

1 **NOTC**
2 **CHARLES S. JACKSON, ESQ.**
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4 **HICKS & BRASIER, PLLC**
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10 *Attorneys for Plaintiff*


Electronically Filed
Mar 09 2022 09:56 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

11 IRENE PSENICNIK,)	CASE NO.: A-20-817158-C
)	DEPT. NO.: 24
12 Plaintiff,)	
)	<u>NOTICE OF APPEAL</u>
13 vs.)	
)	
14 BODYSPA GROUP, LLC dba)	
15 BODYSPA; DOES 1-20 and ROE)	
16 BUSINESS ENTITIES 1-20, inclusive,)	
)	
17 Defendants.)	

18 Notice is hereby given that IRENE PSENICNIK, Plaintiff above named, hereby appeals
19 to the Supreme Court of Nevada from the Order Granting Summary Judgment entered in this
20 action on the 3rd day of February, 2022

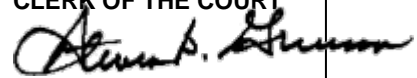
21 DATED THIS 4th day of March, 2022.

22
23 **HICKS & BRASIER, PLLC**
24 
25 **CHARLES S. JACKSON, ESQ.**
26 Nevada Bar No. 13158
27 2630 S. Jones Blvd.
28 Las Vegas, Nevada 89146
Attorneys for Plaintiff

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Loren S. Young, Esq.
Karissa K. Mack, Esq.
LINCOLN GUSTGAFSON & CERCOS, LLP
3960 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
Attorneys for Defendant

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Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

IRENE PSENICNIK,)	CASE NO.: A-20-817158-C
)	DEPT. NO.: 24
Plaintiff,)	
)	<u>CASE APPEAL STATEMENT</u>
vs.)	
)	
BODYSPA GROUP, LLC dba)	
BODYSPA; DOES 1-20 and ROE)	
BUSINESS ENTITIES 1-20, inclusive,)	
)	
Defendants.)	

1. Name of appellant filing this case appeal statement: Irene Psenicnik
2. Identify the judge issuing the decision, judgment, or order appealed from: The Honorable Jessica K. Peterson
3. Identify each appellant and the name and address of counsel for each appellant: Irene Psenicnik; Charles S. Jackson, Esq., Bar No. 13158; 2630 S. Jones Blvd. Las Vegas, NV 89146
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel): Bodyspa Group, LLC d/b/a Bodyspa; Loren Young, Esq., 3960 Howard Hughes Parkway, Suite 200 Las Vegas, NV 89169

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

5 6. Indicate whether appellant was represented by appointed or retained counsel in the
6 district court: Appellant was represented by this counsel in District Court.

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

9 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date
10 of entry of the district court order granting such leave: No.

11 9. Indicate the date the proceedings commenced in the district court (e.g., date complaint,
12 indictment, information, or petition was filed): June 25, 2020.

13 10. Provide a brief description of the nature of the action and result in the district court,
14 including the type of judgment or order being appealed and the relief granted by the district
15 court: This is an action arising from a slip and fall on Defendant's premises. On November 20,
16 2019, Plaintiff slipped and fell at Defendant's premises. The District Court granted summary
17 judgment on duty and breach in this matter.

18 11. Indicate whether the case has previously been the subject of an appeal to or original
19 writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number
20 of the prior proceeding: No.

21 12. Indicate whether this appeal involves child custody or visitation: No.

22
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26 ///

27 ///

28 ///

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

DATED THIS 4th day of March, 2022.

HICKS & BRASIER, PLLC

CHARLES S. JACKSON, ESQ.

CHARLES S. JACKSON, ESQ.

Nevada Bar No. 13158

2630 S. Jones Blvd.

Las Vegas, Nevada 89146

Attorneys for Plaintiff

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CERTIFICATE OF ELECTRONIC SERVICE

Pursuant to NRCP 5, EDCR 7.26(a) and NEFCR 9, I hereby certify that I am an employee of HICKS & BRASIER, PLLC, and on the 4th day of March, 2022 I served a true and correct copy of the **CASE APPEAL STATEMENT** via Nevada Clark County Court's e-service system to the following:

Loren S. Young, Esq.
Karissa K. Mack, Esq.
LINCOLN GUSTGAFSON & CERCOS, LLP
3960 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
Attorneys for Defendant


An employee of HICKS & BRASIER PLLC

CASE SUMMARY**CASE NO. A-20-817158-C**

Irene Psenicnik, Plaintiff(s)
vs.
Bodyspa Group LLC, Defendant(s)

§
§
§
§
§

Location: **Department 8**
 Judicial Officer: **Peterson, Jessica K.**
 Filed on: **06/25/2020**
 Case Number History:
 Cross-Reference Case Number: **A817158**

CASE INFORMATION**Statistical Closures**

02/03/2022 Summary Judgment

Case Type: **Negligence - Premises Liability**

Case Status: **02/03/2022 Closed**

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

Case Number A-20-817158-C
 Court Department 8
 Date Assigned 01/04/2021
 Judicial Officer Peterson, Jessica K.

PARTY INFORMATION**Plaintiff****Psenicnik, Irene***Lead Attorneys*

Brasier, Alison M.
Retained
 702-628-9888(W)

Defendant**Bodyspa Group LLC**

Young, Loren
Retained
 7022571997(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

06/25/2020



Complaint

Filed By: Plaintiff Psenicnik, Irene
[1] Plaintiff's Complaint

06/25/2020



Initial Appearance Fee Disclosure

Filed By: Plaintiff Psenicnik, Irene
[2] Initial Appearance Fee Disclosure

06/25/2020



Summons Electronically Issued - Service Pending

Party: Plaintiff Psenicnik, Irene
[3] Summons

07/20/2020



Affidavit of Service

Filed By: Plaintiff Psenicnik, Irene
[4] Affidavit of Service

08/04/2020

















Answer to Complaint

Filed by: Defendant Bodyspa Group LLC
[5] Defendant Bodyspa Group, LLC dba Bodyspa's Answer to Plaintiff's Complaint














