 Howard Hughes Parkway, Suite 200

12 Las Vegas, NV 89169

13 Attorneys for Defendant, RAMPARTS, INC.

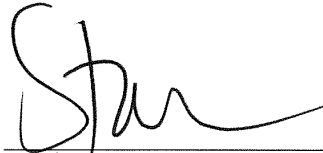
14 d/b/a LUXOR HOTEL & CASINO

15 v:\f\harrison_luxor\atty notes\drafts\pldgs\20190116_njud_sdi.docx

1 Vivia Harrison v. Ramparts, Inc. dba Luxor Hotel & Casino, et al.
2 Clark County Case No. A-16-732342-C

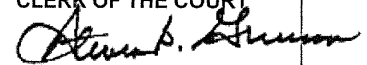
3 **CERTIFICATE OF SERVICE**

4 I HEREBY CERTIFY that on the 17th day of January, 2019, I served a copy of the attached
5 **NOTICE OF ENTRY OF JUDGMENT ON JURY VERDICT** via electronic service to all parties
6 on the Odyssey E-Service Master List.

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11 Staci D. Ibarra, an employee
12 of the law offices of
13 Lincoln, Gustafson & Cercos, LLP

14 V:\F-J Harrison_Luxor\POS\20190116_NJUD_sdi.doc



1 **JGJV**
2 **LOREN S. YOUNG, ESQ.**
3 Nevada Bar No. 7567
4 **THOMAS W. MARONEY, ESQ.**
5 Nevada Bar No. 13913
6 **LINCOLN, GUSTAFSON & CERCOS, LLP**
7 **ATTORNEYS AT LAW**
8 3960 Howard Hughes Parkway, Suite 200
9 Las Vegas, Nevada 89169
10 Telephone: (702) 257-1997
11 Facsimile: (702) 257-2203
12 lyoung@lgclawoffice.com
13 tmaroney@lgclawoffice.com

14 Attorneys for Defendant, RAMPARTS, INC.
15 d/b/a LUXOR HOTEL & CASINO

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

14 VIVIA HARRISON, an individual,
15 Plaintiff,

16 v.

17 RAMPARTS, INC. d/b/a LUXOR HOTEL &
18 CASINO, a Nevada Domestic Corporation;
19 DESERT MEDICAL EQUIPMENT, a Nevada
20 Domestic Corporation, DOES I through XXX,
21 inclusive, and ROE BUSINESS ENTITIES I
22 through XXX, inclusive,

23 Defendants.

22 DESERT MEDICAL EQUIPMENT, a Nevada
23 Domestic Corporation,

24 Third-Party Plaintiff,

25 v.

26 STAN SAWAMOTO, an individual,

27 Third Party Defendant.

CASE NO.: A-16-732342-C
DEPT. NO.: XXIX

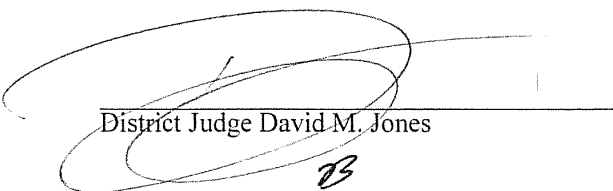
JUDGMENT ON JURY VERDICT

1 This action came on for trial before the Court and a Jury, the Honorable David M. Jones,
2 District Court Judge, presiding, and the issues having been duly tried and the jury having duly rendered
3 its Verdict, a copy of the Jury's Verdict for Defendants is attached hereto and marked as Exhibit "A."

4 IT IS HEREBY ORDERED AND ADJUDGED:

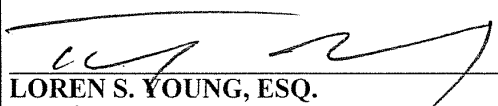
5 That the Plaintiff, VIVIA HARRISON, take nothing from Defendants, DESERT MEDICAL
6 EQUIPMENT and RAMPARTS, INC. d/b/a LUXOR HOTEL & CASINO.

7 DATED this 10 day of January, 2019.

8
9
10 
11 District Judge David M. Jones
12

13 Submitted by:

14 **LINCOLN GUSTAFSON & CERCOS, LLP**

15 
LOREN S. YOUNG, ESQ.

16 Nevada Bar No. 7567

THOMAS W. MARONEY, ESQ.

17 Nevada Bar No. 13913

3960 Howard Hughes Parkway, Suite 200

18 Las Vegas, Nevada 89169

Attorneys for Defendant, RAMPARTS, INC.

19 d/b/a LUXOR HOTEL & CASINO

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Exhibit “A”

A-16-732342-C
VER
Verdict
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ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

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VER

DISTRICT COURT

BY Natalie Ortega
NATALIE ORTEGA, DEPUTY

126pm
12-20-18

CLARK COUNTY, NEVADA

VIVIA HARRISON, an Individual,

Plaintiff,

v.

RAMPARTS, INC. d/b/a LUXOR HOTEL
& CASINO, a Nevada Domestic
Corporation; DESERT MEDICAL
EQUIPMENT, a Nevada Domestic
Corporation; PRIDE MOBILITY
PRODUCTS CORPORATION, a Nevada
Domestic Corporation; DOES I through X,
inclusive; and ROE BUSINESS ENTITIES I
through X, inclusive,

Defendants.

CASE NO. A-16-732342-C
DEPT. NO. 29

VERDICT

We, the jury in the above-entitled action, find as follows:

1. The percentage of negligence on the part of the Defendant, RAMPARTS, INC.
d/b/a LUXOR HOTEL & CASINO, which was the proximate cause of Plaintiff's injury,
was: _____ %

2. The percentage of negligence on the part of the Defendant, DESERT MEDICAL
EQUIPMENT, which was the proximate cause of Plaintiff's injury, was: _____ %

3. The percentage of negligence on the part of the Plaintiff, VIVIA HARRISON, if
any, which was the proximate cause of Plaintiff's injury, was: _____ %

TOTAL:

100 %

1 Having found for the Plaintiff, VIVIA HARRISON, and against the Defendants,
2 RAMPARTS, INC. d/b/a LUXOR HOTEL & CASINO and DESERT MEDICAL EQUIPMENT,

3 we find:

4 Past Pain, Suffering, and Disability: \$ _____

6 Future Pain, Suffering, and Disability: \$ _____

7 Total Damages: \$ _____

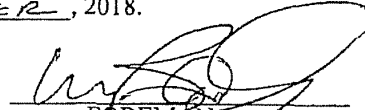
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9 DATED this _____ day of _____, 2018.

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13 FOREPERSON
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VERDICT FOR DEFENDANT

We, the jury in the above-entitled action, find for the defendant DESERT MECHANICAL
EQUIPMENT and against the plaintiff.

DATED this 20th day of DECEMBER, 2018.

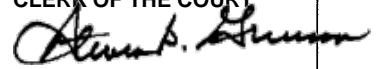

FOREMAN

VERDICT FOR DEFENDANT

We, the jury in the above-entitled action, find for the defendant, RAMPARTS, INC. d/b/a LUXOR HOTEL & CASINO, and against the plaintiff.

DATED this 20th day of DECEMBER, 2018.


FOREMAN



1 **MAFC**
2 **LOREN S. YOUNG, ESQ.**
3 Nevada Bar No. 7567
4 **THOMAS W. MARONEY, ESQ.**
5 Nevada Bar No. 13913
6 **LINCOLN, GUSTAFSON & CERCOS, LLP**
7 **ATTORNEYS AT LAW**
8 3960 Howard Hughes Parkway, Suite 200
9 Las Vegas, Nevada 89169
10 Telephone: (702) 257-1997
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12 lyoung@lgclawoffice.com
13 tmaroney@lgclawoffice.com

14 Attorneys for Defendant, RAMPARTS, INC.
15 d/b/a LUXOR HOTEL & CASINO

11
12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 VIVIA HARRISON, an individual,
15 Plaintiff,

16 v.

17 RAMPARTS, INC. d/b/a LUXOR HOTEL &
18 CASINO, a Nevada Domestic Corporation;
19 DESERT MEDICAL EQUIPMENT, a Nevada
20 Domestic Corporation, DOES I through XXX,
21 inclusive, and ROE BUSINESS ENTITIES I
22 through XXX, inclusive,
23 Defendants.

CASE NO.: A-16-732342-C
DEPT. NO.: XXIX

**DEFENDANT RAMPARTS, INC. d/b/a
LUXOR HOTEL & CASINO'S MOTION
FOR ATTORNEY'S FEES AND COSTS**

Hearing Date:
Hearing Time:

22 DESERT MEDICAL EQUIPMENT, a Nevada
23 Domestic Corporation,

24 Third-Party Plaintiff,

25 v.

26 STAN SAWAMOTO, an individual,

27 Third Party Defendant.
28

COMES NOW, Defendant, RAMPARTS, INC. d/b/a LUXOR HOTEL & CASINO (hereinafter referred to as "Luxor"), by and through its attorneys of record, the law firm of LINCOLN, GUSTAFSON & CERCOS, LLP, and hereby submits the following Motion for Attorney's Fees and Costs.

This Motion is made and based upon the attached Memorandum of Points and Authorities and supporting documentation, the papers and pleadings on file in this action, and any oral argument this Court may allow at the time of hearing.

