

Electronically Filed
Apr 21 2021 01:35 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOAS
LAGOMARSINO LAW
ANDRE M. LAGOMARSINO, ESQ. (#6711)
3005 W. Horizon Ridge Pkwy., Suite 241
Henderson, Nevada 89052
Telephone: (702) 383-2864
Facsimile: (702) 383-0065
aml@lagomarsinolaw.com
Attorney for Plaintiff Danny Ceballos

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

DANNY CEBALLOS, an individual,

CASE NO.: A-20-823119-C

Plaintiff,

DEPT. NO.: I

v.

NP PALACE LLC d/b/a PALACE STATION
HOTEL & CASINO, a Domestic Limited
Liability Company,

Defendant.


NOTICE OF APPEAL

Notice is hereby given that Plaintiff DANNY CEBALLOS hereby appeals to the Supreme Court of Nevada from the *Order Granting Motion To Dismiss*, entered in this action on March 16, 2021. A copy of the order is attached as **Exhibit 1**.

DATED this 15th day of April, 2021.

RESPECTFULLY SUBMITTED,

LAGOMARSINO LAW


ANDRE M. LAGOMARSINO, ESQ. (#6711)
3005 W. Horizon Ridge Pkwy., Suite 241
Henderson, Nevada 89052
Telephone: (702) 383-2864
Facsimile: (702) 383-0065
Attorney for Plaintiff Danny Ceballos

CERTIFICATE OF SERVICE

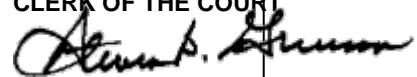
Pursuant to NRAP 3(b)(1), I hereby certify that on this 15th day of April, 2021, I served a true and correct copy of the foregoing **NOTICE OF APPEAL** on all parties to this action by electronic service, via Odyssey eFileNV to the following:

Scott M. Mahoney, Esq.
FISHER & PHILLIPS LLP
smahoney@fisherphillips.com



An Employee of **LAGOMARSINO LAW**

EXHIBIT 1



FISHER & PHILLIPS LLP
SCOTT M. MAHONEY, ESQ.
Nevada Bar No. 1099
300 S. Fourth Street
Suite 1500
Las Vegas, NV 89101
Telephone: (702) 252-3131
E-Mail Address: smahoney@fisherphillips.com
Attorney for Defendant

EIGHTH DISTRICT JUDICIAL COURT
CLARK COUNTY, NEVADA

DANNY CEBALLOS, an individual,	)	Case No.: A-20-823119-C
)	
Plaintiff,	)	Department: XIX
)	
vs.)	
)	
NP PALACE LLC d/b/a PALACE)	
STATION HOTEL & CASINO, a)	
Domestic Limited Liability Company,)	
)	
Defendant.)	
)	

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that the attached Order Granting Motion to Dismiss was entered in the above-captioned matter on March 16, 2021.

Respectfully submitted,

FISHER & PHILLIPS, LLP

By: /s/ Scott M. Mahoney, Esq.
300 South Fourth Street
Suite 1500
Las Vegas, Nevada 89101
Attorneys for Defendant

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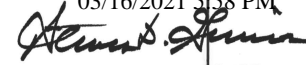
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify service of the foregoing Notice of Entry of Order was made this date by electronic filing and/or service with the Eighth Judicial District Court, addressed as follows:

Lagomarsino Law
ANDRE M. LAGOMARSINO, ESQ.
DAVEN P. CAMERON, ESQ.
3005 W. Horizon Ridge Pkwy., Suite 241
Henderson, Nevada 89052

Dated: March 17, 2021.

By: /s/ Sarah Griffin
An employee of Fisher & Phillips LLP


CLERK OF THE COURT

1 **OGM**
2 FISHER & PHILLIPS LLP
3 SCOTT M. MAHONEY, ESQ.
4 Nevada Bar No. 1099
5 300 S. Fourth Street
6 Suite 1500
7 Las Vegas, NV 89101
8 Telephone: (702) 252-3131
9 E-Mail Address: smahoney@fisherphillips.com
10 Attorney for Defendant

11
12 **EIGHTH DISTRICT JUDICIAL COURT**
13
14 **CLARK COUNTY, NEVADA**

15 DANNY CEBALLOS, an individual,) Case No.: A-20-823119-C
16)
17 Plaintiff,) Department: I
18)
19 vs.) Date of Hearing: 3/11/21
20)
21 NP PALACE LLC d/b/a PALACE) Time of Hearing: 9:30 a.m.
22 STATION HOTEL & CASINO, a)
23 Domestic Limited Liability Company,)
24)
25 Defendant.)
26)
27)
28)