CASE SUMMARY

CASE NO. A-20-817158-C

08/04/2020	 Initial Appearance Fee Disclosure Filed By: Defendant Bodyspa Group LLC <i>[6] Defendant Bodyspa Group, LLC dba Bodyspa's Initial Appearance Fee Disclosure</i>
08/04/2020	 Demand for Jury Trial Filed By: Defendant Bodyspa Group LLC <i>[7] Defendant Bodyspa Group, LLC dba Bodyspa's Demand for Jury Trial</i>
08/04/2020	 Disclosure Statement Party: Defendant Bodyspa Group LLC <i>[8] Defendant Bodyspa Group, LLC dba Bodyspa's NRCP 7.1 Disclosure Statement</i>
08/05/2020	 Request for Exemption From Arbitration Filed by: Plaintiff Psenicnik, Irene <i>[9] Plaintiff's Request for Exemption from Arbitration</i>
08/21/2020	 Commissioners Decision on Request for Exemption - Granted <i>[10] Commissioner's Decision on Request for Exemption</i>
09/02/2020	 Joint Case Conference Report Filed By: Plaintiff Psenicnik, Irene <i>[11] Joint Case Conference Report</i>
09/03/2020	 Order <i>[12] Order to Appear for Mandatory Pretrial Conference Pursuant to Rule 16</i>
10/20/2020	 Stipulation and Order Filed by: Plaintiff Psenicnik, Irene <i>[13] Stipulation and Order to Excuse the Parties' Presence at Rule 16 Pre-Trial Discovery Conference</i>
10/20/2020	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Psenicnik, Irene <i>[14] Notice of Entry of Stipulation and Order</i>
10/30/2020	 Scheduling and Trial Order <i>[15] Scheduling Order and Order Setting Civil Jury Trial</i>
01/04/2021	Case Reassigned to Department 8 <i>Judicial Reassignment to Judge Jessica K. Peterson</i>
03/16/2021	 Stipulation and Order to Extend Discovery Deadlines Filed By: Defendant Bodyspa Group LLC <i>[16] Stipulation and Order to Extend Discovery Deadlines(First Request)</i>
03/17/2021	 Notice of Entry of Order Filed By: Defendant Bodyspa Group LLC <i>[17] Notice of Entry of Stipulation and Order to Extend Discovery Deadlines (First Request)</i>
09/07/2021	 Notice of Change of Hearing <i>[18] Notice of Change of Hearing</i>
11/29/2021	 Motion for Summary Judgment

CASE SUMMARY






CASE NO. A-20-817158-C

	Filed By: Defendant Bodyspa Group LLC <i>[19] Defendant Bodyspa Group, LLC dba Bodyspa's Motion for Summary Judgment</i>
11/30/2021	 Clerk's Notice of Hearing Party: Defendant Bodyspa Group LLC <i>[20] Notice of Hearing</i>
12/13/2021	 Opposition to Motion For Summary Judgment Filed By: Plaintiff Psenicnik, Irene <i>[21] Plaintiff's Opposition to Defendant's Motion for Summary Judgment</i>
12/27/2021	 Motion in Limine Filed By: Defendant Bodyspa Group LLC <i>[22] Defendant, Bodyspa Group, LLC dba Bodyspa's Motion in Limine to Exclude the Testimony and Opinions of Plaintiff's Expert, Adam Hjorth</i>
12/28/2021	 Clerk's Notice of Hearing Party: Defendant Bodyspa Group LLC <i>[23] Notice of Hearing</i>
12/28/2021	 Reply in Support Filed By: Defendant Bodyspa Group LLC <i>[24] Defendant Bodyspa Group, LLC dba Bodyspa's Reply in Support of its Motion for Summary Judgment</i>
12/30/2021	 Notice of Change of Hearing <i>[25] Notice of Change of Hearing</i>
01/03/2022	 Notice of Change of Hearing <i>[26] Notice of Change of Hearing</i>
02/03/2022	 Findings of Fact, Conclusions of Law and Order <i>[27] Findings of Fact, Conclusions of Law, and Order Regarding Defendant, Bodyspa Group, LLC's Motion for Summary Judgment</i>
02/04/2022	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Defendant Bodyspa Group LLC <i>[28] Notice of Entry of Order</i>
02/04/2022	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Defendant Bodyspa Group LLC <i>[29] Amended Notice of Entry of Order</i>
02/09/2022	 Memorandum of Costs and Disbursements Filed By: Defendant Bodyspa Group LLC <i>[30] Defendant's Verified Memorandum of Costs and Disbursements</i>
02/16/2022	 Recorders Transcript of Hearing <i>[31] Recorders Transcript of Hearing Re: 01/04/22</i>
03/01/2022	 Motion for Attorney Fees and Costs Filed By: Defendant Bodyspa Group LLC <i>[32] Defendant, Bodyspa Group, LLC dba Bodyspa's Motion for Attorney's Fees and Costs</i>

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-20-817158-C

03/01/2022	 Clerk's Notice of Hearing <i>[33] Notice of Hearing</i>
03/04/2022	 Notice of Appeal <i>[34] Notice of Appeal</i>
03/04/2022	 Case Appeal Statement <i>[35] Case Appeal Statement</i>
	<u>DISPOSITIONS</u>
02/03/2022	Summary Judgment (Judicial Officer: Peterson, Jessica K.) Debtors: Irene Psenicnik (Plaintiff) Creditors: Bodyspa Group LLC (Defendant) Judgment: 02/03/2022, Docketed: 02/04/2022
	<u>HEARINGS</u>
10/29/2020	 Mandatory Rule 16 Conference (9:00 AM) (Judicial Officer: Crockett, Jim) Matter Heard; Journal Entry Details: <i>Parties gave a thumbnail summary of their case. Colloquy regarding scheduling. Ms. Young stated they might need additional time if the Plaintiff is still treating her pinky injury. COURT ORDERED, dates from Judicial Case Conference Report shall be used due to the Plaintiff's age, Scheduling Order to issue from Chambers.;</i>
09/15/2021	 Status Check (9:00 AM) (Judicial Officer: Peterson, Jessica K.) Matter Heard; Journal Entry Details: <i>Colloquy regarding scheduling and parties voiced interest in attending a settlement conference. Court instructed counsel to contact Department 30 to schedule a settlement conference and submit a stipulation and order to continue the trial dates.;</i>
01/04/2022	Motion for Summary Judgment (8:00 AM) (Judicial Officer: Peterson, Jessica K.) <i>[19] Defendant Bodyspa Group, LLC dba Bodyspa's Motion for Summary Judgment</i>
01/06/2022	CANCELED Pre Trial Conference (8:00 AM) (Judicial Officer: Peterson, Jessica K.) <i>Vacated</i>
02/01/2022	CANCELED Motion in Limine (10:00 AM) (Judicial Officer: Peterson, Jessica K.) <i>Vacated</i> <i>[22] Defendant, Bodyspa Group, LLC dba Bodyspa's Motion in Limine to Exclude the Testimony and Opinions of Plaintiff's Expert, Adam Hjorth</i>
02/02/2022	CANCELED Status Check (3:00 AM) (Judicial Officer: Peterson, Jessica K.) <i>Vacated</i> STATUS CHECK: FILED ORDER
02/03/2022	CANCELED Calendar Call (9:30 AM) (Judicial Officer: Crockett, Jim) <i>Vacated</i>
02/07/2022	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Crockett, Jim) <i>Vacated</i>
04/05/2022	Motion for Attorney Fees and Costs (10:00 AM) (Judicial Officer: Peterson, Jessica K.) Events: 03/01/2022 Motion for Attorney Fees and Costs <i>Defendant, Bodyspa Group, LLC dba Bodyspa's Motion for Attorney's Fees and Costs</i>
DATE	FINANCIAL INFORMATION

