

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

DANNY CEBALLOS,

Appellant,

vs.

NP PALACE, LLC, D/B/A PALACE STATION
HOTEL & CASINO,

Respondent.

No. 82797

**DOCKETING STATEMENT
CIVIL APPEALS**

Electronically Filed
May 11 2021 02:16 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department 1
County Clark Judge Bitia Yeager
District Ct. Case No. A-20-823119-C

2. Attorney filing this docketing statement:

Attorney Andre M. Lagomarsino, Esq. Telephone (702) 383-2864

Firm Lagomarsino Law

Address 3005 W. Horizon Ridge Pkwy., #241
Henderson, NV 89052

Client(s) Danny Ceballos

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Scott M. Mahoney, Esq. Telephone (702) 252-3131

Firm Fisher & Phillips LLP

Address 300 S. Fourth St., #1500
Las Vegas, NV 89101

Client(s) NP Palace LLC d/b/a Palace Station Hotel & Casino

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Judgment after bench trial | <input checked="" type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input checked="" type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify): _____ |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

None.

8. Nature of the action. Briefly describe the nature of the action and the result below:

On the evening of June 25, 2020, Plaintiff/Appellant Danny Ceballos ("Ceballos") was employed by Defendant/Respondent NP Palace LLC d/b/a Palace Station Hotel & Casino's ("Palace Station") as a full-time employee. In the early morning hours of June 26, 2020, Ceballos slipped and fell in the employee dining room while on his last break. After the fall, the Palace Station security manager placed Ceballos in a holding cell for post-accident processing. The alcohol detection test came back negative. Ceballos continued to work without incident through July 7, 2020, when he was informed that he had tested positive for cannabis use and was placed on suspension. Mr. Ceballos was not under the influence during, and had not consumed cannabis in the twenty-four (24) hours preceding, his shift. On or about July 16, 2020, Palace Station terminated Ceballos for testing positive for cannabis use.

Regardless of these facts, Palace Station's Motion to Dismiss was granted on the grounds that adult marijuana use does not constitute the lawful use of a product pursuant to NRS 613.333, and employers may have policies pertaining to the adult use of cannabis.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

(1) Whether the district court erred in finding that marijuana use does not constitute the lawful use of a product pursuant to NRS 613.333, and

(2) Whether the district court erred in interpreting NRS 678D.510 to supersede Ceballos' rights under NRS 613.333.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Ceballos is unaware of any pending proceedings in this court raising the same or similar issues as seen in this matter.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: The issues on appeal in this case are substantial matters of first impression in the Nevada Supreme Court. The Court has not ruled before on the conflicting nature of NRS 613.333 and NRS 678.510(1)(a) as applied to the legal adult use of cannabis outside of the workplace. Additionally, Nevada has explicitly legalized the adult use of cannabis, and thus an employee should not be able to be fired for the private use of such product. To do so directly violates the Nevada public policy.

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

NRAP 17(a)(12) states that “[m]atters raising as a principal issue a question of statewide public importance” are presumptively assigned to the Nevada Supreme Court. Ceballos agrees with this presumption since this case involves the rights of employees to engage in the legal adult use of cannabis outside of the workplace without being fired for said usage.

14. Trial. If this action proceeded to trial, how many days did the trial last? 0

Was it a bench or jury trial? N/A

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from Mar 16, 2021

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served Mar 17, 2021

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ___, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed Apr 15, 2021

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) | <u></u> |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

NRAP 3A(b)(1) allows for the for the appeal of a final judgment entered in an action or proceeding commenced in the court in which the judgment is rendered. Here, the District Judge granted Defendant's Motion to Dismiss, which dismissed the case in its entirety.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Plaintiff/Appellant Danny Ceballos, an individual; and

Defendant/Respondent NP PALACE LLC d/b/a Palace Station Hotel & Casino, a domestic limited liability company.

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Ceballos' complaint alleged claims for (1) wrongful discharge in violation of NRS 613.33 and (2) tortious discharge in violation of public policy.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Danny Ceballos

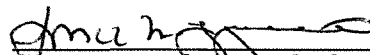
Name of appellant

Andre M. Lagomarsino, Esq.

