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MORRIS LAW CENTER
SARAH A. MORRIS, ESQ.
Nevada Bar No. 8461
sarah@morrislawcenter.com
TIMOTHY A. WISEMAN, ESQ.
Nevada Bar No. 13786
tim@morrislawcenter.com
5450 W. Sahara Ave., Suite 330
Las Vegas, Nevada 89146
Telephone: (702) 850-7798
Facsimile: (702) 850-7998
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

MARIA MCMILLIN, an individual,

Plaintiff,

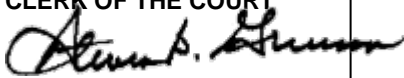
vs.

ROBERT THOMPSON; Individually and as
Franchisee; TYRON HENDERSON,
Individually; DOES I-XX, inclusive; and ROE
CORPORATIONS I-XX, inclusive

Defendants.

Case No.: A-19-787989-C
Dept. No.: 1

Electronically Filed
7/18/2022 12:08 PM
Steven D. Grierson
CLERK OF THE COURT



Electronically Filed
Jul 25 2022 11:15 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOTICE OF APPEAL

...
...
...

1 NOTICE is hereby given that the Plaintiff, Maria McMillan, appeal to the
2 Supreme Court of Nevada from the District Court's ORDER GRANTING IN PART
3 AND DENYING IN PART PLAINTIFF'S MOTION TO ALTER OR AMEND
4 JUDGMENT PURSUANT TO NRCP 59 and all orders merged into that order.¹

5
6 Dated this 18th day of July, 2022.

7 MORRIS LAW CENTER

8
9 By: Timothy A. Wiseman
10 Sarah A. Morris, Esq.
11 Nevada Bar No. 8461
12 Timothy A. Wiseman
13 Nevada Bar No. 13786
14 *Attorneys for Plaintiff*
15
16
17
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26 ¹ This expressly includes the Order Granting Summary Judgment filed on November 23, 2021.

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **NOTICE OF APPEAL** by the method indicated:

BY U.S. MAIL: by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.

BY PERSONAL DELIVERY: by causing personal delivery via messenger service of the document(s) listed above to the person(s) at the address(es) set forth below.

 X
BY ELECTRONIC SUBMISSION: submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

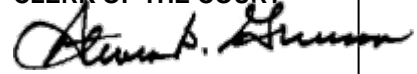
and addressed to the following:

Steve T. Jaffe, Esq.
Cindie D. Hernandez, Esq.
HALL JAFFE & CLAYTON, LLP
7425 Park Run Drive
Las Vegas, NV 89128
Attorney for Defendant

Dated this 18th day of July, 2022.



An employee of Morris Law Center



MORRIS LAW CENTER
SARAH A. MORRIS, ESQ.
Nevada Bar No. 8461
sarah@morrislawcenter.com
TIMOTHY A. WISEMAN, ESQ.
Nevada Bar No. 13786
tim@morrislawcenter.com
5450 W. Sahara Ave. Suite 330
Las Vegas, NV 89146
Telephone: (702) 850-7798
Facsimile: (702) 850-7998
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

MARIA MCMILLIN, an individual

Plaintiff,

vs.

ROBERT THOMPSON; Individually and as
Franchisee; TYRON HENDERSON,
Individually; DOES I-XX, inclusive; and
ROE CORPORATIONS I-XX, inclusive,

Defendants.

AND ALL RELATED MATTERS.

Case No.: A-19-787989-C

Dept. No.: 1

CASE APPEAL STATEMENT

1. APPELLANT FILING THIS CASE APPEAL STATEMENT:

Maria McMillin

2. JUDGE ISSUING THE JUDGMENT OR ORDER APPEALED FROM:

The Honorable Judge Bitia Yeager

...

...

1 **3. ALL PARTIES TO THE PROCEEDING IN THE DISTRICT COURT:**

2 Plaintiff: Maria McMillin

3 Defendant: Robert Thompson

4 Defendant: Tyron[e] Henderson

5 **4. ALL PARTIES TO THE APPEAL:**

6 Appellant: Maria McMillan

7 Respondent: Robert Thompson

8 Respondent: Tyron[e] Henderson

9 **5. NAME OF COUNSEL AND WHOM THEY REPRESENT:**

10 **Counsel for Appellant; Maria McMillin.:**

11 **MORRIS LAW CENTER**

12 SARAH A. MORRIS, ESQ.

13 Nevada Bar No. 8461

14 sarah@morrislawcenter.com

15 TIMOTHY A. WISEMAN, ESQ.

16 Nevada Bar No. 13786

17 tim@morrislawcenter.com

18 5450 W. Sahara Ave. Suite 330

19 Las Vegas, NV 89146

20 Telephone: (702) 850-7798

21 Facsimile: (702) 850-7998

22 **MAINOR WIRTH, LLP**

23 BRADLEY S. MAINOR, ESQ.

24 Nevada Bar No. 7434

25 brad@mwinjury.com

26 ASHLEY MARIE BLACKBURN, ESQ.

... Nevada Bar No. 14712

... ash@mwinjury.com

6018 S. Fort Apache, Ste 150

Las Vegas, Nevada 89148

Telephone: (702) 464-5000

Facsimile: (702) 463-4440

Counsel for Respondents; Robert Thompson and Tyron[e] Henderson

HALL JEFFE CLAYTON

STEVE T. JAFFE, ESQ.

Nevada Bar No. 7035

sjaaffe@lawhjc.com

CINDIE D. HERNANDEZ, ESQ

Nevada Bar No. 7218

chernandez@lawhjc.com

7425 Peak Drive

Las Vegas, Nevada 89128

Telephone: (702) 316-4111

Fascimile: (702) 316-4114

Respondents were represented in the district court by the above listed attorneys, and upon information and belief, will also be represented by the same attorneys on appeal.

6. WHETHER APPELLANT WAS REPRESENTED BY APPOINTED OR RETAINED COUNSEL IN THE DISTRICT COURT:

Appellant was represented by retained counsel, Mainor Wirth, in the Eighth Judicial District Court Action.

7. RETAINED COUNSEL ON APPEAL:

Appellant is represented by retained counsel, Morris Law Center and Mainor Wirth, on appeal.

8. WHETHER APPELLANT WAS GRANTED LEAVE TO PROCEED IN FORMA PAUPERIS, AND THE DATE OF ENTRY OF THE DISTRICT COURT ORDER GRANTING SUCH LEAVE:

Appellant has not moved for leave to file an appeal in forma pauperis.

9. INDICATE THE DATE THE PROCEEDINGS COMMENCED IN THE DISTRICT COURT:

The Complaint in this matter was filed with the Eighth Judicial District Court on January 23, 2019.

This action focuses on claims of personal injury caused by negligence or negligent hiring, training, and supervision. Plaintiff received serious injuries after Defendant Henderson, an employee of the establishment, collided with her while she was shopping.

11. PREVIOUS APPEAL OR WRIT PROCEEDING:

12. CHILD CUSTODY:

13. POSSIBILITY OF SETTLEMENT:

Dated this 18th day of July, 2022.

By: Timothy A. Wiseman
Sarah A. Morris, Esq.
Nevada Bar No. 8461
Timothy A. Wiseman, Esq.
Nevada Bar No. 13786
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **CASE APPEAL STATEMENT** by the method indicated:

BY FAX: by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document(s).

BY E-MAIL: by transmitting via e-mail the document(s) listed above to the email addresses set forth below and/or included on the Court's Service List for the above-referenced case.

BY U.S. MAIL: by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.

BY OVERNIGHT MAIL: by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.

BY PERSONAL DELIVERY: by causing personal delivery via messenger service of the document(s) listed above to the person(s) at the address(es) set forth below.

 X
BY ELECTRONIC SUBMISSION: submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

and addressed to the following:

Steve T. Jaffe, Esq.
Cindie D. Hernandez, Esq.
HALL JAFFE & CLAYTON, LLP
7425 Park Run Drive
Las Vegas, NV 89128
Attorney for Defendant

Dated this 18th day of July, 2022.