| **Defendant** Bodyspa Group LLC

CASE SUMMARY

CASE NO. A-20-817158-C

Total Charges	423.00
Total Payments and Credits	423.00
Balance Due as of 3/8/2022	0.00

Plaintiff Psenicnik, Irene

Total Charges	294.00
Total Payments and Credits	294.00
Balance Due as of 3/8/2022	0.00

DISTRICT COURT CIVIL COVER SHEET CASE NO: A-20-817158-C
 County, Nevada
 Department 24

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

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

Plaintiff(s) (name/address/phone): <p style="text-align: center;">IRENE PSENICNIK</p>	Defendant(s) (name/address/phone): <p style="text-align: center;">BODYSPA GROUP, LLC dba BODYSPA</p>
Attorney (name/address/phone): <p style="text-align: center;">Alison M. Brasier Esq. 2630 S. Jones Blvd. Las Vegas, Nevada 89146 (702) 628-9888</p>	Attorney (name/address/phone):

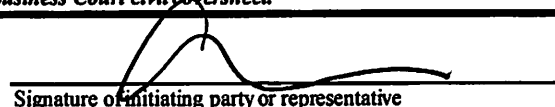
II. Nature of Controversy (please select the one most applicable filing type below)

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 checked="" 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 type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate <i>(select case type and estate value)</i> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate 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.

6/25/2020
 Date


 Signature of initiating party or representative

See other side for family-related case filings.

FFCO
LOREN S. YOUNG, ESQ.
Nevada Bar No. 7567
KARISSA K. MACK, ESQ.
Nevada Bar No. 12331
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kmack@lgclawoffice.com

Attorneys for Defendant,
BODYSPA GROUP, LLC dba BODYSPA

DISTRICT COURT
CLARK COUNTY, NEVADA

IRENE PSENICNIK,

Plaintiff,

v.

BODYSPA GROUP, LLC dba BODYSPA;
DOES 1-20 and ROE BUSINESS ENTITIES 1-
20, inclusive,

Defendants.

CASE NO.: A-20-817158-C

DEPT. NO.: 8

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER REGARDING
DEFENDANT, BODYSPA GROUP, LLC'S
MOTION FOR SUMMARY JUDGMENT**

Defendant, BODYSPA GROUP, LLC dba BODYSPA's (hereinafter referred to as "BODYSPA") Motion for Summary Judgment came up for hearing on January 4, 2022 at 8:00 a.m., before Department 8, with the Honorable Judge Jessica K. Peterson presiding over the matter;

Defendant, BODYSPA, appearing by and through its counsel of record, Karissa K. Mack, Esq. of Lincoln, Gustafson & Cercos, LLP;

Plaintiff, IRENE PSENICNIK (hereinafter referred to as "PLAINTIFF"), appearing by and through her counsel of record, Charles S. Jackson, Esq., of Hicks & Brasier, PLLC;

Having reviewed the papers and pleadings on file herein, and having heard oral arguments of the parties, this Court makes the following Findings of Fact and Conclusions of Law and Orders as follows:

1 **FINDINGS OF FACT**

2 1. The case involved allegations of personal injuries stemming from an alleged slip and
3 fall incident that occurred within the BODYSPA on November 20, 2019 as Plaintiff was exiting the
4 facility following her appointment.

5 2. Plaintiff did not see any liquid or other substances on the floor prior to her fall.

6 3. There is no evidence of any liquid or other substance having been on the floor near
7 the fall.

8 4. Plaintiff cannot identify and does not know the specific defect, hazard, or other
9 condition that caused her fall.

10 5. Plaintiff does not recall any dampness/wetness on her clothes or body following the
11 fall.

12 6. Discovery is closed.

13 7. On November 29, 2021, BODYSPA filed a Motion for Summary Judgment.

14 8. On December 13, 2021, PLAINTIFF filed an Opposition.

15 9. On December 28, 2021, BODYSPA filed a Reply in Support of its Motion.

16 **CONCLUSIONS OF LAW**

17 1. Nevada law provides that summary judgment is appropriate if “the pleadings,
18 depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any,
19 show that there is not genuine issue of material fact and the moving party is entitled to judgment as a
20 matter of law.” NRCp 56(c); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731 (2005).

21 2. A genuine issue of material fact is one where “the evidence is such that a rational trier
22 of fact could return a verdict for the non-moving party. *Wood*, 121 Nev. at 731.

23 3. A moving party who bears the burden of proof must present evidence that would
24 entitle it to judgment as a matter of law in the absence of contrary evidence. On the other hand, a
25 moving party who does not bear the burden of proof, need only point out that there is an absence of
26 evidence to support the nonmoving party’s case. *Cuzze v. Univ. & Comm. College Sys. of Nevada*,
27 123 Nev. 598, 603 (2007); *Celotex Corp. v. Catrett*, 477 U.S. 317, 323, 106 S. Ct. 2548, 2552-2553
28 (1986).