Name of counsel of record

May 11, 2021

Date


Signature of counsel of record

Clark County, Nevada

State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 11th day of May, 2021, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

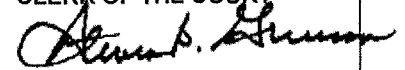
Scott M. Mahoney, Esq.
Fisher & Phillips LLP
300 S. Fourth St., #1500
Las Vegas, NV 89101
Attorney for Defendant/Respondent

William C. Turner, Esq.
59 Oakmarsh Dr.
Henderson, NV 89074
Settlement Judge

Dated this 11th day of May, 2021


Signature

EXHIBIT 1



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

1 **COMP**
2 **LAGOMARSINO LAW**
3 ANDRE M. LAGOMARSINO, ESQ. (#6711)
4 DAVEN P. CAMERON, ESQ. (#14179)
5 3005 W. Horizon Ridge Pkwy., Suite 241
6 Henderson, Nevada 89052
7 Telephone: (702) 383-2864
8 Facsimile: (702) 383-0065
9 aml@lagomarsinolaw.com
10 daven@lagomarsinolaw.com
11 *Attorneys for Plaintiff Danny Ceballos*

8 **EIGHTH DISTRICT JUDICIAL COURT**

9 **CLARK COUNTY, NEVADA**

10 DANNY CEBALLOS, an individual,

CASE NO.:

11 Plaintiff,

DEPT. NO.:

12 v.

13 **COMPLAINT**
14 **WITH JURY DEMAND**

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

18 Defendant.

19 COMES NOW Plaintiff DANNY CEBALLOS, by and through his attorneys, ANDRE M.
20 LAGOMARSINO, ESQ. and DAVEN P. CAMERON, ESQ. of the law firm of Lagomarsino Law,
21 and hereby files the following Complaint with Jury Demand.

22 **IDENTIFICATION OF THE PARTIES**

23 1. At all times relevant herein, Plaintiff DANNY CEBALLOS ("Plaintiff") was, and is,
24 a resident of Clark County, Nevada.

25 2. At all times relevant herein, NP PALACE LLC d/b/a PALACE STATION HOTEL
26 & CASINO ("Palace Station") was, and is, a domestic limited-liability company, organized and
27 existing by virtue of the laws of the state of Nevada and doing business in Clark County, Nevada.
28

3. At all times relevant herein, Plaintiff CEBALLOS was employed by Defendant Palace Station.

JURISDICTION AND VENUE

4. Jurisdiction is proper in this Court pursuant to the Nevada Constitution, Article 6, § 6, NRS 30.010, *et seq.*, and because the acts and omissions complained of herein occurred within Clark County, Nevada between a resident of Clark County, Nevada and an entity authorized to do business in Clark County, Nevada. Further, the amount in controversy exceeds \$15,000.

5. Venue is proper in this Court pursuant to NRS 13.010(1).

ALLEGATIONS COMMON TO ALL CLAIMS

6. On or about May 7, 2019, Palace Station hired Plaintiff as a part time employee to work as a table games dealer.

7. In or around March of 2020, Plaintiff began working full time and started receiving benefits from Palace Station such as health and dental insurance.

8. On the evening of June 25, 2020, Plaintiff was scheduled to work a graveyard shift at Palace Station and arrived to work promptly and on time.

9. Towards the end of his shift, during the early morning hours of June 26, 2020, Plaintiff took his last fifteen (15) minute break of his shift and proceeded to the employee dining room.

10. Plaintiff sat down at a table in the employee dining room directly in front of a beverage island containing soda fountain, tea, coffee, and other beverage options for the employees to utilize (the "Beverage Station").

11. Intending to get a beverage, Plaintiff got up from his table and walked towards the Beverage Station.

...

...

1 12. Before reaching the Beverage Station, Plaintiff slipped on an unknown wet
2 substance on the ground, causing him to fall to the ground and hit his lower back, buttock, and left
3 elbow.

4 13. Upon information and belief, the floors in front of the Beverage Station were
5 recently mopped. Notably, no warning cones were placed near the wet floor to inform employees
6 that the floor was wet.

7 14. After the fall, security arrived and helped Plaintiff stand up. Security subsequently
8 called Plaintiff's supervisor and a security manager.

9 15. After intensely interrogating him as though he had committed a crime, the security
10 manager took Plaintiff to the security office holding cell for post-accident processing, despite
11 informing him and his direct supervisor that he was okay and did not need medical attention.
12 Plaintiff had no intention on filing a worker's compensation claim.