An employee of Morris Law Center

CASE SUMMARY
CASE SUMMARY
CASE NO. A-19-787989-C

Maria McMillin, Plaintiff(s)
vs.
7-Eleven, Inc, Defendant(s)

§
§
§
§
§
§

Location: **Department 1**
Judicial Officer: **Yeager, Bita**
Filed on: **01/23/2019**
Case Number History:
Cross-Reference Case **A787989**
Number:
Supreme Court No.: **84015**

CASE INFORMATION

Statistical Closures

11/23/2021 Summary Judgment

Case Type: **Negligence - Premises Liability**

Case Flags: **Appealed to Supreme Court**
Jury Demand Filed
Arbitration Exemption Granted

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-19-787989-C
Court Department 1
Date Assigned 01/04/2021
Judicial Officer Yeager, Bita





PARTY INFORMATION

| | | |
|------------------|---|---|
| | | <i>Lead Attorneys</i> |
| Plaintiff | McMillin, Maria | Mainor, Bradley S. <i>Retained</i> 702-464-5000(W) |
| Defendant | 7-Eleven, Inc | Roose, Melissa <i>Retained</i> 702-872-5555(W) |
| | Henderson, Tyron Removed: 06/24/2022 Dismissed | |
| | Thompson, Robert | Jaffe, Steven T. <i>Retained</i> 7023164111(W) |

















DATE

EVENTS & ORDERS OF THE COURT













INDEX

| | | |
|------------|--|--|
| 01/23/2019 |  Complaint Filed By: Plaintiff McMillin, Maria [1] Plaintiff's Complaint and Demand for Jury Trial | |
| 01/23/2019 |  Initial Appearance Fee Disclosure Filed By: Plaintiff McMillin, Maria [2] Initial Appearance Fee Disclosure (NRS Chapter 19) | |
| 02/20/2019 |  Summons Electronically Issued - Service Pending Party: Plaintiff McMillin, Maria [3] Summons | |
| 03/13/2019 |  Affidavit of Service [4] Affidavit of Service Upon Defendant 7-Eleven | |












CASE SUMMARY
CASE SUMMARY
CASE NO. A-19-787989-C

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| 03/19/2019 |  Answer to Complaint <i>[5] 7-Eleven's Answer to Plaintiff's Complaint</i> |
| 03/19/2019 |  Initial Appearance Fee Disclosure <i>[6] Initial Appearance Fee Disclosure</i> |
| 03/19/2019 |  Demand for Jury Trial <i>[7] Demand for Jury Trial</i> |
| 03/19/2019 |  Disclosure Statement <i>[8] 7-Eleven's Disclosure Statement</i> |
| 03/21/2019 |  Acceptance of Service <i>[9] 7-Eleven's AMENDED 7.1 Disclosure Statement</i> |
| 04/08/2019 |  Request for Exemption From Arbitration Filed by: Plaintiff McMillin, Maria <i>[10] Petition for Exemption From Arbitration</i> |
| 04/22/2019 |  Commissioners Decision on Request for Exemption - Granted <i>[11] Commissioner's Decision on Request for Exemption - GRANTED</i> |
| 07/12/2019 |  Stipulation and Order <i>[12] Stipulation and Order for Confidentiality and Protective Order</i> |
| 07/12/2019 |  Notice of Entry of Order <i>[13] Notice of Entry of Order</i> |
| 08/13/2019 |  Joint Case Conference Report Filed By: Plaintiff McMillin, Maria <i>[14] Joint Case Conference Report</i> |
| 09/03/2019 |  Order Scheduling Status Check <i>[15] Order Scheduling Status Check: For Mandatory Confernce Pursuant to Rule 16</i> |
| 09/18/2019 |  Order Scheduling Status Check <i>[16] Amended Order Scheduling Status Check: For Mandatory Pretrial Conference Pursuant to Rule 16</i> |
| 10/08/2019 |  Mandatory Rule 16 Conference (1:00 PM) (Judicial Officer: Bonaventure, Joseph T.) <i>Parties Present: Attorney Roose, Melissa</i> <i> Attorney Ganier, Ash M.</i> |
| 10/10/2019 |  Order <i>[17] Scheduling Order and Order Setting Civil Jury Trial, Pre-Trial and Calendar Call Scheduling Order</i> |
| 10/14/2019 |  Amended Scheduling Order <i>[18] Amended Scheduling Order and Order Setting Civil Jury Trial, Pre-Trial and Calendar Call Scheduling Order</i> |
| 12/13/2019 |  Stipulation and Order |













CASE SUMMARY
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CASE NO. A-19-787989-C

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| | Filed by: Plaintiff McMillin, Maria <i>[19] (12/13/19 DO NOT ENTER USJR - PENDING DEPT ANSWER) STIPULATION AND ORDER TO ALLOW PLAINTIFF TO AMEND COMPLAINT</i> |
| 12/13/2019 |  Notice of Entry of Order Filed By: Plaintiff McMillin, Maria <i>[20] NOTICE OF ENTRY OF STIPULATION AND ORDER TO ALLOW PLAINTIFF TO AMEND COMPLAINT</i> |
| 01/14/2020 |  Amended Complaint Filed By: Plaintiff McMillin, Maria <i>[21] PLAINTIFF S AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL</i> |
| 01/23/2020 |  Summons Electronically Issued - Service Pending Party: Plaintiff McMillin, Maria <i>[22] SUMMONS</i> |
| 01/23/2020 |  Summons Electronically Issued - Service Pending Party: Plaintiff McMillin, Maria <i>[23] SUMMONS</i> |
| 03/16/2020 |  Ex Parte Motion Filed By: Plaintiff McMillin, Maria <i>[24] Plaintiffs Ex Parte Motion For Stay Of Discovery Deadlines Pending Service Of Process On Newly Named Defendants And Supplemental Early Case Conference</i> |
| 03/16/2020 |  Affidavit of Service Filed By: Plaintiff McMillin, Maria <i>[25] Affidavit of Service Upon Defendant Tyron Henderson</i> |
| 03/16/2020 |  Affidavit of Service Filed By: Plaintiff McMillin, Maria <i>[26] Affidavit of Service upon Defendant Robert Thompson</i> |
| 03/17/2020 |  Motion For Stay (9:00 AM) (Judicial Officer: Kephart, William D.) <i>Plaintiffs Ex Parte motion for stay of discovery deadlines pending service of process of newly named defendants and supplemental early case conference</i> <i>Parties Present: Attorney Ganier, Ash M.</i> |
| 04/06/2020 |  Answer to Amended Complaint Filed By: Defendant Thompson, Robert <i>[27] Defendants Answer to Plaintiff's Amended Complaint</i> |
| 04/06/2020 |  Initial Appearance Fee Disclosure <i>[28] Initial Appearance Fee Disclosure</i> |
| 04/06/2020 |  Demand for Jury Trial Filed By: Defendant Thompson, Robert <i>[29] Demand for Jury Trial</i> |
| 04/07/2020 |  Notice of Early Case Conference Filed By: Plaintiff McMillin, Maria <i>[30] Notice of Early Case Conference</i> |
| 05/22/2020 | |

CASE SUMMARY
CASE SUMMARY
CASE NO. A-19-787989-C

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| |  Supplemental Joint Case Conference Report Party: Plaintiff McMillin, Maria <i>[31] SUPPLEMENTAL JOINT CASE CONFERENCE REPORT</i> |
| 07/09/2020 |  Filing Fee Remittance Filed By: Defendant Henderson, Tyron <i>[32] Filing Fee Remittance</i> |
| 09/16/2020 |  Stipulation and Order to Extend Discovery Deadlines Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron <i>[33] Stipulation and Order to Extend Discovery Deadlines [First Request]</i> |
| 09/17/2020 |  Notice of Entry of Stipulation and Order Filed By: Defendant 7-Eleven, Inc <i>[34] Notice of Entry of Stipulation and Order to Extend Discovery Deadlines [First Request]</i> |
| 09/24/2020 |  Scheduling and Trial Order <i>[35] Scheduling Order and Order Setting Civil Jury Trial, Pre Trial and Calendar Call Scheduling order</i> |
| 12/01/2020 | CANCELED Pre Trial Conference (9:00 AM) (Judicial Officer: Kephart, William D.) <i>Vacated - Superseding Order</i> |
| 12/15/2020 | CANCELED Calendar Call (9:00 AM) (Judicial Officer: Kephart, William D.) <i>Vacated - Superseding Order</i> |
| 01/04/2021 | CANCELED Jury Trial (1:00 PM) (Judicial Officer: Kephart, William D.) <i>Vacated - Superseding Order</i> |
| 01/04/2021 | Case Reassigned to Department 1 <i>Judicial Reassignment to Judge Bitá Yeager</i> |
| 01/21/2021 |  Stipulation and Order Filed by: Defendant 7-Eleven, Inc; Defendant Henderson, Tyron <i>[36] Stipulation and Order to Extend Discovery Deadlines (Second Request)</i> |
| 01/21/2021 |  Notice of Entry of Stipulation and Order Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron <i>[37] Notice of Entry of Stipulation and Order to Extend Discovery Deadlines [Second Request]</i> |
| 01/29/2021 |  Disclosure of Documents and Witnesses Pursuant to NRCP 16.1 Filed By: Defendant Thompson, Robert <i>[38] DEFENDANTS ROBERT THOMPSON and TYRON[E] HENDERSON S NRCP 16.1(a) (1) SECOND SUPPLEMENTAL DISCLOSURES AND NRCP 16.1(a)(3) PRETRIAL DISCLOSURES</i> |
| 01/29/2021 |  Amended Scheduling Order <i>[39] Amended Scheduling Order and Order Setting Civil Jury Trial, Calendar Call and Pre-Trial Conference</i> |
| 02/16/2021 |  Notice of Change of Hearing <i>[40] Notice of Change of Hearing</i> |
| 03/23/2021 |  Stipulation and Order |