1 4. The failure to show a fact essential to one element, however, “necessarily renders all
2 other facts immaterial.” *Celotex*, 477 U.S. at 323. Additionally, “[t]he mere existence of a scintilla of
3 evidence in support of the plaintiff’s position will be insufficient.” *United States v. \$133,420.00 in*
4 *U.S. Currency*, 672 F.3d 629, 638 (9th Cir. 2012)(quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S.
5 242, 252, 106 S.Ct. 2505 (1986)).

6 5. Summary judgment should be entered against a party who, after adequate time for
7 discovery, fails to make a showing sufficient to establish the existence of an essential element on
8 which the party will bear the burden of persuasion at trial. *Wood*, 121 Nev. at 317; *Bulbman, Inc. v.*
9 *Nevada Bell*, 108 Nev. 105, 112 (1992).

10 6. An “owner or occupant of property is not an insurer of the safety of a person on the
11 premises, and in the absence of negligence, no liability lies.” *Sprague v. Lucky Stores, Inc.*, 109 Nev.
12 247, 849 P.2d 320, 322 (Nev. 1993). The fact that an accident occurs on the premises does not of
13 itself establish negligence. *Id.*

14 7. Expounding on the legal duties of businesses to protect customers from slips and falls,
15 the Nevada Supreme Court stated the following:

16 [A] business owes its patrons a duty to keep the premises in a reasonably safe
17 condition for use. Where a foreign substance on the floor causes a patron to
18 slip and fall, and the business owner or one of its agents caused the substance
19 to be on the floor, liability will lie, as a foreign substance on the floor is
20 usually not consistent with the standard of ordinary care. Where the foreign
21 substance is the result of the actions of persons other than the business or its
employees, liability will lie only if the business had actual or constructive
notice of the condition and failed to remedy it. *Sprague*, 849 P.2d at 322-23
(Nev. 1993)(internal citations omitted).

22 8. A business owes its patrons a duty to keep the premises in a reasonably safe condition
23 for use. When a hazard is the fault of the defendant, or his agents, notice is imputed and liability
24 attached. *Wagon Wheel v. Mavrogan*, 369 P.2d 688 (Nev. 1962). “On the other hand, if the presence
25 of the foreign substance was due to the acts of persons other than agents or employees of the
26 defendant, liability may be found only on proof that the defendant had either actual or constructive
27 notice thereof.” *Eldorado Club, Inc. v. Graff*, 377 P.2d 174, 175 (Nev. 1962). “[W]ithout notice of
28 the hazard, either actual or constructive, defendant did not have a duty to plaintiff”; and, “in the

1 absence of a duty, there is no negligence as a matter of law". *Mills v. Wal-Mart Stores, Inc.*, 2017
2 U.S. Dist. LEXIS 148040 *11 (Dist. Nev. Sept. 13, 2017).

3 9. Without some proof of negligence, an action cannot be maintained, and must be
4 dismissed. *DeBoer v. Sr. Bridges of Sparks*, 128 Nev. 406, 282 P.3d 727, 732 (2012).

5 10. Proof of negligence cannot be left to mere speculation or conjecture. (*See Rickard v.*
6 *Reno*, 71 Nev. 266, 272, 288 P. 2d 209 (1955)).

7 11. In this case, PLAINTIFF did not provide evidence to support that first, there was any
8 liquid or other substance on the ground, and, second, that that substance was in fact the cause of the
9 fall.

10 Accordingly, and based upon the forgoing, **IT IS HEREBY ORDERED, ADJUDGED**
11 **AND DECREED** that BODYSPA's Motion for Summary Judgment is GRANTED.

12
13 Dated this 3rd day of February, 2022

14 
15 DISTRICT COURT JUDGE

16 Submitted by:

17 **LINCOLN, GUSTAFSON & CERCOS, LLP**

DOA 21A 9A0D D5ED
Jessica K. Peterson
District Court Judge

18 /s/ Karissa K. Mack

LOREN S. YOUNG, ESQ.

Nevada Bar No. 7567

KARISSA K. MACK, ESQ.

Nevada Bar No. 12331

3960 Howard Hughes Parkway, Suite 200

Las Vegas, Nevada 89169

Attorneys for Defendant, BODYSPA GROUP, LLC dba BODYSPA

22 Approved by:

23 **HICKS & BRASIER, PLLC**

24 /s/ No Response Received

ALISON M. BRASIER, ESQ.

Nevada Bar No. 10522

CHARLES S. JACKSON, ESQ.

Nevada Bar No. 13158

2630 S. Jones Blvd.

Las Vegas, Nevada 89146

Attorneys for Plaintiff, IRENE PSENICNIK

Aimee Kaderabek

From: Karissa Mack
Sent: Tuesday, January 18, 2022 1:22 PM
To: Charles Jackson
Cc: Aimee Kaderabek; Mary Eagar
Subject: Psenicnik
Attachments: 20220118_FFCL_BodySpa MSJ.kkm.pdf

Mr. Jackson:

Attached is the proposed Findings of Fact and Conclusions of Law related to BodySpa's Motion for Summary Judgment. I apologize for not getting this to you sooner (I was out the majority of last week and the week before ill along with my family).

Please confirm if we may affix your electronic signature to this document?

Thank you,

Karissa K. Mack, Esq.

Partner - Nevada

LINCOLN, GUSTAFSON & CERCOS LLP

Experience. Integrity. Results.

California Nevada Arizona

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Cc: Aimee Kaderabek; Mary Eagar
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Partner - Nevada

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Legal Assistant to

Karissa K. Mack, Esq. – Partner

Mary A. Huggins, Esq. - Associate

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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Irene Psenicnik, Plaintiff(s)

CASE NO: A-20-817158-C

7 vs.

DEPT. NO. Department 8

8 Bodyspa Group LLC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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13 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
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mary@lvattorneys.com

18 Charles Jackson

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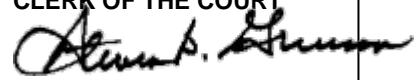
20 Michelle McCracken

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21 Karissa Mack

kmack@lgclawoffice.com

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1 **NEOJ**
2 **LOREN S. YOUNG, ESQ.**
3 Nevada Bar No. 7567
4 **KARISSA K. MACK, ESQ.**
5 Nevada Bar No. 12331
6 **LINCOLN, GUSTAFSON & CERCOS, LLP**
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9 Telephone: (702) 257-1997
10 Facsimile: (702) 257-2203
11 lyoung@lgclawoffice.com
12 kmack@lgclawoffice.com
13 Attorneys for Defendant,
14 **BODYSPA GROUP, LLC dba BODYSPA**

9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 IRENE PSENICNIK,
12
13 Plaintiff,

14 v.