29 **ORDER GRANTING MOTION TO DISMISS**

30 Defendant, NP Palace LLC's Motion to Dismiss (the "Motion") having come on
31 regularly for hearing on March 11, 2021 at the hour of 9:30 a.m. in Department I of the
32 above-entitled Court, the Honorable Bita Yeager presiding, Plaintiff being represented
33 by Andre M. Lagomarsino, Esq. and Defendant being represented by Scott M.
34 Mahoney, Esq., the Court having considered the Motion, Plaintiff's Opposition to
35 Defendant's Motion to Dismiss and Defendant's Reply to Opposition to Motion to
36 Dismiss, as well as the arguments made at the hearing, the Court being fully advised in
37 the premises makes the following findings:
38

1 1. Federal law should be considered as well as state law for purposes of
2 determining whether the use of a product is “lawful” for purposes of NRS 613.333 and
3 the use of marijuana remains forbidden under federal law (the Controlled Substances
4 Act). The Court therefore finds Plaintiff’s alleged marijuana use does not constitute the
5 lawful use of a product pursuant to NRS 613.333.
6

7 2. NRS 678D.510(1)(a) provides that Nevada’s laws pertaining to the adult
8 use of cannabis do not prevent an employer from having and enforcing policies relating
9 to the use of marijuana by employees.

10 3. Plaintiff does not allege that Defendant failed to hire him because he
11 tested positive for marijuana, so NRS 613.132, referenced by Plaintiff, does not apply to
12 the circumstances alleged in the Complaint.
13

14 4. Based on marijuana still being illegal under federal law and the language
15 of NRS 678D.510, the Complaint does not allege a violation of public policy, let alone
16 an exceptional one, upon which to assert a tortious discharge in violation of public
17 policy claim.
18

19 ///

20 ///

21 ///

1 Based on these findings:


2 IT IS HEREBY ORDER, ADJUDGED AND DECREED that the Motion is
3 granted and Plaintiff's Complaint is dismissed for failure to state claims upon which
4 relief may be granted.

5 DATED this ____ day of March 2021. Dated this 16th day of March, 2021

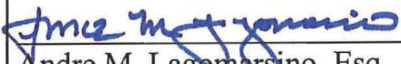
6 
7 Bita Yeager
8 DISTRICT COURT JUDGE

9 Submitted by:

B4B ECA F570 14B4
Bita Yeager
District Court Judge

10 
11 Scott M. Mahoney, Esq.
12 Fisher & Phillips LLP
13 300 South Fourth Street
14 Suite 1500
15 Las Vegas, NV 89101
16 Attorneys for Defendant

17 Approved as to form and content:

18 
19 Andre M. Lagomarsino, Esq.
20 Lagomarsino Law
21 3005 West Horizon Ridge Pkwy
22 Suite 241
23 Henderson, Nevada 89052
24 Attorneys for Plaintiff
25
26
27
28

Griffin, Sarah

Subject: FW: Proposed Order - Ceballos v. Palace Station
Attachments: doc20210311125745.pdf

From: Andre Lagomarsino <aml@lagomarsinolaw.com>
Sent: Thursday, March 11, 2021 1:05 PM
To: Mahoney, Scott <smahoney@fisherphillips.com>
Cc: Adryana Martinez <Adryana@lagomarsinolaw.com>; Denise Valdivia <denise@lagomarsinolaw.com>
Subject: Proposed Order - Ceballos v. Palace Station

Scott,

Enclosed please find a color copy of the proposed Order. We have mailed the original to your office.

Kind regards,

Andre

Andre M. Lagomarsino, Esq.



3005 West Horizon Ridge Parkway, Suite 241

Henderson, Nevada 89052

T: 702.383.2864

F: 702.383.0065

Website: www.lagomarsinolaw.com

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Danny Ceballos, Plaintiff(s)

CASE NO: A-20-823119-C

7 vs.

DEPT. NO. Department 1

8 NP Palace Station, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 3/16/2021

15 Andre Lagomarsino

aml@lagomarsinolaw.com

16 Denise Valdivia

denise@lagomarsinolaw.com

17 Stephanie Andersen

stephanie@lagomarsinolaw.com

18 Justin Bolor

justin@lagomarsinolaw.com

19 Scott Mahoney

smahoney@fisherphillips.com

20 Sarah Griffin

sgriffin@fisherphillips.com

21 Cory Ford

cory@lagomarsinolaw.com

22 Sydney Schuette

sydney@lagomarsinolaw.com

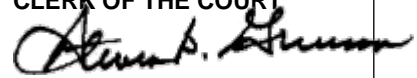
23 Jennifer D'Incecco

jennifer@lagomarsinolaw.com

24 Mary Nelson

mnelson@lagomarsinolaw.com

25
26
27
28



1 **ASTA**
2 **LAGOMARSINO LAW**
3 **ANDRE M. LAGOMARSINO, ESQ. (#6711)**
4 **3005 W. Horizon Ridge Pkwy., Suite 241**
5 **Henderson, Nevada 89052**
6 **Telephone: (702) 383-2864**
7 **Facsimile: (702) 383-0065**
8 **aml@lagomarsinolaw.com**
9 **Attorney for Plaintiff Danny Ceballos**

10 **EIGHTH JUDICIAL DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 **DANNY CEBALLOS, an individual,**