CASE SUMMARY
CASE SUMMARY
CASE NO. A-19-787989-C

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|------------|---|
| | Filed by: Plaintiff McMillin, Maria <i>[41] Stipulation and Order Regarding NRCP 35 Examination of Plaintiff, Maria McMillin</i> |
| 06/18/2021 |  Stipulation and Order to Extend Discovery Deadlines <i>[42] Stipulation and Order to Extend Discovery (Third Request)</i> |
| 06/22/2021 |  Notice of Entry of Stipulation and Order <i>[43] Notice of Entry of Stipulation and Order to Extend Discovery Deadlines [Third Request]</i> |
| 06/29/2021 | CANCELED Pre Trial Conference (9:00 AM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Stipulation and Order</i> |
| 07/01/2021 |  Notice of Hearing <i>[44] Notice of Hearing</i> |
| 07/20/2021 | CANCELED Calendar Call (9:00 AM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Stipulation and Order</i> |
| 08/02/2021 | CANCELED Jury Trial (1:00 PM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Stipulation and Order</i> |
| 08/18/2021 |  Affidavit of Service <i>[45] Affidavit/Declaration of Service John Baker, Ph.D., P.E.</i> |
| 08/20/2021 |  Affidavit of Service Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron <i>[46] Affidavit/Declaration of Service of Kirk Mendez, M.D./Bone & Joint Specialists</i> |
| 08/25/2021 |  Affidavit of Service <i>[47] Affidavit/Declaration of Service of Craig Tingey, MD</i> |
| 09/01/2021 |  Disclosure of Documents and Witnesses Pursuant to NRCP 16.1 Filed By: Defendant Thompson, Robert <i>[48] DEFENDANTS ROBERT THOMPSON and TYRON[E] HENDERSON S NRCP 16.1(a) (1) THIRD SUPPLEMENTAL DISCLOSURES AND NRCP 16.1(a)(3) PRETRIAL DISCLOSURES</i> |
| 09/09/2021 |  Status Check: Trial Readiness (8:30 AM) (Judicial Officer: Yeager, Bitia) <i>Parties Present: Attorney Hernandez, Cindie D. Attorney Ganier, Ash M.</i> |
| 09/22/2021 |  Motion for Summary Judgment Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron <i>[50] Defendant Tyron[e] Henderson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment and Defendant Robert Thompson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Partial Summary Judgment</i> |
| 09/23/2021 |  Clerk's Notice of Hearing <i>[51] Notice of Hearing</i> |
| 09/23/2021 |  Clerk's Notice of Hearing <i>[52] Notice of Hearing</i> |
| 09/23/2021 |  Ex Parte Motion Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron |

CASE SUMMARY
CASE SUMMARY
CASE NO. A-19-787989-C

[53] Ex Parte Motion to Strike Incorrectly Filed Document- Defendants Motion to File Under, Exhibit "B" to Defendant Tyron[e] Henderson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment and Defendant Robert Thomson's Motion for Judgment on the Pleadings, Motion for Summary Judgement and Defendant Robert Thompson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Partial Summary Judgment on Order Shortening Time.

09/24/2021



Order Granting Motion

Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron
[54] Order Granting Ex Parte Motion to Strike Incorrectly Filed Document

09/24/2021



Clerk's Notice of Nonconforming Document

[55] Clerk's Notice of Nonconforming Document

09/24/2021



Filed Under Seal

Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron
[56] SEALED PER MINUTE ORDER 10/27/21 [56] Defendants Motion to File Under Seal, Exhibit B to Defendant Tyron(e) Henderson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment and Defendant Robert Thompson's Motion for Judgment on the Pleadings, or, in the Alternative, Motion for Partial Summary Judgment on Order Shortening Time

09/28/2021



Stipulation and Order

Filed by: Plaintiff McMillin, Maria
[57] Stipulation and Order to Extend Motions in Limine Deadline

09/28/2021



Notice of Entry

Filed By: Plaintiff McMillin, Maria
[58] Notice of Entry of Stipulation and Order to Extend Motions in Limine Deadline

09/29/2021



Stipulation and Order

Filed by: Defendant Thompson, Robert; Defendant Henderson, Tyron
[59] Stipulation and Order to Continue Trial

09/29/2021



Amended Scheduling Order

[60] Amended Scheduling Order and Order Setting Civil Jury Trial, Calendar Call and Pre-Trial Conference

10/01/2021



Notice of Entry of Stipulation and Order

[61] Notice of Entry of Stipulation and Order to Continue Trial

10/06/2021



Opposition and Countermotion

Filed By: Plaintiff McMillin, Maria
[62] Plaintiff's Opposition to Defendant Tyron[e] Henderson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment and Defendant Robert Thompson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Partial Summary Judgment and Countermotion for Leave to Amend Plaintiff's Complaint

10/20/2021



Reply in Support

Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron
[63] Defendants' Reply in Support of Motion for Judgment on Pleadings, or in the alternative, Motion for Summary Judgment and Opposition to Countermotion for Leave to Amend Plaintiff's Complaint

10/25/2021







Status Check: Trial Readiness (10:00 AM) (Judicial Officer: Cherry, Michael A.)

Parties Present: Attorney Jaffe, Steven T.

CASE SUMMARY
CASE SUMMARY
CASE No. A-19-787989-C










Attorney Guindy, Joseph W

| | |
|------------|--|
| 10/27/2021 | Motion to Seal/Redact Records (9:30 AM) (Judicial Officer: Cherry, Michael A.) <i>Defendants Motion to File Under Seal, Exhibit "B" to Defendant Tyron[e] Henderson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment and Defendant Robert Thompson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment on Order Shortening Time</i> |
| 10/27/2021 | Motion for Judgment (9:30 AM) (Judicial Officer: Cherry, Michael A.) <i>Defendant Tyron[e] Henderson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment and Defendant Robert Thompson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Partial Summary Judgment</i> |
| 10/27/2021 | Opposition and Countermotion (9:30 AM) (Judicial Officer: Cherry, Michael A.) Events: 10/06/2021 Opposition and Countermotion <i>Plaintiff's Opposition to Defendant Tyron[e] Henderson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment and Defendant Robert Thompson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Partial Summary Judgment and Countermotion for Leave to Amend Plaintiff's Complaint</i> |
| 10/27/2021 |  All Pending Motions (9:30 AM) (Judicial Officer: Cherry, Michael A.) <i>ALL PENDING - DEFENDANTS MOTION TO FILE UNDER SEAL, EXHIBIT "B" TO DEFENDANT TYRON[E] HENDERSON'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT AND DEFENDANT ROBERT THOMPSON'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT ON ORDER SHORTENING TIME... DEFENDANT TYRON[E] HENDERSON'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT AND DEFENDANT ROBERT THOMPSON'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, MOTION FOR PARTIAL SUMMARY JUDGMENT... PLAINTIFF'S OPPOSITION TO DEFENDANT TYRON[E] HENDERSON'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT AND DEFENDANT ROBERT THOMPSON'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, MOTION FOR PARTIAL SUMMARY JUDGMENT AND COUNTERMOTION FOR LEAVE TO AMEND PLAINTIFF'S COMPLAINT</i> <i>Parties Present: Attorney Jaffe, Steven T.</i> <i>Attorney Ganier, Ash M.</i> |
| 10/28/2021 |  Recorders Transcript of Hearing <i>[64] Recorder's Transcript Re: Miscellaneous Motions 10-27-21</i> |
| 11/04/2021 | CANCELED Calendar Call (8:30 AM) (Judicial Officer: Yeager, Bita) <i>Vacated</i> |
| 11/04/2021 | CANCELED Pretrial/Calendar Call (8:30 AM) (Judicial Officer: Yeager, Bita) <i>Vacated</i> |
| 11/15/2021 | CANCELED Jury Trial (1:30 PM) (Judicial Officer: Yeager, Bita) <i>Vacated</i> |
| 11/22/2021 |  Order Granting Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron <i>[65] Order Granting Motion to File under Seal, Exhibit B As to Defendant Tyron [E] Henderson's Motion for Judgment on the Pleadings, Or in the Alternative, Motion for Summary Judgment</i> |
| 11/22/2021 |  Order Granting Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron <i>[66] Order Granting Motion To File Under Seal, Exhibit B As To Defendant Robert Thompson's Motion For Judgment On The Pleadings, Or In The Alternative, Motion For</i> |