15 **BODYSPA GROUP, LLC dba BODYSPA;**
16 **DOES 1-20 and ROE BUSINESS ENTITIES 1-**
17 **20, inclusive,**

Defendants.

CASE NO.: A-20-817158-C

DEPT. NO.: 8

**NOTICE OF ENTRY OF
STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES
(First Request)**

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

19 YOU AND EACH OF YOU will please take notice that a Findings of Fact, Conclusions of
20 Law, and Order Regarding Defendant, Bodyspa Group, LLC's Motion for Summary Judgment was
21 entered on the 3rd day of February, 2022; a true and correct copy is attached hereto.

22 DATED 4th day of February, 2022.

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24 /s/ Karissa K. Mack

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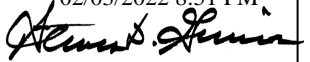
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27 Attorneys for Defendant,

BODYSPA GROUP, LLC dba BODYSPA


CLERK OF THE COURT

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kmack@lgclawoffice.com

Attorneys for Defendant,
BODYSPA GROUP, LLC dba BODYSPA

DISTRICT COURT
CLARK COUNTY, NEVADA

IRENE PSENICNIK,

Plaintiff,

v.

BODYSPA GROUP, LLC dba BODYSPA;
DOES 1-20 and ROE BUSINESS ENTITIES 1-
20, inclusive,

Defendants.

CASE NO.: A-20-817158-C

DEPT. NO.: 8

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER REGARDING
DEFENDANT, BODYSPA GROUP, LLC'S
MOTION FOR SUMMARY JUDGMENT**

Defendant, BODYSPA GROUP, LLC dba BODYSPA's (hereinafter referred to as "BODYSPA") Motion for Summary Judgment came up for hearing on January 4, 2022 at 8:00 a.m., before Department 8, with the Honorable Judge Jessica K. Peterson presiding over the matter;

Defendant, BODYSPA, appearing by and through its counsel of record, Karissa K. Mack, Esq. of Lincoln, Gustafson & Cercos, LLP;

Plaintiff, IRENE PSENICNIK (hereinafter referred to as "PLAINTIFF"), appearing by and through her counsel of record, Charles S. Jackson, Esq., of Hicks & Brasier, PLLC;

Having reviewed the papers and pleadings on file herein, and having heard oral arguments of the parties, this Court makes the following Findings of Fact and Conclusions of Law and Orders as follows:

1 **FINDINGS OF FACT**

2 1. The case involved allegations of personal injuries stemming from an alleged slip and
3 fall incident that occurred within the BODYSPA on November 20, 2019 as Plaintiff was exiting the
4 facility following her appointment.

5 2. Plaintiff did not see any liquid or other substances on the floor prior to her fall.

6 3. There is no evidence of any liquid or other substance having been on the floor near
7 the fall.

8 4. Plaintiff cannot identify and does not know the specific defect, hazard, or other
9 condition that caused her fall.

10 5. Plaintiff does not recall any dampness/wetness on her clothes or body following the
11 fall.

12 6. Discovery is closed.

13 7. On November 29, 2021, BODYSPA filed a Motion for Summary Judgment.

14 8. On December 13, 2021, PLAINTIFF filed an Opposition.

15 9. On December 28, 2021, BODYSPA filed a Reply in Support of its Motion.

16 **CONCLUSIONS OF LAW**

17 1. Nevada law provides that summary judgment is appropriate if “the pleadings,
18 depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any,
19 show that there is not genuine issue of material fact and the moving party is entitled to judgment as a
20 matter of law.” NRCp 56(c); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731 (2005).

21 2. A genuine issue of material fact is one where “the evidence is such that a rational trier
22 of fact could return a verdict for the non-moving party. *Wood*, 121 Nev. at 731.

23 3. A moving party who bears the burden of proof must present evidence that would
24 entitle it to judgment as a matter of law in the absence of contrary evidence. On the other hand, a
25 moving party who does not bear the burden of proof, need only point out that there is an absence of
26 evidence to support the nonmoving party’s case. *Cuzze v. Univ. & Comm. College Sys. of Nevada*,
27 123 Nev. 598, 603 (2007); *Celotex Corp. v. Catrett*, 477 U.S. 317, 323, 106 S. Ct. 2548, 2552-2553
28 (1986).

1 4. The failure to show a fact essential to one element, however, “necessarily renders all
2 other facts immaterial.” *Celotex*, 477 U.S. at 323. Additionally, “[t]he mere existence of a scintilla of
3 evidence in support of the plaintiff’s position will be insufficient.” *United States v. \$133,420.00 in*
4 *U.S. Currency*, 672 F.3d 629, 638 (9th Cir. 2012)(quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S.
5 242, 252, 106 S.Ct. 2505 (1986)).

6 5. Summary judgment should be entered against a party who, after adequate time for
7 discovery, fails to make a showing sufficient to establish the existence of an essential element on
8 which the party will bear the burden of persuasion at trial. *Wood*, 121 Nev. at 317; *Bulbman, Inc. v.*
9 *Nevada Bell*, 108 Nev. 105, 112 (1992).

10 6. An “owner or occupant of property is not an insurer of the safety of a person on the
11 premises, and in the absence of negligence, no liability lies.” *Sprague v. Lucky Stores, Inc.*, 109 Nev.
12 247, 849 P.2d 320, 322 (Nev. 1993). The fact that an accident occurs on the premises does not of
13 itself establish negligence. *Id.*

14 7. Expounding on the legal duties of businesses to protect customers from slips and falls,
15 the Nevada Supreme Court stated the following:

16 [A] business owes its patrons a duty to keep the premises in a reasonably safe
17 condition for use. Where a foreign substance on the floor causes a patron to
18 slip and fall, and the business owner or one of its agents caused the substance
19 to be on the floor, liability will lie, as a foreign substance on the floor is
20 usually not consistent with the standard of ordinary care. Where the foreign
21 substance is the result of the actions of persons other than the business or its
employees, liability will lie only if the business had actual or constructive
notice of the condition and failed to remedy it. *Sprague*, 849 P.2d at 322-23
(Nev. 1993)(internal citations omitted).