CASE NO.: A-20-823119-C

13 **Plaintiff,**

DEPT. NO.: I

14 **v.**

15 **NP PALACE LLC d/b/a PALACE STATION**
16 **HOTEL & CASINO, a Domestic Limited**
17 **Liability Company,**

18 **Defendant.**

19 **CASE APPEAL STATEMENT**

20 **1. Name of appellant filing this case appeal statement:**

21 **Plaintiff/Appellant, Danny Ceballos.**

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

23 **The Honorable Bitu Yeager, Dept. 1, Eighth Judicial District Court, Clark County, Nevada.**

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

25 **Appellant: Danny Ceballos**

26 **Counsel: LAGOMARSINO LAW**
27 **Andre M. Lagomarsino, Esq.**
28 **3005 W. Horizon Ridge Pkwy., Suite 241**
Henderson, NV 89052

...

...

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

Respondent: NP Palace LLC d/b/a Palace Station Hotel & Casino

Appellate Counsel: Unknown

Trial Counsel: FISHER & PHILLIPS LLP
Scott M. Mahoney, Esq.
300 S. Fourth St., Suite 1500
Las Vegas, NV 89101

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

N/A

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

Retained counsel.

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

Retained counsel.

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

N/A

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

The Complaint was filed on October 15, 2020.

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

On the evening of June 25, 2020, Plaintiff/Appellant Danny Ceballos ("Ceballos") was working as a full-time employee of Defendant/Respondent NP Palace LLC d/b/a Palace Station Hotel & Casino ("Palace Station"). In the early morning hours of June 26, 2020, Ceballos was taking his final fifteen (15) minute break when he slipped, on an unknown wet substance on the ground of the employee dining

1 room, and fell. Ceballos hit his lower back, buttock, and left elbow. After the fall, the Palace Station
2 security manager interrogated Ceballos and placed him in a holding cell for post-accident processing.
3 Ceballos informed both the security manager and his direct supervisor that he was okay and did not
4 need medical attention. Regardless, Ceballos was required to take an alcohol detection test and a drug
5 detection test. The alcohol detection test came back negative.
6

7 Plaintiff never sought medical attention nor filed a worker compensation claim. Plaintiff
8 continued to work without incident through July 6, 2020, when he was instructed by his supervisor to
9 report to human resources the next day. When Plaintiff reported to human resources on July 7, 2020,
10 he was informed that he had tested positive for cannabis use and was placed on suspension. On or about
11 July 16, 2020, Palace Station terminated Plaintiff for testing positive for cannabis use. Plaintiff had not
12 consumed cannabis in the twenty-four hours preceding his scheduled graveyard shift on June 25, 2020.
13 Furthermore, Plaintiff was not under the influence, nor in any way impaired, during his June 25, 2020
14 shift; any cannabis consumption occurred at his home.
15

16 Regardless of these facts, Palace Station's Motion to Dismiss was granted on the grounds that
17 adult marijuana use does not constitute the lawful use of a product pursuant to NRS 613.333, and
18 employers may have policies pertaining to the adult use of cannabis. On the basis of NRAP 3A(b)(1),
19 Ceballos appeals from the order granting Palace Station's Motion to Dismiss.
20

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

23 This case has not previously been the subject of an appeal or writ proceeding.

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

25 This appeal does not involve child custody or visitation.

26 ...

27 ...


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

The appellant believes that this case does involve the possibility of settlement.

DATED this 15th day of April, 2021.

RESPECTFULLY SUBMITTED,

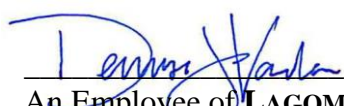
LAGOMARSINO LAW

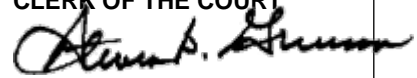

ANDRE M. LAGOMARSINO, ESQ. (#6711)
3005 W. Horizon Ridge Pkwy., Suite 241
Henderson, Nevada 89052
Telephone: (702) 383-2864
Facsimile: (702) 383-0065
Attorney for Plaintiff Danny Ceballos

CERTIFICATE OF SERVICE

Pursuant to NRAP 3(b)(1), I hereby certify that on this 15th day of April, 2021, I served a true and correct copy of the foregoing **CASE APPEAL STATEMENT** on all parties to this action by electronic service, via Odyssey eFileNV to the following:

Scott M. Mahoney, Esq.
FISHER & PHILLIPS LLP
smahoney@fisherphillips.com


An Employee of LAGOMARSINO LAW



1 **NPNR**
2 **LAGOMARSINO LAW**
3 **ANDRE M. LAGOMARSINO, ESQ. (#6711)**
4 **3005 W. Horizon Ridge Pkwy., Suite 241**
5 **Henderson, Nevada 89052**
6 **Telephone: (702) 383-2864**
7 **Facsimile: (702) 383-0065**
8 **aml@lagomarsinolaw.com**
9 **Attorney for Plaintiff Danny Ceballos**