DATED this 17 day of January, 2019.

LINCOLN, GUSTAFSON & CERCOS, LLP



LOREN S. YOUNG, ESQ.

Nevada Bar No. 7567

THOMAS W. MARONEY, ESQ.

Nevada Bar No. 13913

3960 Howard Hughes Parkway, Suite 200

Las Vegas, NV 89169

Attorneys for Defendant, RAMPARTS, INC.

d/b/a LUXOR HOTEL & CASINO

NOTICE OF MOTION

YOU WILL PLEASE TAKE NOTICE that RAMPARTS, INC. d/b/a LUXOR HOTEL & CASINO'S MOTION FOR ATTORNEY'S FEES AND COSTS will be brought before Department XXIX of the above-entitled Court on the 27 day of Feb., 2019 at 9:00am a.m./p.m.

DATED this 17 day of January, 2019.

LINCOLN, GUSTAFSON & CERCOS, LLP



LOREN S. YOUNG, ESQ.

Nevada Bar No. 7567

THOMAS W. MARONEY, ESQ.

Nevada Bar No. 13913

3960 Howard Hughes Parkway, Suite 200

Las Vegas, NV 89169

Attorneys for Defendant, RAMPARTS, INC.

d/b/a LUXOR HOTEL & CASINO

**DECLARATION OF THOMAS W. MARONEY, ESQ. IN SUPPORT OF
MOTION FOR ATTORNEY'S FEES AND COSTS**

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, THOMAS W. MARONEY, ESQ., declare as follows:

1. I am a licensed attorney in good standing to practice law in the State of Nevada and before this Court. I am an attorney in the law firm of Lincoln, Gustafson & Cercos, LLP (hereinafter "LGC"), 3960 Howard Hughes Parkway, Suite 200, Las Vegas, NV 89169, and am trial counsel representing Defendant Ramparts, Inc. d/b/a Luxor Hotel & Casino (hereinafter "Luxor") in the instant matter. I have personal knowledge of the matters contained herein and am competent to testify regarding the same.

2. LGC was retained to represent Defendant Luxor in the instant matter. Loren S. Young, Esq. and I were the primary attorneys from LGC who represented Luxor at trial in the instant matter.

3. On March 23, 2017, Luxor served an Offer of Judgment ("Offer") on Plaintiff Vivia Harrison for \$1,000.00. A true and correct copy of the Offer is attached hereto as Exhibit "A." The Offer expired on April 10, 2017.

4. This matter proceeded to trial on December 10, 2018. The jury returned a verdict on December 20, 2018. The jury found in favor of Defendant, Luxor and against Plaintiff.

5. From the time the Offer was served to the date the verdict was reached, 637 days elapsed. Luxor incurred \$202,398.00 in attorney's fees defending this matter. True and correct copies of Redacted Bills and Invoices from LGC for March 23, 2018 through December 20, 2018 will be produced to the Court *in camera*, with copies of same served on counsel for all parties. On behalf of Luxor, we engaged in extensive pretrial motion practice, diligently prepared for trial, and appeared and defended Luxor at trial, resulting in a defense verdict.

6. The attorney's fees incurred were reasonable in light of the qualities of the advocates, character of the work to be done, work actually performed, and the results obtained.

7. Loren S. Young has been licensed to practice law since 2000 and is licensed to practice law in Nevada State and Federal Courts, and the U.S. Court of Appeals for the Ninth Circuit. Mr.

1 Young has litigated hundreds of complex matters ranging from personal injury to business litigation
2 since obtaining his license.

3 8. I have been licensed to practice law since 2015 and I am licensed to practice law in
4 Nevada State and Federal Courts. I have participated in and helped litigate numerous complex matters
5 ranging from personal injury to construction defect litigation since obtaining my license.

6 9. Mr. Young and I were assisted by several highly skilled associate attorneys, paralegals,
7 secretaries and assistants. All of their work was supervised by either Mr. Young or myself.

8 10. The rates charged in this matter were \$200.00 per hour for Partners, \$180.00 per hour
9 for Associates, and \$110.00 per hour for paralegals with LGC.

10 11. I am familiar with rates charged in similar litigation throughout United States, including
11 rates charged in the state of Nevada. The rates charged by LGC are reasonable based upon the
12 experience of the personnel and nature of the work performed.

13 12. I have reviewed the bills and redacted invoices which will be provided *in camera*. In
14 addition to the \$202,398.00 in fees incurred in the defense of this action from the date of the Offer
15 through the verdict, Luxor incurred \$53,160.03 in costs, as evidenced by its verified Memorandum of
16 Costs filed concurrently herewith.

17 13. The fees and expenses incurred by Luxor were reasonable and necessary.

18 14. I declare the foregoing is true and correct.

19
20 
21 THOMAS W. MARONEY, ESQ.

1 **MEMORANDUM OF LEGAL POINTS AND AUTHORITIES**

2 Defendant Ramparts, Inc. d/b/a Luxor Hotel & Casino (hereinafter “Luxor”) is entitled to an
3 award of reasonable attorney’s fees and costs. Luxor served a valid Offer of Judgment (“Offer”) for
4 \$1,000.00 on Plaintiff, Vivian Harrison (hereinafter “Plaintiff”) on March 23, 2017. Plaintiff rejected
5 this Offer, and this matter proceeded to trial on December 10, 2018. After nine days of trial spanning
6 December 10 through December 20, the jury returned a verdict in favor of the defense. As Plaintiff
7 failed to obtain a better result at trial than the March 23, 2017, Offer, Luxor is entitled to an award of
8 reasonable attorney’s fees and costs, pursuant to NRCP 68 and NRS 18.010.

9 From March 23, 2017, when the Offer was served, and December 20, 2018, 637 days elapsed.
10 From the time the Offer expired through the verdict, Luxor incurred \$202,398.00 in attorney’s fees
11 and \$53,160.03 in costs to litigate the matter and defend the matter at trial, and ultimately prevailing
12 by obtaining a defense verdict. The fees and costs incurred are more than reasonable, given the
13 qualities of the advocate, the character and nature of the work to be done, the work performed, and the
14 results obtained. Therefore, this Court should award Luxor its requested attorney’s fees and costs.¹

15 **I. FACTUAL BACKGROUND**

16 This case stems from allegations of personal injuries by Plaintiff against Luxor from an
17 incident that occurred at the Backstage Deli located with the Luxor Hotel & Casino on December 10,
18 2014. Plaintiff was injured when she inadvertently struck the base of a high top table with a rented
19 mobility scooter. The fall resulted in a broken femur and Plaintiff was transported to Spring Valley
20 Hospital for treatment. While undergoing surgery or shortly thereafter, Plaintiff sustained a stroke
21 leading to months of hospitalization and treatment. Further, the stroke resulted in a litany of ongoing
22 medical issues ultimately resulting in recommendations for future care and treatment.

23 Plaintiff originally alleged the Deli employees failed to properly maintain the premises, but
24 when that was found to be untrue, Plaintiff then alleged the Deli was improperly maintained and failed
25 to provide an accessible route pursuant to the Americans with Disabilities Act (hereinafter “ADA”)
26 despite the tables and furnishings in the Deli being entirely moveable. In addition, Plaintiff originally
27

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¹ A separate Memorandum of Costs is being filed concurrently herewith.

1 alleged the front wheel of her scooter struck the base of the high top table resulting in her fall.
2 However, when that was found to be impossible, Plaintiff then asserted the back wheel of the scooter
3 struck the base of the table resulting in the fall.

4 Plaintiff filed suit on February 24, 2016 and later amended the Complaint to include Ramparts, Inc.
5 d/b/a Luxor Hotel & Casino, alleging the following claims: (1) negligence; and (2) negligent hiring
6 training, maintenance, and supervision. (See Plaintiff's Complaint, filed February 24, 2016, attached hereto
7 as Exhibit "B"; See also Plaintiff's Second Amended Complaint, filed on August 19, 2016, attached hereto
8 as Exhibit "C").

9 The parties engaged in significant discovery regarding the liability and damages alleged in this
10 matter, and discovery formally closed in July 2018. Thereafter, Luxor filed a Motion for Summary
11 Judgment due to Plaintiff's lack of ability to demonstrate a dangerous condition existed at the Deli, which
12 the Court denied. Luxor also engaged in motion in limine practice wherein the Court agreed with Luxor's
13 Motion and Plaintiff's experts were limited because their opinions were based on speculation and
14 conjecture.

15 On March 23, 2017, Luxor served an Offer of Judgment for \$1,000.00 to Plaintiff. (See Exhibit
16 "A"). Plaintiff allowed the Offer to expire on April 10, 2018. Plaintiff then proceeded to trial on December
17 10, 2018. At no time during discovery did Plaintiff ever make a settlement demand to Luxor or respond to
18 the Offer of Judgment.

19 After 10 days of trial over the course two weeks, on December 20, 2018, a jury returned a verdict
20 in favor of Luxor. Luxor now seeks reimbursement for the fees it incurred from March 23, 2017 through
21 the present, pursuant to NRCP 68 and NRS 18.010; as well as, its costs.