CASE SUMMARY
CASE SUMMARY
CASE NO. A-19-787989-C

| | |
|------------|--|
| | <i>Summary Judgment</i> |
| 11/23/2021 |  Notice of Entry <i>[67] Notice of Entry of Order Granting Motion to File Underseal, Exhibit "B" as to Defendant Tyron[e] Henderson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment</i> |
| 11/23/2021 |  Notice of Entry <i>[68] Notice of Entry of Order Granting Motion to File Underseal, Exhibit "B" as to Defendant Robert Thompson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment</i> |
| 11/23/2021 |  Order Granting Summary Judgment <i>[69] Order Granting Defendant Tyron Henderson's Motion for Judgment on the Pleadings or in the Alternative Motion for Summary Judgment and Order Granting Defendant Robert Thomspon's Motion for Judgment on the Pleadings or in the Alternative Motion for Summary Judgment and Order Denying Plaintiff's Countermotion to Amend Complaint</i> |
| 11/23/2021 |  Notice of Entry of Order <i>[70] Notice of Entry of Order Granting Defendant Tyron[e] Henderson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment and Order Granting Defendant Robert Thompson's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment and Order Denying Plaintiff's Countermotion to Amend Complaint</i> |
| 11/23/2021 | Summary Judgment (Judicial Officer: Yeager, Bitá) Debtors: Maria McMillin (Plaintiff) Creditors: Robert Thompson (Defendant), Tyron Henderson (Defendant) Judgment: 11/23/2021, Docketed: 11/24/2021 |
| 11/29/2021 |  Motion for Costs Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron <i>[71] Defendants, Robert Thompson and Tyron[e] Henderson's Motion for Costs</i> |
| 11/29/2021 |  Appendix Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron <i>[72] Appendix of Exhibits to Defendants, Robert Thompson and Tyron[e] Henderson's, Motion for Costs</i> |
| 12/01/2021 |  Clerk's Notice of Hearing <i>[73] Notice of Hearing</i> |
| 12/13/2021 |  Opposition to Motion Filed By: Plaintiff McMillin, Maria <i>[74] A-19-787989-C</i> |
| 12/14/2021 |  Motion to Amend Judgment Filed By: Plaintiff McMillin, Maria <i>[75] Plaintiff's Motion to Alter or Amend Judgment Pursuant to NRCP 59</i> |
| 12/16/2021 |  Clerk's Notice of Hearing <i>[76] Notice of Hearing</i> |
| 12/20/2021 | CANCELED Pretrial/Calendar Call (10:00 AM) (Judicial Officer: Yeager, Bitá) <i>Vacated</i> |




CASE SUMMARY
CASE SUMMARY
CASE NO. A-19-787989-C

| | |
|------------|--|
| 12/20/2021 |  Notice of Change of Hearing <i>[77] Notice of Change of Hearing</i> |
| 12/22/2021 |  Case Appeal Statement Filed By: Plaintiff McMillin, Maria <i>[78] CASE APPEAL STATEMENT</i> |
| 12/22/2021 |  Notice of Appeal Filed By: Plaintiff McMillin, Maria <i>[79] Notice of Appeal</i> |
| 12/29/2021 |  Opposition to Motion Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron <i>[80] Defendants' Opposition to Plaintiff's Motion to Alter or Amend Judgment Pursuant to NRCP 59(e)</i> |
| 01/03/2022 | CANCELED Jury Trial (9:00 AM) (Judicial Officer: Yeager, Bita) <i>Vacated</i> |
| 01/12/2022 | CANCELED Jury Trial (9:00 AM) (Judicial Officer: Yeager, Bita) <i>Vacated</i> JURY TRIAL FIRM - #2 ON THE STACK |
| 01/25/2022 |  Reply to Opposition Filed by: Plaintiff McMillin, Maria <i>[81] Plaintiff's Reply to Defendants Opposition to Her Motion to Alter or Amend Judgment Pursuant to NRCP 59</i> |
| 01/27/2022 |  Motion for Costs Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron <i>[82] Defendants, Robert Thompson and Tyron[e] Henderson's, Motion for Costs and Opposition to Countermotion for Stay of Execution Pending Appeal</i> |
| 02/02/2022 | Motion for Costs (9:30 AM) (Judicial Officer: Yeager, Bita) <i>Defendants, Robert Thompson and Tyron[e] Henderson's Motion for Costs</i> |
| 02/02/2022 | Motion (9:30 AM) (Judicial Officer: Yeager, Bita) <i>Plaintiff's Motion to Alter or Amend Judgment Pursuant to NRCP 59</i> |
| 02/02/2022 |  All Pending Motions (9:30 AM) (Judicial Officer: Yeager, Bita) ALL PENDING - DEFENDANTS, ROBERT THOMPSON AND TYRON[E] HENDERSON'S MOTION FOR COSTS...PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO NRCP 59 <i>Parties Present: Attorney Jaffe, Steven T. Attorney Ganier, Ash M.</i> |
| 02/09/2022 |  Recorders Transcript of Hearing <i>[83] Recorder's Transcript of Proceedings Re: Plaintiff's Motion to Alter or Amend Judgment Pursuant to NRCP 59, Defendants' Motion for Costs 02-02-22</i> |
| 02/23/2022 |  NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>[84] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i> |
| 02/23/2022 | Clerk's Certificate (Judicial Officer: Yeager, Bita) Debtors: Maria McMillin (Plaintiff) Creditors: Robert Thompson (Defendant), Tyron Henderson (Defendant) Judgment: 02/23/2022, Docketed: 02/24/2022 |

CASE SUMMARY
CASE SUMMARY
CASE NO. A-19-787989-C

| | |
|------------|--|
| | Comment: Supreme Court No. 84015 Appeal Dismissed |
| 03/03/2022 | CANCELED Motion for Costs (8:00 AM) (Judicial Officer: Yeager, Bita) <i>Vacated - Set in Error</i> <i>Defendants, Robert Thompson and Tyron[e] Henderson's, Motion for Costs</i> |
| 04/11/2022 |  Status Check (9:00 AM) (Judicial Officer: Yeager, Bita) 04/11/2022, 06/13/2022 <i>STATUS CHECK: APPEAL</i> <i>Parties Present: Attorney Jaffe, Steven T.</i> <i>Attorney Guindy, Joseph W</i> |
| 06/01/2022 |  Notice of Change of Hearing <i>[85] Notice of Change of Hearing</i> |
| 06/13/2022 | Status Check (9:00 AM) (Judicial Officer: Yeager, Bita) <i>STATUS CHECK: RESETTING - Defendants, Robert Thompson and Tyron[e] Henderson's</i> <i>Motion for Costs</i> |
| 06/13/2022 |  All Pending Motions (9:00 AM) (Judicial Officer: Yeager, Bita) <i>ALL PENDING - STATUS CHECK: RESETTING - DEFENDANTS, ROBERT THOMPSON</i> <i>AND TYRON[E] HENDERSON'S MOTION FOR COSTS ...STATUS CHECK: APPEAL</i> <i>Parties Present: Attorney Hernandez, Cindie D.</i> <i>Attorney Guindy, Joseph W</i> |
| 06/24/2022 |  Order <i>[86] Order Granting in Part and Denying in Part Plaintiff's Motion to Alter or Amend</i> <i>Judgment Pursuant to NRCP 59</i> |
| 06/24/2022 |  Notice of Entry <i>Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron</i> <i>[87] Notice of Entry of Order Granting in Part and Denying in Part Plaintiff's Motion to Alter</i> <i>or Amend Judgment Pursuant to NRCP 59</i> |
| 06/24/2022 | Order of Dismissal (Judicial Officer: Yeager, Bita) Debtors: Tyron Henderson (Defendant) Creditors: Maria McMillin (Plaintiff) Judgment: 06/24/2022, Docketed: 06/27/2022 |
| 07/05/2022 |  Order Denying Motion <i>Filed By: Defendant Thompson, Robert; Defendant Henderson, Tyron</i> <i>[88] Order Denying Defendants, Robert Thompson and Tyrone Henderson's Motion for Costs</i> |
| 07/07/2022 |  Notice of Entry of Order <i>Filed By: Defendant Thompson, Robert</i> <i>[89] Notice of Entry Order Denying Defendants, Robert Thompson and Tyron[E] Hendersons,</i> <i>Motion for Costs</i> |
| 07/08/2022 |  Motion <i>Filed By: Defendant Thompson, Robert</i> <i>[90] Defendants Robert Thompson and Tyrone Henderson's Motion for Clarification to Amend</i> <i>or Alter Judgment</i> |
| 07/11/2022 |  Clerk's Notice of Hearing <i>[91] Notice of Hearing</i> |

CASE SUMMARY
CASE SUMMARY
CASE NO. A-19-787989-C

| | |
|------------|--|
| 07/18/2022 |  Notice of Appearance Party: Plaintiff McMillin, Maria <i>[92] Notice of Appearance as Co-Counsel</i> |
| 07/18/2022 |  Notice of Appeal Filed By: Plaintiff McMillin, Maria <i>[93] Notice of Appeal</i> |
| 07/18/2022 |  Case Appeal Statement Filed By: Plaintiff McMillin, Maria <i>[94] Case Appeal Statement</i> |
| 08/12/2022 | Motion for Clarification (3:00 AM) (Judicial Officer: Yeager, Bitá) <i>Defendants Robert Thompson and Tyrone Henderson's Motion for Clarification to Amend or Alter Judgment</i> |