13 16. The security manager then forced Plaintiff to take an alcohol detection test, which
14 came back negative.

15 17. Plaintiff was also required to take a drug detection test, which was performed orally
16 via a mouth swab. Plaintiff was informed that his test came back positive for cannabis. Plaintiff was
17 not given the test results at the time.

18 18. After completing the tests, Plaintiff returned home. He did not seek medical
19 attention as he did not feel it was necessary for his mild injuries and he did not open a worker's
20 compensation claim.

21 19. Plaintiff continued to work without incident through July 6, 2020.

22 20. On or about July 6, 2020, Plaintiff's supervisor informed him that Plaintiff would
23 need to report to human resources the following day.

21. On or about July 7, 2020, Plaintiff reported to human resources and was informed that he had tested positive for cannabis use. Palace Station placed Plaintiff on a suspension at this time.

22. On or about July 16, 2020, Palace Station informed Plaintiff that he had been terminated for testing positive for cannabis use.

23. Plaintiff did not consume cannabis in the twenty-four (24) hours preceding his scheduled shift on June 25, 2020. Furthermore, Plaintiff was not under the influence, or in any way impaired, during his June 25, 2020 shift and any cannabis consumption occurred at his home.

24. Plaintiff, a United States Army veteran with an honorable discharge, had been working for Palace Station for a little over a year with no prior disciplinary issues. Plaintiff came to work every day and did his job well with no complaints, so that he could support his family.

25. Despite Plaintiff's short period of time as Defendant's employee, he was quickly moved from part time to full time and was, at times, used to fill in for supervisors to oversee other table games. By all indications, Plaintiff was a good employee who performed his job without any issues.

FIRST CAUSE OF ACTION

Wrongful Termination in Violation of NRS 613.333

26. Plaintiff repeats, re-alleges, and incorporates herein by reference Paragraphs 1 through 25, as though fully set forth herein.

27. Pursuant to NRS 613.333(1)(b), it is an unlawful employment practice for an employer to “discharge ... any employee ... because the employee engages in the *lawful use in this state of any product outside the premises of the employer during the employee’s nonworking hours*, if that use does not adversely affect the employee’s ability to perform his or her job or the safety of the employees.” (emphasis added).

29. Plaintiff was explicitly informed by Palace Station that he was terminated because he tested positive for cannabis use.

31. Plaintiff was not engaging in cannabis use during working hours.

33. Palace Station is liable to Plaintiff for wrongful termination in violation of NRS 613.333, as it wrongfully terminated Plaintiff for engaging in an activity protected under the aforementioned statute.

35. Plaintiff has been required to retain an attorney to prosecute this matter and is entitled to an award of reasonable attorneys' fees and costs incurred herein.

SECOND CAUSE OF ACTION

37. Plaintiff repeats, re-alleges, and incorporates herein by reference Paragraphs 1 through 36, as though fully set forth herein.

1 38. A tortious discharge occurs when an employee is terminated in violation of Nevada
2 public policy.

3 39. Plaintiff was terminated after testing positive for cannabis use. This test was required
4 of him after Plaintiff slipped and fell on a wet unknown substance in the employee dining room
5 while on the last break of his shift.

6 40. Instead of being concerned for Plaintiff's wellbeing, security questioned Plaintiff as
7 though he had committed a crime.

8 41. Plaintiff was immediately required to take drug and alcohol detection tests.

9 42. Plaintiff was subsequently suspended and fired for testing positive for cannabis use.

10 43. It is Plaintiff's statutory right, under NRS 678D, to engage in adult cannabis
11 consumption pursuant to the chapter's guidelines. Palace Station terminated Plaintiff for exercising
12 this right in violation of NRS 613.333(1)(b).

13 44. Nevada has a strong public policy interest in protecting the statutory rights of its
14 citizens. Even more so, Nevada has a strong public policy interest in ensuring its citizens are not
15 denied the ability to support themselves and their families due to engagement in statutorily
16 protected *and* completely lawful activities.

17 45. Palace Station is liable to Plaintiff for tortious discharge, as it acted outrageously and
18 in violation of public policy by terminating Plaintiff for engaging in a statutorily protected activity.