7 **EIGHTH JUDICIAL DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 **DANNY CEBALLOS, an individual,**

CASE NO.: A-20-823119-C

10 **Plaintiff,**

DEPT. NO.: I

11 **v.**

12 **NP PALACE LLC d/b/a PALACE STATION**
13 **HOTEL & CASINO, a Domestic Limited**
14 **Liability Company,**

15 **Defendant.**

16 **NOTICE OF POSTING COST BOND**

17
18 **COME NOW, Plaintiff DANNY CEBALLOS, by and through his undersigned counsel of**
19 **record, and here posts the cost bond attached hereto as **Exhibit 1**.**

20 **DATED this 15th day of April, 2021.**

21 **RESPECTFULLY SUBMITTED,**

22 **LAGOMARSINO LAW**

23
24 
25 **ANDRE M. LAGOMARSINO, ESQ. (#6711)**
26 **3005 W. Horizon Ridge Pkwy., Suite 241**
27 **Henderson, Nevada 89052**
28 **Telephone: (702) 383-2864**
Facsimile: (702) 383-0065
Attorney for Plaintiff Danny Ceballos

CERTIFICATE OF SERVICE

Pursuant to NRAP 3(b)(1), I hereby certify that on this 15th day of April, 2021, I served a true and correct copy of the foregoing **NOTICE OF POSTING COST BOND** on all parties to this action by electronic service, via Odyssey eFileNV to the following:

Scott M. Mahoney, Esq.
FISHER & PHILLIPS LLP
smahoney@fisherphillips.com



An Employee of **LAGOMARSINO LAW**

EXHIBIT 1

OLD REPUBLIC SURETY COMPANY

(800) 217-1792

UNDERTAKING OF CORPORATE SURETY

Supreme Court of Nevada COURT

Bond Number W150405030

Index/Case Number A-20-823119-C

Plaintiff
Danny Ceballos

UNDERTAKING

- ☐ On Attachment
☐ On Garnishment
☐ On Claim and Delivery
☒ Cost Bond on Appeal

vs.

Defendant
NP PALACE LLC d/b/a PALACE STATION HOTEL & CASINO

WHEREAS, the Danny Ceballos
desires to give an undertaking for court costs
as provided to be given in Section of the
Code Annotated,

NOW, THEREFORE, the undersigned Surety, the Old Republic Surety Company
a surety company authorized to act as surety on bonds and undertaking in the State of
Nevada does hereby obligate itself to the said
Defendant
under such statutory obligations in the sum of
Five Hundred Dollars
(\$ 500.00).

Dated 04/14/2021

Old Republic Surety Company

By Gina M. Noahr
GINA M NOAHR Attorney-in-Fact

Countersigned:

By Gina M. Noahr





OLD REPUBLIC SURETY COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC SURETY COMPANY, a Wisconsin stock insurance corporation, does make, constitute and appoint:

GINA M NOAHR OF LAS VEGAS, NV

its true and lawful Attorney(s)-in-Fact, with full power and authority, not exceeding \$10,000,000, for and on behalf of the company as surety, to execute and deliver and affix the seal of the company thereto (if a seal is required), bonds, undertakings, recognizances or other written obligations in the nature thereof, (other than bail bonds, bank depository bonds, mortgage deficiency bonds, mortgage guaranty bonds, guarantees of installment paper and note guaranty bonds, self-insurance workers compensation bonds guaranteeing payment of benefits, asbestos abatement contract bonds, waste management bonds, hazardous waste remediation bonds or black lung bonds), as follows: Effective Date: 4/14/2021 12:00:00 AM

Bond Number: W150405030

Bond Amount:

Five Hundred Dollars

\$ 500.00

Principal Name: Danny Ceballos

Obligee Name: Supreme Court of Nevada of Carson City, NV

and to bind OLD REPUBLIC SURETY COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This appointment is made under and by authority of the board of directors at a special meeting held on February 18, 1982.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC SURETY COMPANY on February 18, 1982.

RESOLVED that the president, any vice president or assistant vice president, in conjunction with the secretary or any assistant secretary, may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the company to execute and deliver and affix the seal of the company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any Power of Attorney previously granted to such person.

RESOLVED FURTHER that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company

- (i) when signed by the president, any vice president or assistant vice president, and attested and sealed (if a seal be required) by any secretary or assistant secretary; or
- (ii) when signed by the president, any vice president or assistant vice president, secretary or assistant secretary, and countersigned and sealed (if a seal be required) by a duly authorized attorney-in-fact or agent; or
- (iii) when duly executed and sealed (if a seal be required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the Power of Attorney issued by the company to such person or persons.

RESOLVED FURTHER that the signature of any authorized officer and the seal of the company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the company; and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, OLD REPUBLIC SURETY COMPANY has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 14th day of April, 2021.

Karen J. Haffner
Assistant Secretary



OLD REPUBLIC SURETY COMPANY

Alan Pavlic
President

STATE OF WISCONSIN, COUNTY OF WAUKESHA - SS

On this 14th day of April, 2021, personally came before me, Alan Pavlic and Karen J. Haffner, to me known to be the individuals and officers of the OLD REPUBLIC SURETY COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say: that they are the said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said corporation.