22 **II. LEGAL ARGUMENT**

23 Nevada Revised Statute Rule (hereinafter "NRS") 18.010 states as follows:

24 **Award of attorney's fees.**

- 25 1. The compensation of an attorney and counselor for his or her services is
26 governed by agreement, express or implied, which is not restrained by law.
- 27 2. In addition to the cases where an allowance is authorized by specific statute,
28 the court may make an allowance of attorney's fees to a prevailing party:

///

1 (a) When the prevailing party has not recovered more than \$20,000; or

2 (b) Without regard to the recovery sought, when the court finds that the claim,
3 counterclaim, cross-claim or third-party complaint or defense of the opposing party
4 was brought or maintained without reasonable ground or to harass the prevailing
5 party. The court shall *liberally* construe the provisions of this paragraph in favor of
6 awarding attorney's fees in all appropriate situations. It is the intent of the
7 Legislature that the court award attorney's fees pursuant to this paragraph and
8 impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all
appropriate situations to punish for and deter frivolous or vexatious claims and
defenses because such claims and defenses overburden limited judicial resources,
hinder the timely resolution of meritorious claims and increase the costs of
engaging in business and providing professional services to the public. (Emphasis
added).

9 Nevada Rule of Civil Procedure 68 also allows for the recovery of reasonable attorney's fees
10 and costs if an offer of judgment is made more than ten (10) days before trial, the offer is rejected, and
11 the offeree fails to obtain a result more favorable than the offer: "A party who makes an unimproved-
12 upon offer of judgment—an offer that is more favorable to the opposing party than the judgment
13 ultimately rendered by the district court—is entitled to recover costs and reasonable attorney fees
14 incurred after making the offer of judgment." Nev. R. Civ. P. 68; *Logan v. Abe*, 131 Nev. Adv. Op.
15 31, 350 P.3d 1139, 1140 (2015).

16 "The purpose of NRCP 68 is to save time and money for the court system, the parties and the
17 taxpayers. They reward a party who makes a reasonable offer and punish the party who refuses to
18 accept such an offer." *Muije v. A North Las Vegas Cab Co.*, 106 Nev. 664, 667, 799 P.2d 559, 561
19 (1990); *Morgan v. Demille*, 106 Nev. 671, 674, 799 P.2d 561, 563 (1990). The purpose of the
20 requirement that an offer be made more than ten days prior to trial is to ensure that an offeree has
21 adequate time after service and before trial to consider the offer. *Morgan*, 106 Nev. at 674, 799 at 563.

22 For a Court to award fees and costs pursuant to an Offer of Judgment, the offer must be timely,
23 and it must satisfy the factors outlined by the Court in *Beattie v. Thomas*, 99 Nev. 579, 588, 668 P.2d
24 268, 274 (1983). Should the Court determine the offers of judgment are valid, then the Court *must*
25 make a finding that the fees and costs sought are reasonable under the factors outlined in *Brunzell v.*
26 *Golden Gate Nat. Bank.*, 85 Nev. 345, 455 P.2d 31 (1969)(Emphases added). Luxor's Offer to Plaintiff
27 in the instant matter was valid and more than reasonable based on the facts, allegations and pursuant

28 ///

1 to NRCP 68, and it satisfies all of the factors outlined in both *Beattie* and *Brunzell*. Therefore, Luxor
2 is entitled to an award of reasonable attorney's fees and costs.²

3 **A. Luxor Made a Valid Offer of Judgment Pursuant to NRCP 68.**

4 NRCP 68 states that for the penalties of an offer of judgment to be triggered, the offer must
5 have been served more than 10 days before trial. Luxor's Offer was timely made, as it was served on
6 March 23, 2017, and trial in the instant matter did not commence until December 10, 2018, with the
7 first witness being sworn in on December 12, 2018. Thus, service was effectuated 10 days before trial
8 commenced. Therefore, Luxor's Offer satisfies the time requirement of NRCP 68. The March 23, 2017
9 Offer of Judgment served by Luxor on Plaintiff was valid and Plaintiff's rejection of the Offer triggers
10 the penalties of NRCP 68.

11 **B. Luxor is Entitled to An Award of Reasonable Attorney's Fees.**

12 Once the Court determines an Offer of Judgment satisfies the requirements outlined in NRCP
13 68, it must then make further findings under the following four factors:

14 (1) whether the plaintiffs claim was brought in good faith; (2) whether
15 the defendants' offer of judgment was reasonable and in good faith in
16 both its timing and amount; (3) whether the plaintiff's decision to reject
the offer . . . was grossly unreasonable or in bad faith; and (4) whether
the fees sought by the offeror are reasonable and justified in amount.

17 *Beattie*, 99 Nev. at 588, 668 at 274. Each factor need not favor awarding attorney fees because "no
18 one factor under *Beattie* is determinative." *Yamaha Motor Co., U.S.A. v. Arnoult*, 114 Nev. 233, 252
19 n. 16, 955 P.2d 661, 673 n. 16 (1998). Instead, a district court must consider and balance the factors
20 in determining the reasonableness of an attorney fees award. After weighing the factors, the district
21 judge may, where warranted, award up to the full amount of fees requested. *Beattie*, 99 Nev. at 589,
22 668 P.2d at 274.

23 Once the Court determines the *Beattie* factors weigh in favor of an award of attorney's fees,
24 the Court must then determine the reasonableness of the fees requested. Courts determine
25 reasonableness by analyzing a separate set of factors outlined in *Brunzell v. Golden Gate Nat. Bank*.
26 In *Brunzell*, the Nevada Supreme Court stated that the reasonableness of attorney's fees depends on:

27 _____
28 ² As noted above, the specific costs are set forth in Luxor's Memorandum of Costs, filed concurrently
herewith.

(1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; (4) the result: whether the attorney was successful and what benefits were derived.

Brunzell, 85 Nev. at 350, 455 P.2d at 33. Additionally, while it is preferable for a district court to expressly analyze each factor relating to an award of attorney fees, express findings on each factor are not necessary for a district court to properly award fees. *Certified Fire Prot. Inc. v. Precision Constr.*, 128 Nev. 371, 385, 283 P.3d 250, 258 (2012). Instead, the district court need only demonstrate that it considered the required factors, and that the award was supported by substantial evidence. *See Uniroyal Goodrich Tire v. Mercer*, 111 Nev. 318, 324, 890 P.2d 785, 789 (1995) (superseded by statute on other grounds).

Attorney's fees may be calculated two primary ways, (1) the equivalent to the contingency fee, or (2) an hourly fee, or loadstar, including deviations up or down due to various factors, including the existence of a contingency fee agreement. *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837, 864–65, 124 P.3d 530, 549 (2005). In Nevada, the method upon which a reasonable fee is determined is subject to the discretion of the court, which is tempered only by reason and fairness. *Id.* In determining the amount of fees to award, the Court is not limited to one specific approach; its analysis may begin with any method rationally designed to calculate a reasonable amount, including those based on a "loadstar" amount or a contingency fee. *Id.* Regardless of the method used to calculate the fees, the *Brunzell* factors still must be analyzed to determine the reasonableness of the fees incurred.

An analysis of the *Beattie* and *Brunzell* factors supports an award of \$202,326 in fees incurred by Luxor from the time the Offer of Judgment was made on March 23, 2017, through the verdict reached on December 20, 2018.

i. Luxor's Offer of Judgment Satisfies the *Beattie* Factors.

The *Beattie* factors support an award of Luxor's attorney's fees:

///

///

1 ***a. Good Faith of Plaintiff's Claims.***

2 Solely for the purposes of this Motion, Luxor does not wish to challenge whether Plaintiff's
3 claims were brought in good faith, but does believe Plaintiff's claims are highly suspect given her and
4 her counsel's constantly changing narrative. Certainly, Luxor contests the veracity and legal
5 sufficiency of Plaintiff's claims, but the veracity of such claims was left for the jury to decide.

6 ***b. Good Faith and Reasonableness of Luxor's Offer.***

7 Luxor's Offer was made in good faith and reasonable in light of the facts of the case. Although
8 Plaintiff claimed significant damages, at the time Luxor made the Offer, the facts of the case were well
9 established. Plaintiff's motorized scooter struck the base of a table resulting in her fall and injuries. At
10 no time did Plaintiff nor her experts ever provide evidence that the layout of the Deli or table itself
11 somehow created a dangerous condition and contributed to Plaintiff's fall. Luxor made the good faith
12 Offer based on its evaluation of potential liability and exposure at trial, and in light of the defense
13 costs it had already incurred and would anticipate occurring through the trial process. In considering
14 all of those factors, Luxor's Offer was clearly made in good faith and more than reasonable given
15 Plaintiff's own admission that she simply struck the base of a table and how knew it was her own
16 responsibility to drive the scooter safely.

17 The reasonableness of the Offer was justified when the jury reached its verdict in favor of
18 Luxor. This shows that, the offer Luxor made was in good faith, and in an effort to resolve a disputed
19 liability claim. Plaintiff's claims were contested and involved the retention of numerous experts with
20 a variety of specialties. The jury clearly took the experts' testimonies into consideration in rendering
21 their verdict. Against this backdrop, Luxor made a fair and reasonable settlement offer, to which
22 Plaintiff rejected.