| DATE | FINANCIAL INFORMATION | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|--|-----------------------------------|--|---------------|-------|----------------------------|-------|------------------------------------|-------------|--------------------------------|--|---------------|--------|----------------------------|--------|------------------------------------|-------------|-----------------------------------|--|---------------|--------|----------------------------|--------|------------------------------------|-------------|----------------------------------|--|---------------|--------|----------------------------|--------|------------------------------------|-------------|----------------------------------|--|-------------------------------------|---------------|
| | <table> <tr> <td>Defendant Henderson, Tyron</td><td></td></tr> <tr> <td>Total Charges</td><td>30.00</td></tr> <tr> <td>Total Payments and Credits</td><td>30.00</td></tr> <tr> <td>Balance Due as of 7/20/2022</td><td>0.00</td></tr> <tr> <td>Defendant 7-Eleven, Inc</td><td></td></tr> <tr> <td>Total Charges</td><td>223.00</td></tr> <tr> <td>Total Payments and Credits</td><td>223.00</td></tr> <tr> <td>Balance Due as of 7/20/2022</td><td>0.00</td></tr> <tr> <td>Defendant Thompson, Robert</td><td></td></tr> <tr> <td>Total Charges</td><td>423.00</td></tr> <tr> <td>Total Payments and Credits</td><td>423.00</td></tr> <tr> <td>Balance Due as of 7/20/2022</td><td>0.00</td></tr> <tr> <td>Plaintiff McMillin, Maria</td><td></td></tr> <tr> <td>Total Charges</td><td>318.00</td></tr> <tr> <td>Total Payments and Credits</td><td>318.00</td></tr> <tr> <td>Balance Due as of 7/20/2022</td><td>0.00</td></tr> <tr> <td>Plaintiff McMillin, Maria</td><td></td></tr> <tr> <td>Appeal Bond Balance as of 7/20/2022</td><td>500.00</td></tr> </table> | Defendant Henderson, Tyron | | Total Charges | 30.00 | Total Payments and Credits | 30.00 | Balance Due as of 7/20/2022 | 0.00 | Defendant 7-Eleven, Inc | | Total Charges | 223.00 | Total Payments and Credits | 223.00 | Balance Due as of 7/20/2022 | 0.00 | Defendant Thompson, Robert | | Total Charges | 423.00 | Total Payments and Credits | 423.00 | Balance Due as of 7/20/2022 | 0.00 | Plaintiff McMillin, Maria | | Total Charges | 318.00 | Total Payments and Credits | 318.00 | Balance Due as of 7/20/2022 | 0.00 | Plaintiff McMillin, Maria | | Appeal Bond Balance as of 7/20/2022 | 500.00 |
| Defendant Henderson, Tyron | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total Charges | 30.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total Payments and Credits | 30.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Balance Due as of 7/20/2022 | 0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Defendant 7-Eleven, Inc | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total Charges | 223.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total Payments and Credits | 223.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Balance Due as of 7/20/2022 | 0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Defendant Thompson, Robert | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total Charges | 423.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total Payments and Credits | 423.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Balance Due as of 7/20/2022 | 0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Plaintiff McMillin, Maria | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total Charges | 318.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total Payments and Credits | 318.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Balance Due as of 7/20/2022 | 0.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Plaintiff McMillin, Maria | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Appeal Bond Balance as of 7/20/2022 | 500.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

DISTRICT COURT CIVIL COVER SHEET

Department 19

County, Nevada

Case No. _____

(Assigned by Clerk's Office)

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

| | |
|--|--|
| Plaintiff(s) (name/address/phone): MARIA MCMILLIN | Defendant(s) (name/address/phone): 7-ELEVEN, INC. DOE EMPLOYEE DOES I-XX ROE CORPORATIONS I-XX |
| Attorney (name/address/phone): Bradley S. Mainor, Esq.; Ash Marie Ganier, Esq. MAINOR WIRTH, LLP 6018 S. Ft. Apache Road, Ste 150; Las Vegas, NV 89148 (702) 464-5000; Fax: (702) 463-4440 | Attorney (name/address/phone): N/A |

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 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.

January 22, 2019

Date

/s/ Ash Marie Ganier

Signature of initiating party or representative

See other side for family-related case filings.

1 **ORDR**

2 **DISTRICT COURT**

3 **CLARK COUNTY, NEVADA**

4 MARIA MCMILLIN, an individual,
5
6 Plaintiff,

7 v.

Case No. A-19-787989-C

8 ROBERT THOMPSON; Individually and as
9 Franchisee; TYRON HENDERSON,
10 Individually; DOES I-XX, inclusive; and
11 ROE CORPORATIONS I - XX, inclusive,

Dept. No. 1

12 Defendants.

13 **ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION TO**
14 **ALTER OR AMEND JUDGMENT PURSUANT TO NRCP 59**

15 On February 2, 2022, a hearing was conducted on PLAINTIFF'S MOTION TO ALTER OR
16 AMEND JUDGMENT PURSUANT TO NRCP 59, with Ash Marie Blackburn, Esq., appearing on
17 behalf of Plaintiff, and Steven T. Jaffe, Esq., appearing on behalf of the Defendants. The matter
18 having been fully briefed, all supporting materials having been reviewed, and following oral
19 argument by counsel. The Court hereby orders as follows:

20 **PROCEDURAL HSTORY**

21 On December 13, 2019, a Stipulation and Order to Allow Plaintiff to Amend Complaint was
22 filed, to add Robert Thompson, Franchisee, as a party in the place and stead of 7-ELEVEN Inc., and
23 Tyron[e] Henderson be substituted in the place and stead of Doe Employee. On January 14, 2020,
24 Plaintiff filed an Amended Complaint; however, it did not fully replace "Doe Employee" with
25 "Defendant Tyron[e] Henderson" and "7-Eleven, Inc." with "Defendant Robert Thompson." The
26 deadline to amend pleadings was April 22, 2021. On September 22, 2021, Defendants Robert
27
28

1 Thompson and Tyrone Henderson filed a Motion for Judgment on the Pleadings, or in the
2 Alternative, Motion for Summary Judgment on Plaintiff's Negligence claim. Plaintiff filed an
3 Opposition and Countermotion to Amend on October 6, 2021. The parties presented oral argument
4 on the motion on October 27, 2021. On that day, the Court granted the motion applying a summary
5 judgment standard. An Order Granting Summary Judgment was filed on November 23, 2021.

6 On December 14, 2021, Plaintiff filed their Motion to Alter or Amend Judgment Pursuant to
7 NRCPP 59. Before the Motion was heard in District Court, Plaintiff filed a Notice of Appeal on
8 December 22, 2021. The appeal was dismissed by the Nevada Supreme Court on January 25, 2022.
9 The Nevada Supreme Court subsequently denied a motion to vacate or modify the order dismissing
10 their appeal, noting that the appeal "may have been prematurely filed because appellant filed a
11 timely NRCPP 59 motion to alter or amend in the district court and the motion remained pending
12 when the instant appeal was filed." *McMillin v. Thompson* (Feb. 11, 2022), Order Denying Motion,
13 No. 22-04613. Remittitur issued on February 23, 2022.

14 ORDER

15 NRCPP 59(e) allows a party to file a motion to alter or amend a judgment in cases where it
16 "may be appropriate to correct 'manifest errors of law or fact,' address 'newly discovered or
17 previously unavailable evidence,' 'prevent manifest injustice,' or address a 'change in controlling
18 law.'" *Panorama Towers Condo. Unit Owners' Ass'n v. Hallier*, 137 Nev. Adv. Op. 67, 498 P.3d
19 222, 224 (2021) (citing *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 582, 245 P.3d 1190,
20 1193 (2010)).

21 I. Negligence

22 "In order to state a claim for negligence, a plaintiff must allege that (1) the defendant owed
23 the plaintiff a duty of care, (2) the defendant breached that duty, (3) the breach was the legal cause
24 of the plaintiff's injuries, and (4) the plaintiff suffered damages." *Sadler v. PacifiCare of Nev.*, 130

1 Nev. 990, 993–94, 340 P.3d 1264, 1266–67 (2014). The Court ruled that Plaintiff’s Complaint
2 should be dismissed for failure to allege that the Defendants owed Plaintiff a duty of care. In the
3 Order Granting Tyron[e] Henderson’s Motion for Judgment on the Pleadings, or in the Alternative
4 Motion for Summary Judgment and Defendant Robert Thompson’s Motion for Judgment on the
5 Pleadings or in the Alternative, Motion for Partial Summary Judgment filed on November 23, 2021,
6 the Court found that there are no allegations that “the Defendants owed Plaintiff a duty of care, or
7 that they breached that duty.” The Court clarifies that this finding is premised on the fact that the
8 correct defendants were not properly listed in the operating Amended Complaint, and the proper
9 parties had not been properly substituted therein after leave was provided to the Plaintiff. Thus,
10 Negligence had not been properly pled against the correct defendants. Therefore, the Court did not
11 err in concluding that Plaintiff did not properly plead Negligence.
12

13 II. Leave to Amend Complaint
14

15 Under *Nutton v. Sunset Station, Inc.*, “when a motion seeking leave to amend a pleading is
16 filed after the expiration of the deadline for filing such motions, the district court must first
17 determine whether ‘good cause’ exists for missing the deadline under NRCP 16(b) before the court
18 can consider the merits of the motion under the standards of NRCP 15(a).” 131 Nev. 279, 281, 357
19 P.3d 966, 968 (2015). “In determining whether ‘good cause’ exists under Rule 16(b), the basic
20 inquiry for the trial court is whether the filing deadline cannot reasonably be met despite the
21 diligence of the party seeking the amendment.” 131 Nev. at 287, 357 P.3d at 971. In evaluating
22 whether or not good cause has been shown, the Court can consider: (1) the explanation for the
23 untimely conduct, (2) the importance of the requested untimely action, (3) the potential prejudice in
24 allowing the untimely conduct, and (4) the availability of a continuance to cure such prejudice. *Id.*
25

26 The Court did not err in denying leave to amend here. The deadline to amend pleadings
27 expired on April 22, 2021. Plaintiff brought her Countermotion for Leave to Amend on October 6,
28

2021, after the deadline to amend pleadings. However, as the Court reasoned, Plaintiff did not demonstrate good cause under Rule 16(b) for missing the deadline to support her leave to amend her pleadings. Plaintiff made no showing that the filing deadline cannot reasonably be met despite her diligence and Plaintiff did not address any of the four factors set forth in *Nutton* for the Court to consider. Therefore, the Court could not consider her countermotion under NRCP 15(a) in the absence of a “good cause” showing under NRCP 16(1), and did not err in denying Plaintiff’s Countermotion for Leave to Amend.