22 8. A business owes its patrons a duty to keep the premises in a reasonably safe condition
23 for use. When a hazard is the fault of the defendant, or his agents, notice is imputed and liability
24 attached. *Wagon Wheel v. Mavrogan*, 369 P.2d 688 (Nev. 1962). “On the other hand, if the presence
25 of the foreign substance was due to the acts of persons other than agents or employees of the
26 defendant, liability may be found only on proof that the defendant had either actual or constructive
27 notice thereof.” *Eldorado Club, Inc. v. Graff*, 377 P.2d 174, 175 (Nev. 1962). “[W]ithout notice of
28 the hazard, either actual or constructive, defendant did not have a duty to plaintiff”; and, “in the

1 absence of a duty, there is no negligence as a matter of law”. *Mills v. Wal-Mart Stores, Inc.*, 2017
2 U.S. Dist. LEXIS 148040 *11 (Dist. Nev. Sept. 13, 2017).

3 9. Without some proof of negligence, an action cannot be maintained, and must be
4 dismissed. *DeBoer v. Sr. Bridges of Sparks*, 128 Nev. 406, 282 P.3d 727, 732 (2012).

5 10. Proof of negligence cannot be left to mere speculation or conjecture. (*See Rickard v.*
6 *Reno*, 71 Nev. 266, 272, 288 P. 2d 209 (1955)).

7 11. In this case, PLAINTIFF did not provide evidence to support that first, there was any
8 liquid or other substance on the ground, and, second, that that substance was in fact the cause of the
9 fall.

10 Accordingly, and based upon the forgoing, **IT IS HEREBY ORDERED, ADJUDGED**
11 **AND DECREED** that BODYSPA’s Motion for Summary Judgment is GRANTED.

12
13 Dated this 3rd day of February, 2022

14 
15 DISTRICT COURT JUDGE

16 Submitted by:

17 **LINCOLN, GUSTAFSON & CERCOS, LLP**

DOA 21A 9A0D D5ED
Jessica K. Peterson
District Court Judge

18 /s/ Karissa K. Mack

LOREN S. YOUNG, ESQ.

Nevada Bar No. 7567

KARISSA K. MACK, ESQ.

Nevada Bar No. 12331

3960 Howard Hughes Parkway, Suite 200

Las Vegas, Nevada 89169

Attorneys for Defendant, BODYSPA GROUP, LLC dba BODYSPA

22 Approved by:

23 **HICKS & BRASIER, PLLC**

24 /s/ No Response Received

ALISON M. BRASIER, ESQ.

Nevada Bar No. 10522

CHARLES S. JACKSON, ESQ.

Nevada Bar No. 13158

2630 S. Jones Blvd.

Las Vegas, Nevada 89146

Attorneys for Plaintiff, IRENE PSENICNIK

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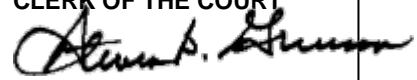
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3 **CERTIFICATE OF SERVICE**

4 I HEREBY CERTIFY that on the 4th day of February, 2022, I served a copy of the attached
5 **NOTICE OF ENTRY OF ORDER** via electronic service to all parties on the Odyssey E-Service
6 Master List as follows:

7 Alison M. Brasier, Esq.
8 Charles S. Jackson, Esq.
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10 2630 S. Jones Blvd.
11 Las Vegas, NV 89146
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cjackson@lvattorneys.com
Attorneys for Plaintiff

12 /s/ Aimee D. Kaderabek
13 Aimee D. Kaderabek, an employee
14 of the law offices of
15 Lincoln, Gustafson & Cercos, LLP
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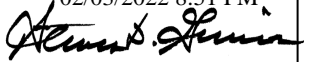
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Attorneys for Defendant,
BODYSPA GROUP, LLC dba BODYSPA

DISTRICT COURT
CLARK COUNTY, NEVADA

IRENE PSENICNIK,

Plaintiff,

v.

BODYSPA GROUP, LLC dba BODYSPA;
DOES 1-20 and ROE BUSINESS ENTITIES 1-
20, inclusive,

Defendants.

CASE NO.: A-20-817158-C

DEPT. NO.: 8

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER REGARDING
DEFENDANT, BODYSPA GROUP, LLC'S
MOTION FOR SUMMARY JUDGMENT**

Defendant, BODYSPA GROUP, LLC dba BODYSPA's (hereinafter referred to as "BODYSPA") Motion for Summary Judgment came up for hearing on January 4, 2022 at 8:00 a.m., before Department 8, with the Honorable Judge Jessica K. Peterson presiding over the matter;

Defendant, BODYSPA, appearing by and through its counsel of record, Karissa K. Mack, Esq. of Lincoln, Gustafson & Cercos, LLP;

Plaintiff, IRENE PSENICNIK (hereinafter referred to as "PLAINTIFF"), appearing by and through her counsel of record, Charles S. Jackson, Esq., of Hicks & Brasier, PLLC;

Having reviewed the papers and pleadings on file herein, and having heard oral arguments of the parties, this Court makes the following Findings of Fact and Conclusions of Law and Orders as follows:

1 **FINDINGS OF FACT**

2 1. The case involved allegations of personal injuries stemming from an alleged slip and
3 fall incident that occurred within the BODYSPA on November 20, 2019 as Plaintiff was exiting the
4 facility following her appointment.

5 2. Plaintiff did not see any liquid or other substances on the floor prior to her fall.

6 3. There is no evidence of any liquid or other substance having been on the floor near
7 the fall.

8 4. Plaintiff cannot identify and does not know the specific defect, hazard, or other
9 condition that caused her fall.

10 5. Plaintiff does not recall any dampness/wetness on her clothes or body following the
11 fall.

12 6. Discovery is closed.

13 7. On November 29, 2021, BODYSPA filed a Motion for Summary Judgment.

14 8. On December 13, 2021, PLAINTIFF filed an Opposition.

15 9. On December 28, 2021, BODYSPA filed a Reply in Support of its Motion.