23 When speaking with the jurors after the verdict, the jurors at no time believed a dangerous
24 condition existed at the Luxor Deli. Rather, the jurors focused on unrelated issues such as contract
25 language, type of scooter available, and Plaintiff's medical history. This demonstrates Plaintiff's claim
26 that an unreasonably dangerous condition existed in the Deli and caused her injuries was meritless.
27 Thus, Luxor's Offer was more than reasonable based upon the jury's examination of the available
28 evidence.

1 *c. Plaintiff's Decision to Reject the Offer and Proceed to Trial.*

2 At the time Luxor extended the Offer to Plaintiff, Plaintiff already knew the pertinent facts of
3 the case. Plaintiff, with the assistance of her counsel, had the ability to narrow the scope of their claims
4 and could reasonably evaluate the reasonableness of Luxor's Offer. By rejecting the Offer and
5 choosing to go to trial against Luxor, Plaintiff was aware she was exposing herself to the risk of an
6 award of attorney's fees. Presumably she was thoroughly counseled by her attorneys and competently
7 chose to reject the Offer and gamble at trial. Plaintiff even ignored the Court's guidance when the
8 Court informed Plaintiff she was fighting an uphill battle. Therefore, Plaintiff deliberately chose to
9 disregard common sense and guidance from the Court when she rejected the Offer and continued to
10 trial.

11 *d. Reasonableness of Fees Sought.*

12 Although an Offer was made, Luxor had to continue to litigate and defend this matter for 637
13 days, culminating in a verdict for Luxor. The \$202,398.00 in fees sought by Luxor are more than
14 reasonable and appropriately reflect the work performed by Luxor's defense team in litigating this
15 complex matter. The reasonableness of the fees are discussed in detail below, *infra*, with respect to
16 the *Brunzell* factors.

17 **ii. Luxor's Attorney's Fees Are Reasonable Under *Brunzell*.**

18 *a. Qualities of the Advocates.*

19 The law firm of Lincoln, Gustafson & Cercos, LLP ("LGC") is a regional trial firm that has
20 successfully litigated matters in many states, including, Nevada, Arizona, and California. Since
21 opening its Nevada office in 1997, LGC has been involved in some of the largest and well-known
22 litigations in Clark County, involving personal injury and construction defect claims, including, but
23 not limited to the *Hayward v. Sun City* matter.

24 Trial counsel Loren S. Young, Esq. has been licensed to practice law since 2000, and is licensed
25 to practice law in Nevada State and Federal Courts and the Supreme Court of the United States of
26 America. He has tried numerous cases in Clark County. Mr. Young was the past President and founder
27 of the Las Vegas Defense Lawyers, and currently sits on the Nevada Rules of Civil Procedure
28 Committee.

1 Trial counsel Thomas W. Maroney, Esq. has been licensed to practice law since 2015 and is
2 licensed to practice law in Nevada State and Federal Courts. Mr. Maroney has participated in and
3 helped litigate numerous complex matters ranging from personal injury to construction defect
4 litigation since obtaining his license.

5 Mr. Young and Mr. Maroney were assisted throughout this matter by competent and highly
6 skilled associate attorneys, paralegals, and staff. Reasonable attorney's fees include the work
7 performed not only by licensed attorneys but also by paralegals, secretaries, and staff assistants. *See*
8 *LVMPD v. Yeghiazarian*, 129 Nev. 760, 769–70, 312 P.3d 503, 510 (2013) (citing to *Missouri v.*
9 *Jenkins*, 491 U.S. 274, 285, 109 S.Ct. 2463, 105 L.Ed.2d 229 (1989)).

10 ***b. Character of the Work Done and the Work Performed.***

11 The instant matter was highly contested and complex. Numerous witnesses, documents, and
12 evidence were disclosed at trial by all parties, and in order to adequately prepare for trial, Luxor's
13 counsel was required to efficiently and expertly process all such information to competently defend
14 against Plaintiff's multi-million dollar claims.

15 At the time of trial, Plaintiff valued her case at approximately \$12 million dollars. Although
16 Plaintiff only requested pain and suffering, Plaintiff's extensive medical history involved evaluation
17 of: (a) TIAs and an extensive pre-existing history of comorbidities; (b) stroke with cognitive and
18 memory difficulty and future treatment recommendations; and (c) ongoing treatment and in-home help
19 for the remainder of Plaintiff's life. Luxor's attorneys not only engaged in significant discovery
20 regarding liability and damages prior to the close of discovery, but after the Offer expired, Luxor's
21 counsel engaged in additional motion practice, including a Motion for Summary Judgment, the
22 completion of Motions in Limine arguments, preparation for trial, and defending the matter at trial.

23 Trial lasted nine days spanning over the course of two weeks. Testimony from at least ten (10)
24 witnesses and experts was presented at trial. Certainly, the work performed, and the time spent
25 defending the matter from the Offer through to the verdict is reasonable. Moreover, Luxor's counsel
26 utilized non-attorney staff (paralegals, secretaries, assistants) when feasible to minimize costs.

27 ///

28 ///

1 *c. Results Obtained.*

2 During closing arguments, Plaintiff requested that the jury render a verdict in favor of Plaintiff
3 anywhere from \$3,000,000.00 to \$12,000,000.00. Luxor's defense team's work resulted in a defense
4 verdict. Luxor's defense team obtained the expected result given the evidence in the case.

5
6 **A. Luxor is Entitled to An Award of Reasonable Costs Pursuant to NRCP 68 and NRS 18.020.**

7 As this Court is aware, NRCP 68 mandates an award of costs to a party that obtains a verdict
8 more favorable than a previously rejected offer of judgment submitted pursuant to these provisions.
9 Moreover, NRS 18.020 provides that costs *must* be allowed of course to the prevailing party, against
10 any adverse party against whom judgment is rendered, in an action for the recovery of money or
11 damages, where the plaintiff seeks to recover more than \$2,500. NRS 18.020(3) (Emphasis added).

12 The Nevada Supreme Court held a party moving for costs should "provide sufficient
13 documentation and itemization in their respective cost memorandum." *Berosini v. People for The*
14 *Ethical Treatment of Animals*, 114 Nev. 1348, 1352, 971 P.2d 383 (1998). NRS § 18.005 defines
15 "costs" as:

- 16 1. Clerk's fees.
- 17 2. Reporters' fees for depositions, including a reporter's fee for one copy
18 of each deposition.
- 19 3. Juror's fees and expenses, together with reasonable compensation of
20 an officer appointed to act in accordance with NRS 16.120.
- 21 4. Fees for witnesses at trial, pretrial hearings and deposing witnesses,
22 unless the court finds that the witness was called at the instance of the
23 prevailing party without reason or necessity.
- 24 5. Reasonable fees of not more than five expert witnesses in an amount
25 of not more than \$1,500.00 for each witness, unless the court allows a
26 larger fee after determining that the circumstances surrounding the
27 expert's testimony were of such necessity as to require the larger fee.
- 28 6. Reasonable fees of necessary interpreters.
7. The fee of any sheriff or licensed process server for the delivery of
service of any summons or subpoena used in the action, unless the
court determines that the service was not necessary.
8. The fees of the official reporter or reporter pro tempore.
9. Reasonable costs for any bond or undertaking required as part of the
action.
10. Fees of a court bailiff who was required to work overtime.
11. Reasonable costs for telecopies.
12. Reasonable costs for photocopies.
13. Reasonable costs for long distance telephone calls.
14. Reasonable costs for postage.

- 1 15. Reasonable costs for travel and lodging incurred taking depositions
and conducting discovery.
- 2 16. Any other reasonable and necessary expense incurred in connection
with the action, including reasonable and necessary expenses for
3 computerized services for legal research.

4 As noted above, at the conclusion of closing arguments, Plaintiff asked the jury to return a
5 verdict of approximately \$12,000,000.00, well in excess of the \$2,500 required by NRS 18.020.
6 Ultimately, a verdict for the defense was rendered. Thus, as Plaintiff failed to obtain a more favorable
7 judgment than the Offer, Luxor is entitled to recover the costs incurred during the litigation which
8 total \$53,160.03. These costs have been documented and itemized in detail in Luxor's Memorandum
9 of Costs and Disbursements submitted concurrently with this Motion. The costs sought by Luxor
10 include, but are not necessarily limited to: clerk costs, court reporter costs, transcription costs, expert
11 costs, deposition costs; and miscellaneous charges for transportation, meals, trial supply costs, postage
12 costs, and photocopies.

13 NRS 18.005(5) gives the Court discretion to award expert costs exceeding \$1,500 per witness
14 when circumstances surrounding the expert's testimony were of such necessity as to require the larger
15 fee. The circumstances of this case required fees in excess of \$1,500 per witness as contemplated by
16 the statute. As this Court is aware, this matter was complex, with many different liability issues and
17 claimed injuries along with future medical treatments. These issues included most notably: (a)
18 violation of the Americans with Disabilities Act; (b) negligent supervision, training, and evaluation;
19 (c) stroke with cognitive and memory difficulty and future treatment recommendations; and (d) future
20 lifecare plans. Plaintiff originally claimed medical costs in excess of \$400,000.00 in a future lifecare
21 plan. Please recall, Plaintiff's trial exhibits consisted of approximately ten binders and over 4000 pages
22 of medical records and bills that each of Luxor's attorneys and experts had to review to provide
23 accurate and complete opinions.