Kathryn R. Pearson
Notary Public

My Commission Expires: 09/28/2022

CERTIFICATE

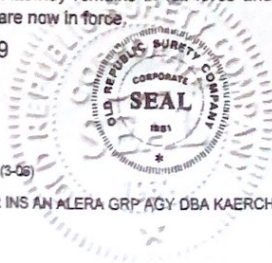
I, the undersigned, assistant secretary of the OLD REPUBLIC SURETY COMPANY, a Wisconsin corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.

0515129

Signed and sealed at the City of Brookfield, WI this 14th day of April, 2021.

ORSC 22262 (3-05)

KAERCHER INS AN ALERA GRP AGY DBA KAERCHER INSURANCE



Karen J. Haffner
Assistant Secretary

CASE SUMMARY
CASE SUMMARY
CASE NO. A-20-823119-C

Danny Ceballos, Plaintiff(s)
vs.
NP Palace Station, Defendant(s)

§
§
§
§
§

Location: **Department 1**
Judicial Officer: **Yeager, Bita**
Filed on: **10/15/2020**
Case Number History:
Cross-Reference Case Number: **A823119**

CASE INFORMATION

Statistical Closures

03/16/2021 Motion to Dismiss by the Defendant(s)

Case Type: **Employment Tort**

Case Flags: **Appealed to Supreme Court**
Jury Demand Filed
Filing Fee Balance Due

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-20-823119-C
Court Department 1
Date Assigned 01/04/2021
Judicial Officer Yeager, Bita

PARTY INFORMATION

Plaintiff

Ceballos, Danny

Lead Attorneys

Lagomarsino, Andre
Retained
702-383-2864(W)

Defendant

NP Palace Station


Mahoney, Scott M.
Retained
702-252-3131(W)

DATE


EVENTS & ORDERS OF THE COURT

INDEX


10/15/2020

 Complaint With Jury Demand
Filed By: Plaintiff Ceballos, Danny
Complaint With Jury Demand


10/15/2020

 Initial Appearance Fee Disclosure
Filed By: Plaintiff Ceballos, Danny
Initial Appearance Fee Disclosure


10/15/2020

 Summons Electronically Issued - Service Pending
Party: Plaintiff Ceballos, Danny
Summons


10/27/2020

 Affidavit of Service
Filed By: Plaintiff Ceballos, Danny
Declaration of Service

11/05/2020

 Motion
Filed By: Defendant NP Palace Station
Motion to Dismiss


11/05/2020


 Clerk's Notice of Hearing
Clerk's Notice of Hearing


CASE SUMMARY
CASE SUMMARY
CASE NO. A-20-823119-C

11/18/2020	 Stipulation and Order Filed by: Plaintiff Ceballos, Danny <i>Stipulation and Order to Set the Briefing Deadlines Related to Defendant's Motion to Dismiss</i>
11/18/2020	 Notice of Entry of Order Filed By: Plaintiff Ceballos, Danny <i>Notice of Entry of Order</i>
12/02/2020	 Opposition to Motion to Dismiss Filed By: Plaintiff Ceballos, Danny <i>Plaintiff's Opposition to Defendant's Motion to Dismiss</i>
12/16/2020	 Stipulation and Order Filed by: Defendant NP Palace Station <i>Stipulation and Order to Extend Time to File Reply Brief to Motion to Dismiss</i>
12/17/2020	 Notice of Entry Filed By: Defendant NP Palace Station <i>Notice of Entry of Order to Extend Time to File Reply Brief</i>
01/04/2021	Case Reassigned to Department 1 <i>Judicial Reassignment to Judge Bita Yeager</i>
01/12/2021	 Reply to Opposition Filed by: Defendant NP Palace Station <i>Reply to Opposition to Motion to Dismiss</i>
02/16/2021	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
02/24/2021	 Notice Filed By: Plaintiff Ceballos, Danny <i>Notice of Disassociation of Counsel</i>
03/11/2021	 Motion to Dismiss (9:30 AM) (Judicial Officer: Yeager, Bita) <i>Parties Present: Attorney Mahoney, Scott M.</i> <i>Attorney Lagomarsino, Andre</i>
03/16/2021	 Order Granting Motion <i>Order Granting Motion to Dismiss</i>
03/16/2021	Order of Dismissal (Judicial Officer: Yeager, Bita) Debtors: Danny Ceballos (Plaintiff) Creditors: NP Palace Station (Defendant) Judgment: 03/16/2021, Docketed: 03/23/2021
03/17/2021	 Notice of Entry of Order Filed By: Defendant NP Palace Station <i>Notice of Entry of Order</i>
04/05/2021	 Recorders Transcript of Hearing <i>Recorder's Transcript Re: Motion to Dismiss 03-11-21</i>