16 **CONCLUSIONS OF LAW**

17 1. Nevada law provides that summary judgment is appropriate if “the pleadings,
18 depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any,
19 show that there is not genuine issue of material fact and the moving party is entitled to judgment as a
20 matter of law.” NRCp 56(c); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731 (2005).

21 2. A genuine issue of material fact is one where “the evidence is such that a rational trier
22 of fact could return a verdict for the non-moving party. *Wood*, 121 Nev. at 731.

23 3. A moving party who bears the burden of proof must present evidence that would
24 entitle it to judgment as a matter of law in the absence of contrary evidence. On the other hand, a
25 moving party who does not bear the burden of proof, need only point out that there is an absence of
26 evidence to support the nonmoving party’s case. *Cuzze v. Univ. & Comm. College Sys. of Nevada*,
27 123 Nev. 598, 603 (2007); *Celotex Corp. v. Catrett*, 477 U.S. 317, 323, 106 S. Ct. 2548, 2552-2553
28 (1986).

1 4. The failure to show a fact essential to one element, however, “necessarily renders all
2 other facts immaterial.” *Celotex*, 477 U.S. at 323. Additionally, “[t]he mere existence of a scintilla of
3 evidence in support of the plaintiff’s position will be insufficient.” *United States v. \$133,420.00 in*
4 *U.S. Currency*, 672 F.3d 629, 638 (9th Cir. 2012)(quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S.
5 242, 252, 106 S.Ct. 2505 (1986)).

6 5. Summary judgment should be entered against a party who, after adequate time for
7 discovery, fails to make a showing sufficient to establish the existence of an essential element on
8 which the party will bear the burden of persuasion at trial. *Wood*, 121 Nev. at 317; *Bulbman, Inc. v.*
9 *Nevada Bell*, 108 Nev. 105, 112 (1992).

10 6. An “owner or occupant of property is not an insurer of the safety of a person on the
11 premises, and in the absence of negligence, no liability lies.” *Sprague v. Lucky Stores, Inc.*, 109 Nev.
12 247, 849 P.2d 320, 322 (Nev. 1993). The fact that an accident occurs on the premises does not of
13 itself establish negligence. *Id.*

14 7. Expounding on the legal duties of businesses to protect customers from slips and falls,
15 the Nevada Supreme Court stated the following:

16 [A] business owes its patrons a duty to keep the premises in a reasonably safe
17 condition for use. Where a foreign substance on the floor causes a patron to
18 slip and fall, and the business owner or one of its agents caused the substance
19 to be on the floor, liability will lie, as a foreign substance on the floor is
20 usually not consistent with the standard of ordinary care. Where the foreign
21 substance is the result of the actions of persons other than the business or its
employees, liability will lie only if the business had actual or constructive
notice of the condition and failed to remedy it. *Sprague*, 849 P.2d at 322-23
(Nev. 1993)(internal citations omitted).

22 8. A business owes its patrons a duty to keep the premises in a reasonably safe condition
23 for use. When a hazard is the fault of the defendant, or his agents, notice is imputed and liability
24 attached. *Wagon Wheel v. Mavrogan*, 369 P.2d 688 (Nev. 1962). “On the other hand, if the presence
25 of the foreign substance was due to the acts of persons other than agents or employees of the
26 defendant, liability may be found only on proof that the defendant had either actual or constructive
27 notice thereof.” *Eldorado Club, Inc. v. Graff*, 377 P.2d 174, 175 (Nev. 1962). “[W]ithout notice of
28 the hazard, either actual or constructive, defendant did not have a duty to plaintiff”; and, “in the

1 absence of a duty, there is no negligence as a matter of law”. *Mills v. Wal-Mart Stores, Inc.*, 2017
2 U.S. Dist. LEXIS 148040 *11 (Dist. Nev. Sept. 13, 2017).

3 9. Without some proof of negligence, an action cannot be maintained, and must be
4 dismissed. *DeBoer v. Sr. Bridges of Sparks*, 128 Nev. 406, 282 P.3d 727, 732 (2012).

5 10. Proof of negligence cannot be left to mere speculation or conjecture. (*See Rickard v.*
6 *Reno*, 71 Nev. 266, 272, 288 P. 2d 209 (1955)).

7 11. In this case, PLAINTIFF did not provide evidence to support that first, there was any
8 liquid or other substance on the ground, and, second, that that substance was in fact the cause of the
9 fall.

10 Accordingly, and based upon the forgoing, **IT IS HEREBY ORDERED, ADJUDGED**
11 **AND DECREED** that BODYSPA’s Motion for Summary Judgment is GRANTED.

12
13 Dated this 3rd day of February, 2022

14 
15 DISTRICT COURT JUDGE

16 Submitted by:

17 **LINCOLN, GUSTAFSON & CERCOS, LLP**

DOA 21A 9A0D D5ED
Jessica K. Peterson
District Court Judge

18 /s/ Karissa K. Mack

LOREN S. YOUNG, ESQ.

Nevada Bar No. 7567

KARISSA K. MACK, ESQ.

Nevada Bar No. 12331

3960 Howard Hughes Parkway, Suite 200

Las Vegas, Nevada 89169

Attorneys for Defendant, BODYSPA GROUP, LLC dba BODYSPA

22 Approved by:

23 **HICKS & BRASIER, PLLC**

24 /s/ No Response Received

ALISON M. BRASIER, ESQ.

Nevada Bar No. 10522

CHARLES S. JACKSON, ESQ.

Nevada Bar No. 13158

2630 S. Jones Blvd.

Las Vegas, Nevada 89146

Attorneys for Plaintiff, IRENE PSENICNIK

Aimee Kaderabek

From: Karissa Mack
Sent: Tuesday, January 18, 2022 1:22 PM
To: Charles Jackson
Cc: Aimee Kaderabek; Mary Eagar
Subject: Psenicnik
Attachments: 20220118_FFCL_BodySpa MSJ.kkm.pdf

Mr. Jackson:

Attached is the proposed Findings of Fact and Conclusions of Law related to BodySpa's Motion for Summary Judgment. I apologize for not getting this to you sooner (I was out the majority of last week and the week before ill along with my family).

Please confirm if we may affix your electronic signature to this document?