24 In response to Plaintiff's claimed injuries, Luxor had to retain the services of a number of
25 experts including: Dr. Clifford Segil (Neurologist); and Michelle Robbins (Architect and General
26 Contractor/ADA Issues). From the date of the Offer to verdict, Luxor's experts reasonably incurred
27 the following costs:

28 ///

- 1 • Dr. Clifford Segil - \$7,155.00
- 2 • Michelle Robbins - \$16,595.90

3 Based on Plaintiff's ADA complaints, the medical damages, and pain and suffering she
4 intended and did seek at trial, it was reasonable for Luxor's experts to prepare for and attend trial, if
5 called, and the costs incurred by Luxor's experts are reasonable in light of the complexity of this case.

6 Plaintiff also asserted economic damages in the form of past loss of household services and
7 future loss of household services totaling over \$400,000.00. As this Court may recall, Plaintiff retained
8 vocational expert Sarah Lustig to opine as to these losses. Ms. Lustig recommendations were based
9 on discussion with Plaintiff and her treating physicians. In response to Plaintiff's economic claims,
10 Luxor had prepared to and retained the services of a vocational/rehabilitation expert, Aubrey Corwin
11 with Vocational Diagnostics. Ms. Corwin was at the courthouse and prepared to testify when Plaintiff
12 informed Luxor they would no longer be seeking damages related to the lifecare plan. Instead, Plaintiff
13 only sought damages related to Plaintiff's pain and suffering due to Ms. Lustig's lack of justification
14 for the costs. From the date of the Offer to verdict, Ms. Corwin reasonably incurred \$7,311.05 to
15 prepare for and attend trial to give testimony.

16 Thus, Luxor respectfully requests this Court exercise its discretion and award Luxor its
17 experts' costs, as well as all other costs reasonably incurred, as laid out in the Memorandum of Costs
18 and Disbursements.

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1 **III. CONCLUSION**

2 For the foregoing reasons, Defendant Luxor respectfully requests this Court grant its Request
3 for Attorney's Fees and Costs and award Defendant \$202,398.00 for reasonable attorney's fees
4 incurred and \$53,160.03 in costs as to Plaintiff and her counsel jointly and severally.

5 DATED this 17 day of January, 2019.

6 **LINCOLN, GUSTAFSON & CERCOS, LLP**

7 
8 **LOREN S. YOUNG, ESQ.**

Nevada Bar No. 7567

9 **THOMAS W. MARONEY, ESQ.**

Nevada Bar No. 13913

10 3960 Howard Hughes Parkway, Suite 200

11 Las Vegas, NV 89169

Attorneys for Defendant, RAMPARTS, INC.

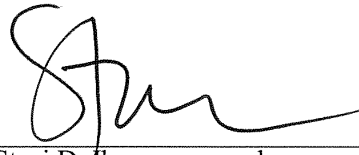
12 d/b/a LUXOR HOTEL & CASINO

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1 Vivia Harrison v. Ramparts, Inc. dba Luxor Hotel & Casino, et al.
2 Clark County Case No. A-16-732342-C

3 **CERTIFICATE OF SERVICE**

4 I HEREBY CERTIFY that on the 17th day of January, 2019, I served a copy of the attached
5 **DEFENDANT RAMPARTS, INC. d/b/a LUXOR HOTEL & CASINO'S MOTION FOR**
6 **ATTORNEY'S FEES AND COSTS** via electronic service to all parties on the Odyssey E-Service
7 Master List.

8
9
10 

11 _____
12 Staci D. Ibarra, an employee
13 of the law offices of
14 Lincoln, Gustafson & Cercos, LLP

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Exhibit “A”

OOJ

LOREN S. YOUNG, ESQ.

Nevada Bar No. 7567

KYLEE L. GLOECKNER, ESQ.

Nevada Bar No. 14056

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lyoung@lgclawoffice.com

kgloeckner@lgclawoffice.com

Attorneys for Defendant, RAMPARTS, INC. d/b/a LUXOR HOTEL & CASINO

DISTRICT COURT

CLARK COUNTY, NEVADA

VIVIA HARRISON, an individual,

Plaintiff,

v.

RAMPARTS, INC. d/b/a LUXOR HOTEL &
CASINO, a Nevada Domestic Corporation;
DESERT MECHANICAL EQUIPMENT, a
Nevada Domestic Corporation; PRIDE
MOBILITY PRODUCTS CORP., a Nevada
Domestic Corporation; DOES I through XXX,
inclusive, and ROE BUSINESS ENTITIES I
through XXX, inclusive,

Defendants.

Case No. A-16-732342-C

Dept. No. I

**DEFENDANT RAMPARTS, INC.
D/B/A LUXOR HOTEL & CASINO'S
OFFER OF JUDGMENT TO
PLAINTIFF, VIVIA HARRISON**

DESERT MEDICAL EQUIPMENT, a Nevada
Domestic Corporation,

Third-Party Plaintiff,

v.

STAN SAWAMOTO, an individual,

Third-Party Defendant.

TO: Plaintiff, VIVIA HARRISON; and

TO: MATTHEW G. PFAU, ESQ., PARRY & PFAU, Attorneys for Plaintiff.

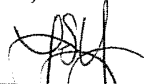
1 Defendant, RAMPARTS, INC. dba LUXOR HOTEL & CASINO, hereby offers to allow
2 judgment to be taken in Plaintiff's favor as provided in Rule 68 of the Nevada Rules of Civil
3 Procedure in the above-entitled action in exchange for ONE THOUSAND DOLLARS AND ZERO
4 CENTS (\$1,000.00), which amount includes any applicable attorneys' fees, costs, and pre-judgment
5 interest.

6 Acceptance by Plaintiff will therefore result in satisfaction of past, present and future
7 damages with respect to Plaintiff's claims in this case as against RAMPARTS, INC. dba LUXOR
8 HOTEL & CASINO, and will serve to dismiss and bar the bringing of any and all present and future
9 causes of action by Plaintiff, and any other party named in this action, arising out of this matter as
10 identified and referenced in the Complaint filed by Plaintiff in this action. This offer and acceptance
11 is contingent upon the Court granting a motion for determination of good faith settlement and release
12 of all claims against RAMPARTS, INC. dba LUXOR HOTEL & CASINO.

13 If you accept this offer and give written notice thereof within ten (10) days, you may file this
14 offer with proof of service and notice of acceptance. You are further notified that if notice of
15 acceptance is not given as provided as in Rule 68 of the Nevada Rules of Civil Procedure within ten
16 (10) days of the date of the service of this Offer upon you, this Offer will be withdrawn. If
17 withdrawn, you will then be responsible for the RAMPARTS, INC. dba LUXOR HOTEL &
18 CASINO's court costs, attorneys' fees, if any are allowed, incurred from this date forward in the
19 event you fail to obtain a judgment in any amount greater than that offered herein.

20 DATED this 13 day of March, 2017.

21 **LINCOLN, GUSTAFSON & CERCOS, LLP**

22 

23 **LOREN S. YOUNG, ESQ.**

Nevada Bar Number 7567

24 **KYLEE L. GLOECKNER, ESQ.**

Nevada Bar No. 14056

25 3960 Howard Hughes Parkway, Suite 200

26 Las Vegas, NV 89169

Attorneys for Defendant, RAMPARTS, INC.

27 d/b/a LUXOR HOTEL & CASINO

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1 Vivia Harrison v. Ramparts, Inc. dba Luxor Hotel & Casino, et al.
2 Clark County Case No. A-16-732342-C

3 **CERTIFICATE OF SERVICE**

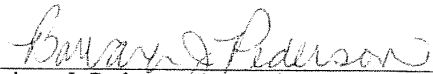
4 I HEREBY CERTIFY that on the 23rd day of March, 2017, I served a copy of the attached
5 **DEFENDANT RAMPARTS, INC. DBA LUXOR HOTEL & CASINO'S OFFER OF**
6 **JUDGMENT TO PLAINTIFF, VIVIA HARRISON** via electronic service to all parties on the
7 Odyssey E-Service Master List.

8
9 Matthew G. Pfau, Esq.
10 PARRY & PFAU
11 880 Seven Hills Drive, Suite 210
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Attorneys for Plaintiff

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21 Troy A. Clark, Esq.
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Attorneys for Stan Sawamoto

23
24
25 
26 Barbara J. Pederson, an employee
of the law offices of
Lincoln, Gustafson & Cercos

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Exhibit “B”

1 COMP
2 Matthew G. Pfau, Esq.
3 Nevada Bar No.: 11439
4 PICKARD PARRY PFAU
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7 702 910 4300 TEL
8 702 910 4303 FAX
9 matt@pickardparry.com

6 Attorneys for Plaintiff,
7 *Vivia Harrison*

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 **Vivia Harrison**, an individual

11 Plaintiff,

12 vs.