CASE SUMMARY
CASE SUMMARY
CASE NO. A-20-823119-C

04/15/2021	 Notice of Appeal Filed By: Plaintiff Ceballos, Danny <i>Notice of Appeal</i>
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04/15/2021	 Case Appeal Statement Filed By: Plaintiff Ceballos, Danny <i>Case Appeal Statement</i>
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04/15/2021	 Notice of Posting of Cost Bond Filed By: Plaintiff Ceballos, Danny <i>Notice of Posting Cost Bond</i>
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DATE	FINANCIAL INFORMATION
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Plaintiff Ceballos, Danny	
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Total Charges	294.00
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Total Payments and Credits	294.00
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Balance Due as of 4/19/2021	0.00
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DISTRICT COURT CIVIL COVER SHEET

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

CASE NO: A-20-823119-C
Department 19

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

Plaintiff(s) (name/address/phone): <p style="text-align: center;">Danny Ceballos</p>	Defendant(s) (name/address/phone): <p style="text-align: center;">NP Palace Station d/b/a Palace Station Hotel & Casino</p>
Attorney (name/address/phone): <p style="text-align: center;">Andre M. Lagomarsino, Esq. and Daven P. Cameron, Esq.</p> <p style="text-align: center;">Lagomarsino Law</p> <p style="text-align: center;">3005 W. Horizon Ridge Pkwy., #241, Henderson, NV 89052</p> <p style="text-align: center;">(702) 383-2864</p>	Attorney (name/address/phone): <p style="text-align: center;">Unknown</p>

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

Civil Case Filing Types

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

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

10/15/2020

Date

/s/ Daven P. Cameron

Signature of initiating party or representative

See other side for family-related case filings.

Heather S. Smith
CLERK OF THE COURT

OGM
FISHER & PHILLIPS LLP
SCOTT M. MAHONEY, ESQ.
Nevada Bar No. 1099
300 S. Fourth Street
Suite 1500
Las Vegas, NV 89101
Telephone: (702) 252-3131
E-Mail Address: smahoney@fisherphillips.com
Attorney for Defendant

EIGHTH DISTRICT JUDICIAL COURT
CLARK COUNTY, NEVADA

DANNY CEBALLOS, an individual,	)	Case No.: A-20-823119-C
)	
Plaintiff,	)	Department: I
)	
vs.	)	Date of Hearing: 3/11/21
)	
NP PALACE LLC d/b/a PALACE	)	Time of Hearing: 9:30 a.m.
STATION HOTEL & CASINO, a)	
Domestic Limited Liability Company,)	
)	
Defendant.)	
)	

ORDER GRANTING MOTION TO DISMISS

Defendant, NP Palace LLC's Motion to Dismiss (the "Motion") having come on regularly for hearing on March 11, 2021 at the hour of 9:30 a.m. in Department I of the above-entitled Court, the Honorable Bita Yeager presiding, Plaintiff being represented by Andre M. Lagomarsino, Esq. and Defendant being represented by Scott M. Mahoney, Esq., the Court having considered the Motion, Plaintiff's Opposition to Defendant's Motion to Dismiss and Defendant's Reply to Opposition to Motion to Dismiss, as well as the arguments made at the hearing, the Court being fully advised in the premises makes the following findings:

1 1. Federal law should be considered as well as state law for purposes of
2 determining whether the use of a product is “lawful” for purposes of NRS 613.333 and
3 the use of marijuana remains forbidden under federal law (the Controlled Substances
4 Act). The Court therefore finds Plaintiff’s alleged marijuana use does not constitute the
5 lawful use of a product pursuant to NRS 613.333.
6

7 2. NRS 678D.510(1)(a) provides that Nevada’s laws pertaining to the adult
8 use of cannabis do not prevent an employer from having and enforcing policies relating
9 to the use of marijuana by employees.

10 3. Plaintiff does not allege that Defendant failed to hire him because he
11 tested positive for marijuana, so NRS 613.132, referenced by Plaintiff, does not apply to
12 the circumstances alleged in the Complaint.
13

14 4. Based on marijuana still being illegal under federal law and the language
15 of NRS 678D.510, the Complaint does not allege a violation of public policy, let alone
16 an exceptional one, upon which to assert a tortious discharge in violation of public
17 policy claim.
18

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20 ///

21 ///

1 Based on these findings:


2 IT IS HEREBY ORDER, ADJUDGED AND DECREED that the Motion is
3 granted and Plaintiff's Complaint is dismissed for failure to state claims upon which
4 relief may be granted.