III. Sua Sponte Summary Judgment

If on a motion to dismiss, under NRCP 12(b)(5), the Court considers matters outside the pleadings, the motion must be treated as one for summary judgment under Rule 56. NRCP 12(c); see also *Stevens v. McGimsey*, 99 Nev. 840, 841, 673 P.2d 499, 500 (1983). Summary judgment is “appropriate when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law.” *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). When evaluating facts for the purpose of Summary Judgment, a factual dispute is genuine, and therefore summary judgment is inappropriate, when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party. *Id.*

NRCP 56(f) provides that the court, after giving notice and a reasonable time to respond, “may (1) grant summary judgment for a nonmovant, (2) grant the motion on grounds not raised by a party; or (3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.” “Although district courts have the inherent power to enter summary judgment sua sponte pursuant to [NRCP] 56, that power is contingent upon giving the losing party notice that it must defend its claim.” *Soebbing v. Carpet Barn, Inc.*, 109 Nev. 78, 83, 847 P.2d 731, 735 (1993). It is “troubling when a district court grants summary judgment sua sponte

1 without having taken evidence in the form of affidavits or other documents.” *Renown Reg’l. Med. v.*
2 *Second Jud. Dist. Ct.*, 130 Nev. 824, 828, 335 P.3d 199, 202 (2014). The defending party must be
3 given notice and an opportunity to defend itself before a court may grant summary judgment sua
4 sponte. *Id. Renown* and NRCP 56(f) make it clear that a District Court can sua sponte grant
5 summary judgment as long as the other side has notice and an opportunity to be heard. 130 Nev. at
6 828, 335 P.3d at 202.

7
8 a. Summary Judgment on Negligence

9 Plaintiff here had sufficient notice and opportunity to be heard as it pertains to her
10 Negligence claim because 1) Defendants requested summary judgment as to Plaintiff’s negligence
11 claim in the alternative and 2) Plaintiff offered evidence outside of the pleadings, which created the
12 possibility of the motion to dismiss the negligence claim being treated as a motion for summary
13 judgment. The Court also found no genuine issue of material fact. Therefore, the Court did not err in
14 granting summary judgment sua sponte as to Plaintiff’s claim of Negligence.

15
16 b. Summary Judgment on Negligent Hiring, Training, and Supervision

17 Plaintiff here did not have sufficient notice or an opportunity to be heard regarding the
18 Court’s sua sponte decision to grant summary judgment as to the negligent hiring, training, and
19 supervision claim. Defendants did not request in their motion that the negligent hiring, training, and
20 supervision claim be dismissed. There was no indication that this claim was at issue until the court
21 made its ruling. Plaintiff did not have sufficient notice and the opportunity to defend herself on that
22 cause of action before the district court’s ruling was made. Therefore, the Court committed clear
23 error in granting summary judgment as to Plaintiff’s second cause of action for negligent hiring,
24 training, and supervision.

25
26 **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED**, that Plaintiff’s Motion
27 to Alter or Amend Judgment Pursuant to NRCP 59 is **GRANTED IN PART** only as it pertains to
28

Plaintiff's cause of action for negligent hiring, training, and supervision. Accordingly, the court's prior order entered on November 23, 2021, is hereby amended pursuant to *Renown* and NRCP 59(e) to reinstate that cause of action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Plaintiff's Motion to Alter or Amend Judgment Pursuant to NRCP 59 is **DENIED** in all other aspects.

This Court notes that this order, combined with the prior order that is hereby incorporated by reference, resolves all claims by or against Defendant Tyron[e] Henderson and removes him as a party from the case.

IT IS FURTHER ORDERED that there is no just reason for delay for entry or enforcement of this Order, and as such this Order is certified as final pursuant to NRCP 54(b) as to the basis for Defendant Tyron[e] Henderson's dismissal from this case.

IT IS SO ORDERED.

Dated this 24th day of June, 2022



358 A4C 9786 6841
DISTRICT COURT JUDGE
Bita Yeager
District Court Judge

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Maria McMillin, Plaintiff(s)

CASE NO: A-19-787989-C

7 vs.

DEPT. NO. Department 1

8 7-Eleven, Inc, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 6/24/2022

15 Joseph Wirth

joe@mwinjury.com

16 Ash Ganier

ash@mwinjury.com

17 Bradley Mainor

brad@mwinjury.com

18 Lindsay Hayes

Lindsay@mwinjury.com

19 Cindie Hernandez

chernandez@lawhjc.com

20 Natalie Cothran

Natalie@mwinjury.com

21 Jamie Soquena

jsoquena@lawhjc.com

22 Joseph Guindy

jguindy@mwinjury.com

23 Gregory Scott

gscott@lawhjc.com

24 Erika Parker

eparker@lawhjc.com

25 Alysse Beasley

26 alysse@mwinjury.com
27
28

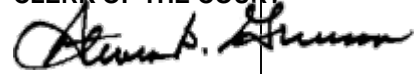
1 If indicated below, a copy of the above mentioned filings were also served by mail
2 via United States Postal Service, postage prepaid, to the parties listed below at their last
3 known addresses on 6/27/2022

4 Melissa Roose

Backus, Carranza & Burden
Attn: Melissa J. Roose, Esq
3050 S. Durango Dr.
Las Vegas, NV, 89117

6 Steven Jaffe

Hall Jaffe & Clayton , LLP
Attn: Steven Jaffe
7425 Peak Drive
Las Vegas, NV, 89128



NEO
STEVEN T. JAFFE, ESQ.
Nevada Bar No. 7035
sjaffe@lawhjc.com
CINDIE D. HERNANDEZ, ESQ.
Nevada Bar No. 7218
chernandez@lawhjc.com

HALL JAFFE & CLAYTON, LLP
7425 Peak Drive
Las Vegas, Nevada 89128
(702) 316-4111
Fax (702) 316-4114

*Attorneys for Defendants
Robert Thompson and Tyrone Henderson*

DISTRICT COURT

CLARK COUNTY, NEVADA

MARIA MCMILLIN , an individual,

Plaintiff,

v.

ROBERT THOMPSON; Individually and as
Franchisee; TYRON HENDERSON,
Individually; DOES I-XX, inclusive; and ROE
CORPORATIONS I - XX, inclusive,

Defendants.

CASE NO. A-19-787989-C
DEPT. NO. 19

**NOTICE OF ENTRY OF ORDER
GRANTING IN PART AND DENYING
IN PART PLAINTIFF'S MOTION TO
ALTER OR AMEND JUDGMENT
PURSUANT TO NRCP 59**

TO: ALL PARTIES ABOVE-NAMED; and

TO: THEIR RESPECTIVE ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that an ORDER GRANTING IN PART AND DENYING IN
PART PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO

///

///

///

///

///

1 NRCP 59 was entered on June 24, 2022, a copy of which is attached hereto.

2 DATED this 24th day of June 2022.

3 **HALL JAFFE & CLAYTON, LLP**

4 By: /s/ Cindie D. Hernandez

5 STEVEN T. JAFFE, ESQ.

6 Nevada Bar No. 7035

7 CINDIE D. HERNANDEZ, ESQ.

8 Nevada Bar No. 7218

9 7425 Peak Drive

10 Las Vegas, Nevada 89128

11 *Attorney for Defendant*

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☐ **U.S. MAIL** — By depositing a true copy thereof in the U.S. Mail, first class postage prepaid and addressed as listed below; and/or

☐ **FACSIMILE** — By facsimile transmission to the facsimile number(s) shown below; and/or

☐ **HAND DELIVERY** — By hand-delivery to the addresses listed below; and/or

☒ **ELECTRONIC SERVICE** — Pursuant to the Court’s CM/ECF e-filing system.

/s/ Jamie Soquena
An Employee of
HALL JAFFE & CLAYTON, LLP

1 **ORDR**

2 **DISTRICT COURT**

3 **CLARK COUNTY, NEVADA**

4 MARIA MCMILLIN, an individual,

5 Plaintiff,

6 v.