13 **MGM Resorts International**, dba Luxor
14 Hotel & Casino, a Nevada Domestic
15 Corporation; **Desert Medical**
16 **Equipment**, a Nevada Domestic
17 Corporation, Does I through XXX,
18 inclusive and Roe Business Entities I
19 through XXX, inclusive

Defendants.

Case No.: A- 16 - 732342 - C

Dept. No.:
I

Complaint

20 Plaintiff, Vivia Harrison ("Ms. Harrison"), being represented by her attorney of
21 record, Matthew G. Pfau, Esq. of PICKARD PARRY, PFAU, hereby complains against
22 Defendants MGM Resorts International, dba Luxor Hotel & Casino ("Luxor) and
23 Desert Medical Equipment ("Desert") as follows:

24
25 **Parties, Jurisdiction, and General Allegations**

26 1. Ms. Harrison is a resident of Winston County, State of Alabama, and at all
27 relevant times herein was a resident of Winston County, State of Alabama when the
28 incident occurred.

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CLERK OF THE COURT

1 2. Ms. Harrison is informed and believes, and thereupon alleges, that Defendant
2 Luxor is a domestic corporation doing business in the State of Nevada.

3 3. Ms. Harrison is informed and believes, and thereupon alleges, that Defendant
4 Desert is a domestic corporation doing business in the State of Nevada.

5 4. That the names and capacities, whether individual, corporate, associates, co-
6 partnership, or otherwise of Defendants, Jane Doe and Does I through X, are
7 unknown to Ms. Harrison who therefore sues said Defendants by such fictitious
8 names; once the true names are discovered, Ms. Harrison will ask leave to amend
9 this Complaint to substitute the true names of said Defendants. Ms. Harrison is
10 informed and believes and thereupon alleges that the Defendants so designated
11 herein are responsible in some manner for their agency, master/servant or joint
12 venture relationship with Defendants, or otherwise contributed to, as a proximate
13 cause, the damages to Ms. Harrison as herein alleged.

14 5. Ms. Harrison, is informed and believes, and thereupon alleges that at all
15 relevant times Defendant Luxor, and ROE Defendants mentioned herein owned,
16 managed, controlled, or in some other way were in charge of and responsible for a
17 certain premises known as the Luxor Grand located at 3799 South Las Vegas
18 Boulevard, Las Vegas, Nevada 89109 ("Subject Premises") and the safety of the
19 patrons and hotel guests of the aforementioned premises.

20 6. At all relevant times, Defendant Luxor were agents, servants, and employees
21 acting within the course and scope of said employment and agency.

22 7. At all relevant times, Defendants Luxor were the owners, operators, managers,
23 controllers, inspectors, supervisors and controllers of the premises and of the
24 common areas of the Subject Premises.

25 8. Ms. Harrison was an invited guest of Luxor and was legally on the premises
26 when the events mentioned herein occurred.

27 9. Ms. Harrison, on or around December 10, 2014, was operating a rented
28 scooter ("Subject Scooter"), through Desert.

1 10.As Mr. Harrison was entering the Backstage Deli, the Backstage Deli
2 employees, in an effort to accommodate the Subject Scooter's passageway,
3 proceeded to move the dining tables and chairs.

4 11.As Ms. Harrison was operating her Subject Scooter over the base of the table
5 ("Subject Table"), her scooter's front wheel gave way, and the scooter tipped over, to
6 the right.

7 12. Unaware of the present dangerous conditions, Ms. Harrison sustained
8 serious injuries, including a stroke and hip fracture.

9
10 **First Cause of Action**

11 **(Negligence - Luxor)**

12 13.Ms. Harrison repeats, realleges and incorporates by reference the preceding
13 paragraphs as if fully set forth herein.

14 14.Luxor was in custody and control of the Backstage Deli restaurant furnishings,
15 had a duty to maintain and inspect the tables, including the Subject Table on the
16 Subject Premises for the care, safety and protection of those persons present on the
17 Subject Premises, especially guests thereof, including Ms. Harrison.

18 15.Luxor was responsible for the safety of guests on the Subject Premises,
19 ensuring that dangerous conditions were not present on the Subject Premises, and
20 ensuring that guests thereof were warned of any and all dangerous conditions on
21 the Subject Premises, including Ms. Harrison.

22 16.Luxor negligently maintained and inspected the Subject Premises, including
23 the Subject Scooter on the Subject Premises, so that it was permitted to remain in
24 an unreasonably dangerous conditions, presenting a danger to unsuspecting guests,
25 including Ms. Harrison.

26 17.Luxor and/or their agents, employees and servants had actual or constructive
27 notice of the dangerous conditions, and therefore had full knowledge of, or should
28 have had full knowledge of, the dangerous conditions and failed to remedy the

1 dangerous conditions or otherwise take action to make it safe.

2 18. Luxor and each of them, and/or their agents, employees and servants,
3 breached the duty of care owed to Ms. Harrison by negligently maintaining and
4 inspecting the Subject Premises and further failing to warn Ms. Harrison of the
5 unreasonably dangerous conditions.

6 19. As a direct and proximate result of Luxor's negligence, Ms. Harrison has and
7 will continue to incur pain and suffering and emotional distress, in an amount in
8 excess of \$10,000.00.

9
10 **Second Cause of Action**

11 **(Negligent Hiring, Training, Maintenance and Supervision -**
12 **Luxor)**

13 20. Ms. Harrison repeats, realleges and incorporates by reference the preceding
14 paragraphs as if fully set forth herein.

15 21. Luxor acted in a negligent matter, including, but not limited to, failure to:

- 16 a. Establish, implement, maintain, and enforce proper policies and
17 procedures for employees, including maintenance crew, security,
18 restaurant managers, and wait staff, under the control of Defendant
19 Luxor;
- 20 b. Establish, implement, maintain, and enforce proper policies and
21 procedures for maintenance, repair, inspection, and/or general upkeep of
22 the Subject Premises, including the restaurant's furnishing;
- 23 c. Establish, implement, maintain, and enforce proper policies and
24 procedures for warning guests, including Ms. Harrison of potentially
25 dangerous conditions;
- 26 d. Properly hire adequate, experienced, and competent employees who are
27 able to warn guests, including Ms. Harrison of potentially dangerous
28 conditions;

- e. Properly pre-screen potential employees by conducting background checks and other similar investigations into potential employee's resume, prior to employment retention;
- f. Properly and adequately supervise and/or manage employees once they were hired;
- g. Properly and adequately train employees and/or instruct them as to their job duties and/or responsibilities;
- h. Properly and adequately oversee, control, issue regulations regarding the conduct of employees;
- i. Properly and adequately delineate maintenance, inspection, and repair job duties and/or responsibilities to employees, and/or agents, acting on their behalf; and
- j. Properly, adequately, and responsibly setup procedures and policies to ensure that all floor areas and restaurant furnishings, including the Subject Table, are reasonably up kept in proper and working order for guests, including Ms. Harrison.

22.As a direct and proximate result of Luxor's negligent hiring, training, maintenance, and supervision, Ms. Harrison has and will continue to incur pain and suffering and emotional distress, in an amount in excess of \$10,000.00.

23.Ms. Harrison has been required to engage the services of Pickard Parry Pfau to prosecute this matter, and Ms. Harrison is entitled to reasonable attorney's fees and costs therefor.

Third Cause of Action
(Negligence - Desert)

24.Defendant Desert is in the business of scooter sales and rentals of various scooters, including the Subject Scooter.

25.Prior to Ms. Harrison's injury, Ms. Harrison, rented the Subject Scooter, from

1 Desert.

2 26. On or about December 10, 2014, Ms. Harrison began to use the Subject
3 Scooter, unknowingly to her, that the Subject Scooter was unstable, as it was missing
4 the anti-tip wheels, and otherwise unsafe for usage.

5 27. On or about December 10, 2014, the Subject Scooter tipped over, and as a
6 result, Ms. Harrison was injured.

7 28. Ms. Harrison, is informed and believes, and thereupon alleges that Desert
8 negligently and carelessly, inspected, the Subject Scooter, as per the manufacturer,
9 the Subject Scooter should have been equipped with anti-tip wheels, therefore
10 Desert, knew that the Subject Scooter presented a dangerous condition and unsafe
11 for its intended usage.

12 29. Ms. Harrison, is informed and believes, and thereupon alleges that Desert
13 negligently and carelessly, failed to give proper operating instructions to Ms.
14 Harrison, prior to her usage,

15 30. Ms. Harrison, is informed and believes, and thereupon alleges that Desert
16 negligently and carelessly, removed the anti-tip wheels from the Subject Scooter,
17 therefore presenting a dangerous condition, rendering the Subject Scooter unsafe
18 for its intended usage.

19 31. As a direct and proximate result of Desert's negligence, Ms. Harrison has and
20 will continue to incur pain and suffering and emotional distress, in an amount in
21 excess of \$10,000.00.

22

23

Third Cause of Action

24

**(Negligent Hiring, Training, Maintenance and Supervision -
Desert)**

25

26 32. Ms. Harrison repeats, realleges and incorporates by reference the preceding
27 paragraphs as if fully set forth herein.