Thank you,

Karissa K. Mack, Esq.

Partner - Nevada

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Aimee Kaderabek

From: Karissa Mack
Sent: Thursday, January 20, 2022 11:56 AM
To: Charles Jackson
Cc: Aimee Kaderabek; Mary Eagar
Subject: RE: Psenicnik

Just wanted to follow up and confirm if we have your approval to affix your electronic signature?

Thank you,

Karissa

From: Karissa Mack
Sent: Tuesday, January 18, 2022 1:22 PM
To: Charles Jackson <cjackson@lvattorneys.com>
Cc: Aimee Kaderabek <AKaderabek@lgclawoffice.com>; Mary Eagar <mary@lvattorneys.com>
Subject: Psenicnik

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Partner - Nevada

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Aimee Kaderabek

From: Aimee Kaderabek
Sent: Monday, January 24, 2022 9:30 AM
To: Karissa Mack; Charles Jackson
Cc: Mary Eagar
Subject: RE: Psenicnik
Attachments: 20220118_FFCL_BodySpa MSJ.kkm.pdf

Counsel,

Following up on the email below.

Please let us know if we have your approval to affix your e-signature to the attached.

Thank you! 😊

Aimee Kaderabek (*Pronouns: she/they*)

Legal Assistant to

Karissa K. Mack, Esq. – Partner

Mary A. Huggins, Esq. - Associate

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From: Karissa Mack <kmack@lgclawoffice.com>
Sent: Thursday, January 20, 2022 11:56 AM
To: Charles Jackson <cjackson@lvattorneys.com>
Cc: Aimee Kaderabek <AKaderabek@lgclawoffice.com>; Mary Eagar <mary@lvattorneys.com>
Subject: RE: Psenicnik

Just wanted to follow up and confirm if we have your approval to affix your electronic signature?

Thank you,

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Sent: Tuesday, January 18, 2022 1:22 PM
To: Charles Jackson <cjackson@lvattorneys.com>
Cc: Aimee Kaderabek <AKaderabek@lgclawoffice.com>; Mary Eagar <mary@lvattorneys.com>
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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Irene Psenicnik, Plaintiff(s)

CASE NO: A-20-817158-C

7 vs.

DEPT. NO. Department 8

8 Bodyspa Group LLC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 2/3/2022

16 Loren Young

lyoung@lgclawoffice.com

17 Mary Eagar

mary@lvattorneys.com

18 Charles Jackson

cjackson@lvattorneys.com

19 Aimee Kaderabek

akaderabek@lgclawoffice.com

20 Michelle McCracken

mmccracken@lgclawoffice.com

21 Karissa Mack

kmack@lgclawoffice.com

22
23
24
25
26
27
28

1 **Irene Psenicnik v. Bodyspa Group, LLC dba Bodyspa**
2 **Clark County Case No. A-20-817158-C**

3 **CERTIFICATE OF SERVICE**

4 I HEREBY CERTIFY that on the 4th day of February, 2022, I served a copy of the
5 attached **AMENDED NOTICE OF ENTRY OF ORDER** via electronic service to all parties on
6 the Odyssey E-Service Master List as follows:

7 Alison M. Brasier, Esq.
8 Charles S. Jackson, Esq.
9 HICKS & BRASIER, PLLC
10 2630 S. Jones Blvd.
11 Las Vegas, NV 89146
12 abrasier@lvattorneys.com
13 cjackson@lvattorneys.com
14 Attorneys for Plaintiff

12 */s/ Aimee D. Kaderabek*
13 Aimee D. Kaderabek, an employee
14 of the law offices of
15 Lincoln, Gustafson & Cercos, LLP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

October 29, 2020

A-20-817158-C Irene Psenicnik, Plaintiff(s)
vs.
Bodyspa Group LLC, Defendant(s)

**October 29, 2020 9:00 AM Mandatory Rule 16
Conference**

HEARD BY: Crockett, Jim **COURTROOM:** Phoenix Building 11th Floor
116

COURT CLERK: Rem Lord

RECORDER: Nancy Maldonado

REPORTER:

PARTIES

PRESENT: Rogers, Steven M Attorney
 Young, Loren Attorney

JOURNAL ENTRIES

- Parties gave a thumbnail summary of their case. Colloquy regarding scheduling. Ms. Young stated they might need additional time if the Plaintiff is still treating her pinky injury. COURT ORDERED, dates from Judicial Case Conference Report shall be used due to the Plaintiff's age, Scheduling Order to issue from Chambers.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

September 15, 2021

A-20-817158-C Irene Psenicnik, Plaintiff(s)
vs.
Bodyspa Group LLC, Defendant(s)

September 15, 2021 9:00 AM Status Check

HEARD BY: Peterson, Jessica K. **COURTROOM:** Phoenix Building 11th Floor
116

COURT CLERK: Rem Lord

RECORDER: Nancy Maldonado

REPORTER:

PARTIES

PRESENT: Jackson, Charles S Attorney
 Young, Loren Attorney

JOURNAL ENTRIES

- Colloquy regarding scheduling and parties voiced interest in attending a settlement conference. Court instructed counsel to contact Department 30 to schedule a settlement conference and submit a stipulation and order to continue the trial dates.



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

CHARLES S. JACKSON, ESQ.
2630 S. JONES BLVD.
LAS VEGAS, NV 89146

DATE: March 8, 2022
CASE: A-20-817158-C

RE CASE: IRENE PSENICNIK vs. BODYSPA GROUP, LLC dba BODYSPA

NOTICE OF APPEAL FILED: March 4, 2022

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

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

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

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

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

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

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

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER REGARDING DEFENDANT, BODYSPA GROUP LLC'S MOTION FOR SUMMARY JUDGMENT; NOTICE OF ENTRY OF STIPULATION AND ORDER TO EXTEND DISCOVERY DEADLINES (FIRST REQUEST); AMENDED NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

IRENE PSENICNIK,

Plaintiff(s),

vs.

BODYSPA GROUP, LLC dba BODYSPA,

Defendant(s),

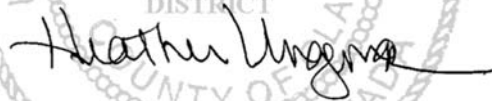
Case No: A-20-817158-C

Dept No: VIII

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 8 day of March 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