5 DATED this ____ day of March 2021. Dated this 16th day of March, 2021

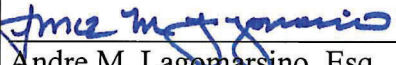
6 
7 _____
8 DISTRICT COURT JUDGE

9 Submitted by:

B4B ECA F570 14B4
Bita Yeager
District Court Judge

10 
11 _____
12 Scott M. Mahoney, Esq.
13 Fisher & Phillips LLP
14 300 South Fourth Street
15 Suite 1500
16 Las Vegas, NV 89101
17 Attorneys for Defendant

18 Approved as to form and content:

19 
20 _____
21 Andre M. Lagomarsino, Esq.
22 Lagomarsino Law
23 3005 West Horizon Ridge Pkwy
24 Suite 241
25 Henderson, Nevada 89052
26 Attorneys for Plaintiff
27
28

Griffin, Sarah

Subject: FW: Proposed Order - Ceballos v. Palace Station
Attachments: doc20210311125745.pdf

From: Andre Lagomarsino <aml@lagomarsinolaw.com>
Sent: Thursday, March 11, 2021 1:05 PM
To: Mahoney, Scott <smahoney@fisherphillips.com>
Cc: Adryana Martinez <Adryana@lagomarsinolaw.com>; Denise Valdivia <denise@lagomarsinolaw.com>
Subject: Proposed Order - Ceballos v. Palace Station

Scott,

Enclosed please find a color copy of the proposed Order. We have mailed the original to your office.

Kind regards,

Andre

Andre M. Lagomarsino, Esq.



3005 West Horizon Ridge Parkway, Suite 241

Henderson, Nevada 89052

T: 702.383.2864

F: 702.383.0065

Website: www.lagomarsinolaw.com

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Danny Ceballos, Plaintiff(s)

CASE NO: A-20-823119-C

7 vs.

DEPT. NO. Department 1

8 NP Palace Station, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 3/16/2021

15 Andre Lagomarsino

aml@lagomarsinolaw.com

16 Denise Valdivia

denise@lagomarsinolaw.com

17 Stephanie Andersen

stephanie@lagomarsinolaw.com

18 Justin Bolor

justin@lagomarsinolaw.com

19 Scott Mahoney

smahoney@fisherphillips.com

20 Sarah Griffin

sgriffin@fisherphillips.com

21 Cory Ford

cory@lagomarsinolaw.com

22 Sydney Schuette

sydney@lagomarsinolaw.com

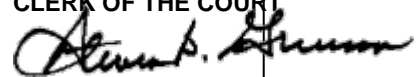
23 Jennifer D'Incecco

jennifer@lagomarsinolaw.com

24 Mary Nelson

mnelson@lagomarsinolaw.com

25
26
27
28



FISHER & PHILLIPS LLP
SCOTT M. MAHONEY, ESQ.
Nevada Bar No. 1099
300 S. Fourth Street
Suite 1500
Las Vegas, NV 89101
Telephone: (702) 252-3131
E-Mail Address: smahoney@fisherphillips.com
Attorney for Defendant

EIGHTH DISTRICT JUDICIAL COURT
CLARK COUNTY, NEVADA

DANNY CEBALLOS, an individual,	)	Case No.: A-20-823119-C
)	
Plaintiff,	)	Department: XIX
)	
vs.)	
)	
NP PALACE LLC d/b/a PALACE)	
STATION HOTEL & CASINO, a)	
Domestic Limited Liability Company,)	
)	
Defendant.)	
)	

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that the attached Order Granting Motion to Dismiss
was entered in the above-captioned matter on March 16, 2021.

Respectfully submitted,

FISHER & PHILLIPS, LLP

By: /s/ Scott M. Mahoney, Esq.
300 South Fourth Street
Suite 1500
Las Vegas, Nevada 89101
Attorneys for Defendant

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify service of the foregoing Notice of Entry of Order was made this date by electronic filing and/or service with the Eighth Judicial District Court, addressed as follows:

Lagomarsino Law
ANDRE M. LAGOMARSINO, ESQ.
DAVEN P. CAMERON, ESQ.
3005 W. Horizon Ridge Pkwy., Suite 241
Henderson, Nevada 89052

Dated: March 17, 2021.

By: /s/ Sarah Griffin
An employee of Fisher & Phillips LLP

Heather S. Smith
CLERK OF THE COURT

OGM
FISHER & PHILLIPS LLP
SCOTT M. MAHONEY, ESQ.
Nevada Bar No. 1099
300 S. Fourth Street
Suite 1500
Las Vegas, NV 89101
Telephone: (702) 252-3131
E-Mail Address: smahoney@fisherphillips.com
Attorney for Defendant

EIGHTH DISTRICT JUDICIAL COURT
CLARK COUNTY, NEVADA

DANNY CEBALLOS, an individual,	)	Case No.: A-20-823119-C
)	
Plaintiff,	)	Department: I
)	
vs.	)	Date of Hearing: 3/11/21
)	
NP PALACE LLC d/b/a PALACE)	Time of Hearing: 9:30 a.m.
STATION HOTEL & CASINO, a)	
Domestic Limited Liability Company,)	
)	
Defendant.)	
)	

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10 3. Plaintiff does not allege that Defendant failed to hire him because he
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14 4. Based on marijuana still being illegal under federal law and the language
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17 policy claim.
18

19 ///

20 ///

21 ///

1 Based on these findings:


2 IT IS HEREBY ORDER, ADJUDGED AND DECREED that the Motion is
3 granted and Plaintiff's Complaint is dismissed for failure to state claims upon which
4 relief may be granted.