28 33. Desert acted in a negligent matter, including, but not limited to, failure to:

- 6 -

COMPLAINT

- 1 k. Establish, implement, maintain, and enforce proper policies and
- 2 procedures for employees, including maintenance crew, and sales staff,
- 3 under the control of Defendant Desert;
- 4 l. Establish, implement, maintain, and enforce proper policies and
- 5 procedures for maintenance, repair, inspection, and/or general upkeep of
- 6 the Subject Scooter's safety features, including the anti-tip wheels;
- 7 m. Establish, implement, maintain, and enforce proper policies and
- 8 procedures for warning guests, including Ms. Harrison of potentially
- 9 dangerous conditions;
- 10 n. Properly hire adequate, experienced, and competent employees who are
- 11 able to warn guests, including Ms. Harrison of potentially dangerous
- 12 conditions;
- 13 o. Properly pre-screen potential employees by conducting background
- 14 checks and other similar investigations into potential employee's resume,
- 15 prior to employment retention;
- 16 p. Properly and adequately supervise and/or manage employees once they
- 17 were hired;
- 18 q. Properly and adequately train employees and/or instruct them as to their
- 19 job duties and/or responsibilities;
- 20 r. Properly and adequately oversee, control, issue regulations regarding the
- 21 conduct of employees;
- 22 s. Properly and adequately delineate maintenance, inspection, and repair job
- 23 duties and/or responsibilities to employees, and/or agents, acting on their
- 24 behalf; and
- 25 t. Properly, adequately, and responsibly setup procedures and policies to
- 26 ensure that all scooters are fully operational, including the Subject Scooter
- 27
- 28

1 are reasonably up kept in proper and working order for guests, including
2 Ms. Harrison.

3 34.As a direct and proximate result of Desert's negligent hiring, training,
4 maintenance, and supervision, Ms. Harrison has and will continue to incur pain and
5 suffering and emotional distress, in an amount in excess of \$10,000.00.

6 35.Ms. Harrison has been required to engage the services of Pickard Parry Pfau
7 to prosecute this matter, and Ms. Harrison is entitled to reasonable attorney's fees
8 and costs therefor.

9

10 **Prayer for Relief**

11 Wherefore, Ms. Harrison prays for judgment of this Court as follows:

- 12 1. General damages in excess of Ten Thousand Dollars (\$10,000.00);
- 13 2. Special Damages in excess of Ten Thousand Dollars (\$10,000.00);
- 14 3. Cost of Suit, and attorneys' fees as provided by law;
- 15 4. Prejudgment interest as provided by law; and
- 16 5. Such other and further relief as the Court may deem just and proper.

17 DATED this 24th day of February 2016.

PICKARD PARRY PFAU



Matthew G. Pfau, Esq.
Nevada Bar No.: 11439
10120 South Eastern Avenue, Suite 140
Henderson, Nevada 89052
702 910 4300 TEL
702 910 4303 FAX

Attorneys for Plaintiff,
Vivia Harrison

22
23
24
25
26
27
28

Exhibit “C”


CLERK OF THE COURT

ACOMP
Matthew G. Pfau, Esq.
Nevada Bar No.: 11439
PICKARD PARRY PFAU
10120 South Eastern Avenue, Suite 140
Henderson, Nevada 89052
702 910 4300 TEL
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matt@pickardparry.com

Attorneys for Plaintiff,
Vivia Harrison

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

Vivia Harrison, an individual

Case No.: A-16-732342-C

Dept. No.: I

Plaintiff,

vs.

Ramparts, Inc., dba Luxor Hotel & Casino, a Nevada Domestic Corporation; **Desert Medical Equipment**, a Nevada Domestic Corporation, **Pride Mobility Products Corp.**, a Nevada Domestic Corporation; Does I through XXX, inclusive and Roe Business Entities I through XXX, inclusive

Second Amended Complaint

Defendants.

Plaintiff, Vivia Harrison ("Ms. Harrison"), being represented by her attorney of record, Matthew G. Pfau, Esq. of PICKARD PARRY, PFAU, hereby complains against Defendants Ramparts, Inc., d/b/a Luxor Hotel & Casino ("Luxor), Desert Medical Equipment ("Desert") and Pride Mobility Corp. ("Pride Mobility") as follows:

Parties, Jurisdiction, and General Allegations

1. Ms. Harrison is a resident of Winston County, State of Alabama, and at all relevant times herein was a resident of Winston County, State of Alabama when the

PICKARD
PARRY
PFAU

1 incident occurred.

2 2. Ms. Harrison is informed and believes, and thereupon alleges, that Defendant
3 Luxor is a domestic corporation doing business in the State of Nevada.

4 3. Ms. Harrison is informed and believes, and thereupon alleges, that Defendant
5 Desert is a domestic corporation doing business in the State of Nevada.

6 4. Ms. Harrison is informed and believes, and thereupon alleges, that Defendant
7 Pride Mobility is a domestic corporation doing business in the State of Nevada.

8 5. That the names and capacities, whether individual, corporate, associates, co-
9 partnership, or otherwise of Defendants, Jane Doe and Does I through X, are
10 unknown to Ms. Harrison who therefore sues said Defendants by such fictitious
11 names; once the true names are discovered, Ms. Harrison will ask leave to amend
12 this Complaint to substitute the true names of said Defendants. Ms. Harrison is
13 informed and believes and thereupon alleges that the Defendants so designated
14 herein are responsible in some manner for their agency, master/servant or joint
15 venture relationship with Defendants, or otherwise contributed to, as a proximate
16 cause, the damages to Ms. Harrison as herein alleged.

17 6. Ms. Harrison, is informed and believes, and thereupon alleges that at all
18 relevant times Defendant Luxor, and ROE Defendants mentioned herein owned,
19 managed, controlled, or in some other way were in charge of and responsible for a
20 certain premises known as the Luxor Grand located at 3799 South Las Vegas
21 Boulevard, Las Vegas, Nevada 89109 ("Subject Premises") and the safety of the
22 patrons and hotel guests of the aforementioned premises.

23 7. At all relevant times, Defendant Luxor were agents, servants, and employees
24 acting within the course and scope of said employment and agency.

25 8. At all relevant times, Defendants Luxor were the owners, operators, managers,
26 controllers, inspectors, supervisors and controllers of the premises and of the
27 common areas of the Subject Premises.

28 9. Ms. Harrison was an invited guest of Luxor and was legally on the premises

1 when the events mentioned herein occurred.

2 10. Ms. Harrison, on or around December 10, 2014, was operating a motorized
3 scooter rental ("Subject Scooter") in the restaurant area of Luxor; such scooter
4 rentals were in the custody and control of the Luxor and placed in the casino area
5 by said Defendant Desert for rent by guests of the Luxor, including Ms. Harrison.

6 11. As Mr. Harrison was entering the Backstage Deli, the Backstage Deli
7 employees, in an effort to accommodate the Subject Scooter's passageway,
8 proceeded to move the dining tables and chairs.

9 12. As Ms. Harrison unknowingly drove the Subject Scooter over the base of a table
10 ("Subject Table"), her scooter's front wheel gave way, and the scooter tipped over, to
11 the right.

12 13. No anti-tip or stabilization device was present on the front of the Subject
13 Scooter at the time of the incident.

14 14. Unaware of the present dangerous conditions, Ms. Harrison sustained
15 serious injuries, including a stroke and hip fracture.

16
17 **First Cause of Action**
18 **(Negligence - Luxor)**

19 15. Ms. Harrison repeats, realleges and incorporates by reference the preceding
20 paragraphs as if fully set forth herein.

21 16. Luxor was in custody and control of the Backstage Deli restaurant furnishings,
22 had a duty to maintain and inspect the tables, including the Subject Table on the
23 Subject Premises for the care, safety and protection of those persons present on the
24 Subject Premises, especially guests thereof, including Ms. Harrison.

25 17. Luxor was responsible for the safety of guests on the Subject Premises,
26 ensuring that dangerous conditions were not present on the Subject Premises, and
27 ensuring that guests thereof were warned of any and all dangerous conditions on
28 the Subject Premises, including Ms. Harrison.

1 18. Luxor negligently maintained and inspected the Subject Premises, including
2 the Subject Scooter on the Subject Premises, so that it was permitted to remain in
3 an unreasonably dangerous conditions, presenting a danger to unsuspecting guests,
4 including Ms. Harrison.

5 19. Luxor and/or their agents, employees and servants had actual or constructive
6 notice of the dangerous conditions, and therefore had full knowledge of, or should
7 have had full knowledge of, the dangerous conditions and failed to remedy the
8 dangerous conditions or otherwise take action to make it safe.

9 20. Luxor and/or their agents, employees and servants, breached the duty of care
10 owed to Ms. Harrison by negligently maintaining and inspecting the Subject Premises
11 and further failing to warn Ms. Harrison of the unreasonably dangerous conditions.

12 21. As a direct and proximate result of Luxor's negligence, Ms. Harrison has and
13 will continue to incur pain and suffering and emotional distress, in an amount in
14 excess of \$10,000.00.

15 16 **Second Cause of Action**

17 **(Negligent Hiring, Training, Maintenance and Supervision – Luxor)**

18 22. Ms. Harrison repeats, realleges and incorporates by reference the preceding
19 paragraphs as if fully set forth herein.