19 46. As a direct, proximate, and legal result of Palace Station's actions, Plaintiff
20 sustained, *inter alia*, pain and suffering, general emotional damages, loss of past, present, and
21 future earnings, and other related damages, all in an amount in excess of \$15,000.00.

22 47. Plaintiff has been required to retain an attorney to prosecute this matter and is
23 entitled to an award of reasonable attorneys' fees and costs incurred herein.

24 48. Palace Station acted despicably and with a conscious disregard of Plaintiff's rights
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26
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1 as an employee by terminating Plaintiff for engagement in lawful activities, making it difficult to
2 support his family and, as a result, he is entitled to an award of punitive damages.

3 **PRAYER FOR RELIEF**

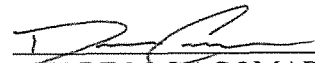
4 **WHEREFORE**, Plaintiff prays for a judgment against Defendant as follows:

- 5
6 1. For general and compensatory damages in excess of \$15,000.00;
7 2. For special damages in excess of \$15,000.00;
8 3. For punitive damages in excess of \$15,000.00;
9 4. For pre- and post-judgment interest, at the highest rate allowable by law;
10 5. For reasonable attorneys' fees and costs of suit; and
11 6. For any such further relief this Court deems appropriate in the premises.

12 DATED this 15th day of October, 2020.

13 RESPECTFULLY SUBMITTED,

14 **LAGOMARSINO LAW**

15
16 

17 **ANDRE M. LAGOMARSINO, ESQ. (#6711)**

18 **DAVEN P. CAMERON, ESQ. (#14179)**

19 3005 W. Horizon Ridge Pkwy., Suite 241

20 Henderson, Nevada 89052

21 Telephone: (702) 383-2864

22 Facsimile: (702) 383-0065

23 *Attorneys for Plaintiff Danny Ceballos*
24
25
26
27
28

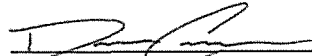
JURY DEMAND

PLEASE TAKE NOTICE that Plaintiff, by and through his undersigned attorneys, hereby demands a jury trial of all issues in the above-referenced matter.

DATED this 15th day of October, 2020.

RESPECTFULLY SUBMITTED,

LAGOMARSINO LAW



ANDRE M. LAGOMARSINO, ESQ. (#6711)

DAVEN P. CAMERON, ESQ. (#14179)

3005 W. Horizon Ridge Pkwy., #241

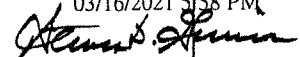
Henderson, Nevada 89052

Telephone: (702) 383-2864

Facsimile: (702) 383-0065

Attorneys for Plaintiff Danny Ceballos

EXHIBIT 2


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.

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Based on these findings:

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

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


DISTRICT COURT JUDGE


Submitted by:



B4B ECA F570 14B4
Brita Yeager
District Court Judge

Scott M. Mahoney, Esq.
Fisher & Phillips LLP
300 South Fourth Street
Suite 1500
Las Vegas, NV 89101
Attorneys for Defendant

Approved as to form and content:


Andre M. Lagomarsino, Esq.
Lagomarsino Law
3005 West Horizon Ridge Pkwy
Suite 241
Henderson, Nevada 89052
Attorneys for Plaintiff

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 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Danny Ceballos, Plaintiff(s)

CASE NO: A-20-823119-C

7 vs.

DEPT. NO. Department I

8 NP Palace Station, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

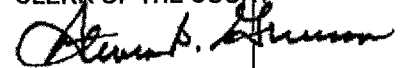
11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

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
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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

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27
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EXHIBIT 3



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

FISHER & PHILLIPS LLP
300 S Fourth Street, Suite 1500
Las Vegas, Nevada 89101

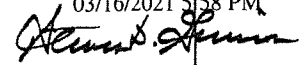
CERTIFICATE OF SERVICE

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
13 **EIGHTH DISTRICT JUDICIAL COURT**
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)

ORDER GRANTING MOTION TO DISMISS

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

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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 DISTRICT COURT JUDGE

8 Submitted by:

9 
10 B4B ECA F570 14B4
Bita Yeager
District Court Judge

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

15 Approved as to form and content:

16
17 
18 Andre M. Lagomarsino, Esq.
19 Lagomarsino Law
3005 West Horizon Ridge Pkwy
Suite 241
Henderson, Nevada 89052
Attorneys for Plaintiff

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 DISTRICT COURT
3 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**

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