Case No. A-19-787989-C

7 ROBERT THOMPSON; Individually and as
8 Franchisee; TYRON HENDERSON,
9 Individually; DOES I-XX, inclusive; and
10 ROE CORPORATIONS I - XX, inclusive,

Dept. No. 1

11 Defendants.

12
13 **ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION TO**
14 **ALTER OR AMEND JUDGMENT PURSUANT TO NRCP 59**

15 On February 2, 2022, a hearing was conducted on PLAINTIFF'S MOTION TO ALTER OR
16 AMEND JUDGMENT PURSUANT TO NRCP 59, with Ash Marie Blackburn, Esq., appearing on
17 behalf of Plaintiff, and Steven T. Jaffe, Esq., appearing on behalf of the Defendants. The matter
18 having been fully briefed, all supporting materials having been reviewed, and following oral
19 argument by counsel. The Court hereby orders as follows:

20 **PROCEDURAL HSTORY**

21 On December 13, 2019, a Stipulation and Order to Allow Plaintiff to Amend Complaint was
22 filed, to add Robert Thompson, Franchisee, as a party in the place and stead of 7-ELEVEN Inc., and
23 Tyron[e] Henderson be substituted in the place and stead of Doe Employee. On January 14, 2020,
24 Plaintiff filed an Amended Complaint; however, it did not fully replace "Doe Employee" with
25 "Defendant Tyron[e] Henderson" and "7-Eleven, Inc." with "Defendant Robert Thompson." The
26 deadline to amend pleadings was April 22, 2021. On September 22, 2021, Defendants Robert
27
28

1 Thompson and Tyrone Henderson filed a Motion for Judgment on the Pleadings, or in the
2 Alternative, Motion for Summary Judgment on Plaintiff's Negligence claim. Plaintiff filed an
3 Opposition and Countermotion to Amend on October 6, 2021. The parties presented oral argument
4 on the motion on October 27, 2021. On that day, the Court granted the motion applying a summary
5 judgment standard. An Order Granting Summary Judgment was filed on November 23, 2021.

6
7 On December 14, 2021, Plaintiff filed their Motion to Alter or Amend Judgment Pursuant to
8 NRCP 59. Before the Motion was heard in District Court, Plaintiff filed a Notice of Appeal on
9 December 22, 2021. The appeal was dismissed by the Nevada Supreme Court on January 25, 2022.
10 The Nevada Supreme Court subsequently denied a motion to vacate or modify the order dismissing
11 their appeal, noting that the appeal "may have been prematurely filed because appellant filed a
12 timely NRCP 59 motion to alter or amend in the district court and the motion remained pending
13 when the instant appeal was filed." *McMillin v. Thompson* (Feb. 11, 2022), Order Denying Motion,
14 No. 22-04613. Remittitur issued on February 23, 2022.

15 ORDER

16
17 NRCP 59(e) allows a party to file a motion to alter or amend a judgment in cases where it
18 "may be appropriate to correct 'manifest errors of law or fact,' address 'newly discovered or
19 previously unavailable evidence,' 'prevent manifest injustice,' or address a 'change in controlling
20 law.'" *Panorama Towers Condo. Unit Owners' Ass'n v. Hallier*, 137 Nev. Adv. Op. 67, 498 P.3d
21 222, 224 (2021) (citing *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 582, 245 P.3d 1190,
22 1193 (2010)).

23 I. Negligence

24
25 "In order to state a claim for negligence, a plaintiff must allege that (1) the defendant owed
26 the plaintiff a duty of care, (2) the defendant breached that duty, (3) the breach was the legal cause
27 of the plaintiff's injuries, and (4) the plaintiff suffered damages." *Sadler v. PacifiCare of Nev.*, 130
28

1 Nev. 990, 993–94, 340 P.3d 1264, 1266–67 (2014). The Court ruled that Plaintiff’s Complaint
2 should be dismissed for failure to allege that the Defendants owed Plaintiff a duty of care. In the
3 Order Granting Tyron[e] Henderson’s Motion for Judgment on the Pleadings, or in the Alternative
4 Motion for Summary Judgment and Defendant Robert Thompson’s Motion for Judgment on the
5 Pleadings or in the Alternative, Motion for Partial Summary Judgment filed on November 23, 2021,
6 the Court found that there are no allegations that “the Defendants owed Plaintiff a duty of care, or
7 that they breached that duty.” The Court clarifies that this finding is premised on the fact that the
8 correct defendants were not properly listed in the operating Amended Complaint, and the proper
9 parties had not been properly substituted therein after leave was provided to the Plaintiff. Thus,
10 Negligence had not been properly pled against the correct defendants. Therefore, the Court did not
11 err in concluding that Plaintiff did not properly plead Negligence.
12

13 II. Leave to Amend Complaint
14

15 Under *Nutton v. Sunset Station, Inc.*, “when a motion seeking leave to amend a pleading is
16 filed after the expiration of the deadline for filing such motions, the district court must first
17 determine whether ‘good cause’ exists for missing the deadline under NRCP 16(b) before the court
18 can consider the merits of the motion under the standards of NRCP 15(a).” 131 Nev. 279, 281, 357
19 P.3d 966, 968 (2015). “In determining whether ‘good cause’ exists under Rule 16(b), the basic
20 inquiry for the trial court is whether the filing deadline cannot reasonably be met despite the
21 diligence of the party seeking the amendment.” 131 Nev. at 287, 357 P.3d at 971. In evaluating
22 whether or not good cause has been shown, the Court can consider: (1) the explanation for the
23 untimely conduct, (2) the importance of the requested untimely action, (3) the potential prejudice in
24 allowing the untimely conduct, and (4) the availability of a continuance to cure such prejudice. *Id.*
25

26 The Court did not err in denying leave to amend here. The deadline to amend pleadings
27 expired on April 22, 2021. Plaintiff brought her Countermotion for Leave to Amend on October 6,
28

2021, after the deadline to amend pleadings. However, as the Court reasoned, Plaintiff did not demonstrate good cause under Rule 16(b) for missing the deadline to support her leave to amend her pleadings. Plaintiff made no showing that the filing deadline cannot reasonably be met despite her diligence and Plaintiff did not address any of the four factors set forth in *Nutton* for the Court to consider. Therefore, the Court could not consider her countermotion under NRCP 15(a) in the absence of a “good cause” showing under NRCP 16(1), and did not err in denying Plaintiff’s Countermotion for Leave to Amend.

III. Sua Sponte Summary Judgment

If on a motion to dismiss, under NRCP 12(b)(5), the Court considers matters outside the pleadings, the motion must be treated as one for summary judgment under Rule 56. NRCP 12(c); see also *Stevens v. McGimsey*, 99 Nev. 840, 841, 673 P.2d 499, 500 (1983). Summary judgment is “appropriate when the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law.” *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). When evaluating facts for the purpose of Summary Judgment, a factual dispute is genuine, and therefore summary judgment is inappropriate, when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party. *Id.*

NRCP 56(f) provides that the court, after giving notice and a reasonable time to respond, “may (1) grant summary judgment for a nonmovant, (2) grant the motion on grounds not raised by a party; or (3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.” “Although district courts have the inherent power to enter summary judgment sua sponte pursuant to [NRCP] 56, that power is contingent upon giving the losing party notice that it must defend its claim.” *Soebbing v. Carpet Barn, Inc.*, 109 Nev. 78, 83, 847 P.2d 731, 735 (1993). It is “troubling when a district court grants summary judgment sua sponte

1 without having taken evidence in the form of affidavits or other documents.” *Renown Reg’l. Med. v.*
2 *Second Jud. Dist. Ct.*, 130 Nev. 824, 828, 335 P.3d 199, 202 (2014). The defending party must be
3 given notice and an opportunity to defend itself before a court may grant summary judgment sua
4 sponte. *Id. Renown* and NRCP 56(f) make it clear that a District Court can sua sponte grant
5 summary judgment as long as the other side has notice and an opportunity to be heard. 130 Nev. at
6 828, 335 P.3d at 202.

7
8 a. Summary Judgment on Negligence

9 Plaintiff here had sufficient notice and opportunity to be heard as it pertains to her
10 Negligence claim because 1) Defendants requested summary judgment as to Plaintiff’s negligence
11 claim in the alternative and 2) Plaintiff offered evidence outside of the pleadings, which created the
12 possibility of the motion to dismiss the negligence claim being treated as a motion for summary
13 judgment. The Court also found no genuine issue of material fact. Therefore, the Court did not err in
14 granting summary judgment sua sponte as to Plaintiff’s claim of Negligence.

15
16 b. Summary Judgment on Negligent Hiring, Training, and Supervision

17 Plaintiff here did not have sufficient notice or an opportunity to be heard regarding the
18 Court’s sua sponte decision to grant summary judgment as to the negligent hiring, training, and
19 supervision claim. Defendants did not request in their motion that the negligent hiring, training, and
20 supervision claim be dismissed. There was no indication that this claim was at issue until the court
21 made its ruling. Plaintiff did not have sufficient notice and the opportunity to defend herself on that
22 cause of action before the district court’s ruling was made. Therefore, the Court committed clear
23 error in granting summary judgment as to Plaintiff’s second cause of action for negligent hiring,
24 training, and supervision.