20 23. Luxor acted in a negligent matter, including, but not limited to, failure to:

- 21 a. Establish, implement, maintain, and enforce proper policies and
22 procedures for employees, including maintenance crew, security,
23 restaurant managers, and wait staff, under the control of Defendant
24 Luxor;
- 25 b. Establish, implement, maintain, and enforce proper policies and
26 procedures for maintenance, repair, inspection, and/or general upkeep of
27 the Subject Premises, including the restaurant's furnishing;
- 28 c. Establish, implement, maintain, and enforce proper policies and

- 1 procedures for warning guests, including Ms. Harrison of potentially
- 2 dangerous conditions;
- 3 d. Properly hire adequate, experienced, and competent employees who are
- 4 able to warn guests, including Ms. Harrison of potentially dangerous
- 5 conditions;
- 6 e. Properly pre-screen potential employees by conducting background
- 7 checks and other similar investigations into potential employee's resume,
- 8 prior to employment retention;
- 9 f. Properly and adequately supervise and/or manage employees once they
- 10 were hired;
- 11 g. Properly and adequately train employees and/or instruct them as to their
- 12 job duties and/or responsibilities;
- 13 h. Properly and adequately oversee, control, issue regulations regarding the
- 14 conduct of employees;
- 15 i. Properly and adequately delineate maintenance, inspection, and repair job
- 16 duties and/or responsibilities to employees, and/or agents, acting on their
- 17 behalf; and
- 18 j. Properly, adequately, and responsibly setup procedures and policies to
- 19 ensure that all floor areas and restaurant furnishings, including the Subject
- 20 Table, are reasonably up kept in proper and working order for guests,
- 21 including Ms. Harrison.
- 22 24.As a direct and proximate result of Luxor's negligent hiring, training,
- 23 maintenance, and supervision, Ms. Harrison has and will continue to incur pain and
- 24 suffering and emotional distress, in an amount in excess of \$10,000.00.
- 25 25.Ms. Harrison has been required to engage the services of Pickard Parry Pfau
- 26 to prosecute this matter, and Ms. Harrison is entitled to reasonable attorney's fees
- 27 and costs therefor.
- 28

Third Cause of Action

(Negligence - Desert)

26. Defendant Desert is in the business of scooter sales and rentals of various scooters, including the Subject Scooter.

27. Prior to Ms. Harrison's injury, Ms. Harrison, rented the Subject Scooter, from Desert.

28. On or about December 10, 2014, Ms. Harrison began to use the Subject Scooter, unknowingly to her, that the Subject Scooter was unstable, as it was missing the anti-tip wheels, and otherwise unsafe for usage.

29. On or about December 10, 2014, the Subject Scooter tipped over, and as a result, Ms. Harrison was injured.

30. Ms. Harrison, is informed and believes, and thereupon alleges that Desert negligently and carelessly, inspected, the Subject Scooter, as per the manufacturer, the Subject Scooter should have been equipped with ant-tip wheels, therefore Desert, knew that the Subject Scooter presented a dangerous condition and unsafe for its intended usage.

31. Ms. Harrison, is informed and believes, and thereupon alleges that Desert negligently and carelessly, failed to give proper operating instructions to Ms. Harrison, prior to her usage,

32. Ms. Harrison, is informed and believes, and thereupon alleges that Desert negligently and carelessly, removed the anti-tip wheels from the Subject Scooter, therefore presenting a dangerous condition, rendering the Subject Scooter unsafe for its intended usage.

33. As a direct and proximate result of Desert's negligence, Ms. Harrison has and will continue to incur pain and suffering and emotional distress, in an amount in excess of \$10,000.00.

Fourth Cause of Action

**(Negligent Hiring, Training, Maintenance and Supervision –
Desert)**

34. Ms. Harrison repeats, realleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

35. Desert acted in a negligent matter, including, but not limited to, failure to:

- k. Establish, implement, maintain, and enforce proper policies and procedures for employees, including maintenance crew, and sales staff, under the control of Defendant Desert;
- l. Establish, implement, maintain, and enforce proper policies and procedures for maintenance, repair, inspection, and/or general upkeep of the Subject Scooter's safety features, including the anti-tip wheels;
- m. Establish, implement, maintain, and enforce proper policies and procedures for warning guests, including Ms. Harrison of potentially dangerous conditions;
- n. Properly hire adequate, experienced, and competent employees who are able to warn guests, including Ms. Harrison of potentially dangerous conditions;
- o. Properly pre-screen potential employees by conducting background checks and other similar investigations into potential employee's resume, prior to employment retention;
- p. Properly and adequately supervise and/or manage employees once they were hired;
- q. Properly and adequately train employees and/or instruct them as to their job duties and/or responsibilities;
- r. Properly and adequately oversee, control, issue regulations regarding the conduct of employees;
- s. Properly and adequately delineate maintenance, inspection, and repair job

duties and/or responsibilities to employees, and/or agents, acting on their behalf; and

t. Properly, adequately, and responsibly setup procedures and policies to ensure that all scooters are fully operational, including the Subject Scooter are reasonably up kept in proper and working order for guests, including Ms. Harrison.

36.As a direct and proximate result of Desert's negligent hiring, training, maintenance, and supervision, Ms. Harrison has and will continue to incur pain and suffering and emotional distress, in an amount in excess of \$10,000.00.

37.Ms. Harrison has been required to engage the services of Pickard Parry Pfau to prosecute this matter, and Ms. Harrison is entitled to reasonable attorney's fees and costs therefor.

Fifth Cause of Action (Negligence- Pride Mobility)

38. Defendant Pride Mobility is in the business of manufacturing, designing and distributing various motorized scooters, including the Subject Scooter for personal use to the consuming public as well as to businesses, including the Luxor.

39.On December 10, 2014, Ms. Harrison began to use the Subject Scooter, unknowingly to her, that the Subject Scooter was unstable, as it was missing front anti-tip wheels, and otherwise unsafe for usage.

40.On or about December 10, 2014, the Subject Scooter tipped over, and as a result, Ms. Harrison was injured.

41.Ms. Harrison, is informed and believes, and thereupon alleges that Pride Mobility Corporation negligently and carelessly manufactured, inspected, and designed the Subject Scooter, knowing that the Subject Scooter presented a dangerous condition and unsafe for its intended usage.

42.As a direct and proximate result of Pride Mobility's negligence, Ms. Harrison

1 has and will continue to incur pain and suffering and emotional distress, in an
2 amount in excess of \$10,000.

3
4 **Sixth Cause of Action**

5 **(Strict Products Liability- Pride Mobility)**

6 43. Ms. Harrison repeats, realleges, and incorporates by reference the preceding
7 paragraphs as fully set forth herein.

8 44. Pride Mobility is the manufacturer, designer, and distributor of the Subject
9 Scooter.

10 45. Ms. Harrison was a foreseeable user of the Subject Scooter, using the Subject
11 Scooter in a foreseeable manner, within the scope of its intended use.

12 46. At all times herein, the Subject Scooter and its component parts were defective
13 as to manufacture, and warnings, causing the Subject Scooter to be in an
14 unreasonably dangerous and defective condition that made it unsafe for its
15 intended use.

16 47. The defect existed at the time the Subject Scooter left the manufacturer.

17 48. As a direct and proximate result of the defective and dangerous condition of the
18 Subject Scooter, Ms. Harrison was physically injured, suffered pain and suffering,
19 emotional damages, and other losses.

20 49. Ms. Harrison is entitled to punitive damages.

21 50. Ms. Harrison has been required to engage the services of Pickard Parry Pfau to
22 prosecute this matter, and Ms. Harrison is entitled to reasonable attorney's fees and
23 costs therefore.

24
25 **Prayer for Relief**

26 Wherefore, Ms. Harrison prays for judgment of this Court as follows:

- 27 1. General damages in excess of Ten Thousand Dollars (\$10,000.00);
28 2. Special Damages in excess of Ten Thousand Dollars (\$10,000.00);

3. Cost of Suit, and attorneys' fees as provided by law;
4. Prejudgment interest as provided by law; and
5. Such other and further relief as the Court may deem just and proper.

DATED this 19th day of August 2016.

PICKARD PARRY PFAU


Matthew G. Pfau, Esq.
Nevada Bar No.: 11439
10120 South Eastern Avenue, Suite 140
Henderson, Nevada 89052
702 910 4300 TEL
702 910 4303 FAX

Attorneys for Plaintiff,
Vivia Harrison

Certificate of Service

I hereby certify that on the 19th day of August 2016, service of the foregoing
Second Amended Complaint was made by required electronic service, to the
following individuals:

David J. Mortensen, Esq.
ALVERSON, TAYLOR
MORTENSEN & SANDERS
7401 West Charleston Boulevard
Las Vegas, Nevada 89117

Attorneys for Defendant,
Desert Medical Equipment

Troy E. Peyton, Esq.
71 East Harmon Avenue
Las Vegas, Nevada 89109

Attorneys for Defendant,
Ramparts, Inc., d/b/a Luxor Hotel & Casino

Joseph Burke, Esq.
Law Offices of Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, Pennsylvania 18704

Attorneys for Defendant,
Pride Mobility Corporation


An Employee of PICKARD PARRY PFAU