5 DATED this ____ day of March 2021. Dated this 16th day of March, 2021

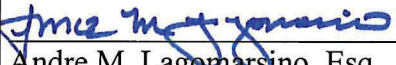
6 
7 _____
8 DISTRICT COURT JUDGE

9 Submitted by:

B4B ECA F570 14B4
Bita Yeager
District Court Judge

10 
11 _____
12 Scott M. Mahoney, Esq.
13 Fisher & Phillips LLP
14 300 South Fourth Street
15 Suite 1500
16 Las Vegas, NV 89101
17 Attorneys for Defendant

18 Approved as to form and content:

19 
20 _____
21 Andre M. Lagomarsino, Esq.
22 Lagomarsino Law
23 3005 West Horizon Ridge Pkwy
24 Suite 241
25 Henderson, Nevada 89052
26 Attorneys for Plaintiff
27
28

Griffin, Sarah

Subject: FW: Proposed Order - Ceballos v. Palace Station
Attachments: doc20210311125745.pdf

From: Andre Lagomarsino <aml@lagomarsinolaw.com>
Sent: Thursday, March 11, 2021 1:05 PM
To: Mahoney, Scott <smahoney@fisherphillips.com>
Cc: Adryana Martinez <Adryana@lagomarsinolaw.com>; Denise Valdivia <denise@lagomarsinolaw.com>
Subject: Proposed Order - Ceballos v. Palace Station

Scott,

Enclosed please find a color copy of the proposed Order. We have mailed the original to your office.

Kind regards,

Andre

Andre M. Lagomarsino, Esq.



3005 West Horizon Ridge Parkway, Suite 241

Henderson, Nevada 89052

T: 702.383.2864

F: 702.383.0065

Website: www.lagomarsinolaw.com

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Danny Ceballos, Plaintiff(s)

CASE NO: A-20-823119-C

7 vs.

DEPT. NO. Department 1

8 NP Palace Station, Defendant(s)

9
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14 Service Date: 3/16/2021

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19 Scott Mahoney

smahoney@fisherphillips.com

20 Sarah Griffin

sgriffin@fisherphillips.com

21 Cory Ford

cory@lagomarsinolaw.com

22 Sydney Schuette

sydney@lagomarsinolaw.com

23 Jennifer D'Incecco

jennifer@lagomarsinolaw.com

24 Mary Nelson

mnelson@lagomarsinolaw.com

25

26

27

28

Employment Tort

COURT MINUTES

March 11, 2021

A-20-823119-C Danny Ceballos, Plaintiff(s)
vs.
NP Palace Station, Defendant(s)

March 11, 2021 09:30 AM Motion to Dismiss

HEARD BY: Yeager, Bitia COURTROOM: RJC Courtroom 16A

COURT CLERK: Tucker, Michele

RECORDER: Lizotte, Lisa

REPORTER:

PARTIES PRESENT:

Andre Lagomarsino Attorney for Plaintiff

Scott M. Mahoney Attorney for Defendant

JOURNAL ENTRIES

Arguments by counsel as to NRS 613.333 and NRS 678D.200. COURT STATED ITS FINDINGS and ORDERED, Motion to Dismiss GRANTED.

Mr. Mahoney to prepare the Order, distribute a copy to all parties, and submit to Chambers within 10 days.

All orders are to be submitted to DC1Inbox@ClarkCountyCourts.us

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; NOTICE OF POSTING
COST BOND; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER
GRANTING MOTION TO DISMISS; NOTICE OF ENTRY OF ORDER; DISTRICT COURT
MINUTES

DANNY CEBALLOS,

Plaintiff(s),

vs.

NP PALACE LLC dba PALACE STATION
HOTEL & CASINO,

Defendant(s),

Case No: A-20-823119-C

Dept No: I

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 19 day of April 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

12693

LAGOMARSINO LAW OFFICES, LTD3005 WEST HORIZON RIDGE PKWY., #241
HENDERSON, NEVADA 89052
(702) 383-2854**Bank of America.**

ACH R/T 122400724

94-72/1224

4/15/2021

PAY TO THE
ORDER OF

Supreme Court of Nevada

\$ **250.00

Two Hundred Fifty and 00/100*****

DOLLARS

Supreme Court of Nevada
Office Of The Clerk
201 S. Carson Street, Suite 201
Carson City Nevada 89701

MEMO



AUTHORIZED SIGNATURE

⑈012693⑈ ⑆122400724⑆ 501002942791⑈

LAGOMARSINO LAW OFFICES, LTD

12693

Supreme Court of Nevada
6255 · Filing Fees

4/15/2021

250.00

Bank Of America, Che

250.00

LAGOMARSINO LAW OFFICES, LTD

12693

Supreme Court of Nevada
6255 · Filing Fees

4/15/2021

250.00

Bank Of America, Che

250.00