25
26 **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED**, that Plaintiff’s Motion
27 to Alter or Amend Judgment Pursuant to NRCP 59 is **GRANTED IN PART** only as it pertains to
28

Plaintiff's cause of action for negligent hiring, training, and supervision. Accordingly, the court's prior order entered on November 23, 2021, is hereby amended pursuant to *Renown* and NRCP 59(e) to reinstate that cause of action.

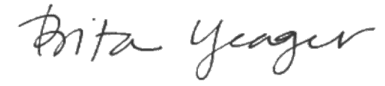
IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Plaintiff's Motion to Alter or Amend Judgment Pursuant to NRCP 59 is **DENIED** in all other aspects.

This Court notes that this order, combined with the prior order that is hereby incorporated by reference, resolves all claims by or against Defendant Tyron[e] Henderson and removes him as a party from the case.

IT IS FURTHER ORDERED that there is no just reason for delay for entry or enforcement of this Order, and as such this Order is certified as final pursuant to NRCP 54(b) as to the basis for Defendant Tyron[e] Henderson's dismissal from this case.

IT IS SO ORDERED.

Dated this 24th day of June, 2022



358 A4C 9786 6841
DISTRICT COURT JUDGE
Bita Yeager
District Court Judge

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Maria McMillin, Plaintiff(s)

CASE NO: A-19-787989-C

7 vs.

DEPT. NO. Department 1

8 7-Eleven, Inc, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

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joe@mwinjury.com

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18 Lindsay Hayes

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19 Cindie Hernandez

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20 Natalie Cothran

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22 Joseph Guindy

jguindy@mwinjury.com

23 Gregory Scott

gscott@lawhjc.com

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2 via United States Postal Service, postage prepaid, to the parties listed below at their last
3 known addresses on 6/27/2022

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Attn: Melissa J. Roose, Esq
3050 S. Durango Dr.
Las Vegas, NV, 89117

6 Steven Jaffe

Hall Jaffe & Clayton , LLP
Attn: Steven Jaffe
7425 Peak Drive
Las Vegas, NV, 89128

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

October 08, 2019

A-19-787989-C Maria McMillin, Plaintiff(s)
vs.
7-Eleven, Inc, Defendant(s)

**October 08, 2019 1:00 PM Mandatory Rule 16
Conference**

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Ganier, Ash M. Attorney
Roose, Melissa Attorney

JOURNAL ENTRIES

- Colloquy regarding scheduling. Court noted trial anticipated to last 7-10 days. COURT ORDERED, the following discovery schedule;

Motions to amend parties and/or add parties TO BE FILED by 3/06/2020;

Initial expert disclosures DUE on or before 3/06/2020;

Rebuttal expert disclosures DUE on or before 4/05/2020;

Discovery cut-off SET for 6/04/2020;

Deposition cut-off SET for 6/04/2020;.

Dispositive motions TO BE FILED by 7/06/2020;

Motions in Limine TO BE FILED by 9/02/2020;

Parties shall participate in a settlement conference on or before 4/05/2020; and
Pre Trial Memorandum DUE on or before 12/08/2020.

FURTHER ORDERED, matter SET for trial and Trial Order shall issue.

12/01/2020 9:00 AM PRE TRIAL CONFERENCE .

12/15/2020 9:00 AM CALENDAR CALL

1/04/2021 1:00 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

March 17, 2020

A-19-787989-C Maria McMillin, Plaintiff(s)
vs.
7-Eleven, Inc, Defendant(s)

March 17, 2020 9:00 AM Motion For Stay

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Ganier, Ash M. Attorney

JOURNAL ENTRIES

- Ms. Ganier advised Plaintiff is no longer proceeding against Defendant 7 - 11 and since filing motion her office was able to personally serve the two individually named Defendants. Further, Ms. Ganier advised she will possibly submit a stipulation to extend discovery deadlines and moving the trial date. Court instructed Ms. Ganier to submit the stipulation and order for review. COURT ORDERED, matter OFF CALENDAR.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

September 09, 2021

A-19-787989-C Maria McMillin, Plaintiff(s)
vs.
7-Eleven, Inc, Defendant(s)

September 09, 2021 8:30 AM

**Status Check: Trial
Readiness**

HEARD BY: Yeager, Bitu

COURTROOM: RJC Courtroom 16A

COURT CLERK: Rem Lord

RECORDER: Lisa Lizotte

REPORTER:

PARTIES

PRESENT: Ganier, Ash M. Attorney
Hernandez, Cindie D. Attorney

JOURNAL ENTRIES

- Parties announced ready for trial and stated they anticipated to try their case in six to nine days including voir dire. Colloquy regarding the parties potentially attending a settlement conference. COURT ORDERED, trial SET on the last week of the stack.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

October 25, 2021

A-19-787989-C Maria McMillin, Plaintiff(s)
vs.
7-Eleven, Inc, Defendant(s)

**October 25, 2021 10:00 AM Status Check: Trial
Readiness**

HEARD BY: Cherry, Michael A. **COURTROOM:** RJC Courtroom 16A

COURT CLERK: Michele Tucker

RECORDER: Lisa Lizotte

REPORTER:

PARTIES

PRESENT: Guindy, Joseph W Attorney
Jaffe, Steven T. Attorney

JOURNAL ENTRIES

- COURT ORDERED, Trial Date SET as a Firm date. Counsel advised seven days for trial with voir dire.

12/20/21 10:00 AM PRETRIAL/CALENDAR CALL

1/12/22 9:00 AM JURY TRIAL - FIRM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

October 27, 2021

A-19-787989-C Maria McMillin, Plaintiff(s)
vs.
7-Eleven, Inc, Defendant(s)

October 27, 2021 9:30 AM All Pending Motions

HEARD BY: Cherry, Michael A. **COURTROOM:** RJC Courtroom 16A

COURT CLERK: Michele Tucker

RECORDER: Lisa Lizotte

REPORTER:

PARTIES

PRESENT: Ganier, Ash M. Attorney
Jaffe, Steven T. Attorney

JOURNAL ENTRIES

- ALL PENDING - DEFENDANTS MOTION TO FILE UNDER SEAL, EXHIBIT "B" TO DEFENDANT TYRON[E] HENDERSON'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT AND DEFENDANT ROBERT THOMPSON'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT ON ORDER SHORTENING TIME... DEFENDANT TYRON[E] HENDERSON'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT AND DEFENDANT ROBERT THOMPSON'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, MOTION FOR PARTIAL SUMMARY JUDGMENT... PLAINTIFF'S OPPOSITION TO DEFENDANT TYRON[E] HENDERSON'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT AND DEFENDANT ROBERT THOMPSON'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, MOTION FOR PARTIAL SUMMARY JUDGMENT AND COUNTERMOTION FOR LEAVE TO AMEND PLAINTIFF'S COMPLAINT

Mr. Jaffe advised a confidential document was filed with the motion COURT ORDERED, Defendants Motion To File Under Seal, Exhibit "B" To Defendant Tyron[E] Henderson's Motion For Judgment On

The Pleadings, Or In The Alternative, Motion For Summary Judgment And Defendant Robert Thompson's Motion For Judgment On The Pleadings, Or In The Alternative, Motion For Summary Judgment On Order Shortening Time GRANTED.

Mr. Jaffe argued the plaintiff has a duty in their pleadings to plead the allegation and the tort. Plaintiff has not properly identified the parties and the deadline to amend the pleading has passed. Mr. Jaffe further argued the plaintiff has not identified the cause or the duty. Ms. Blackburn argued as to a clerical error and this being a notice pleading state. Ms. Blackburn further argued they only need to exchange the information in the complaint. Court STATED it is treating this as a motion for summary judgment and it had reviewed the video and it does not see this case going forward. COURT ORDERED, Defendant Tyron[E] Henderson's Motion For Judgment On The Pleadings, Or In The Alternative, Motion For Summary Judgment And Defendant Robert Thompson's Motion For Judgment On The Pleadings, Or In The Alternative, Motion For Partial Summary Judgment GRANTED.

COURT FURTHER ORDERED, Plaintiff's Countermotion for Leave to Amend DENIED.

CASE CLOSED

Mr. Jaffe to prepare the Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

February 02, 2022

A-19-787989-C Maria McMillin, Plaintiff(s)
vs.
7-Eleven, Inc, Defendant(s)

February 02, 2022 9:30 AM All Pending Motions

HEARD BY: Yeager, Bitia **COURTROOM:** RJC Courtroom 05C

COURT CLERK: Michele Tucker

RECORDER: Deloris Scott

REPORTER:

PARTIES

PRESENT: Ganier, Ash M. Attorney
 Jaffe, Steven T. Attorney

JOURNAL ENTRIES

- ALL PENDING - DEFENDANTS, ROBERT THOMPSON AND TYRONE[E] HENDERSON'S MOTION FOR COSTS...PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO NRCP 59

Court STATED it is its understanding the plaintiff is asking for a Certification from the Court. Ms. Blackburn advised they are seeking for the Judgment to be altered so that the Defendants' prior motion is denied and this case proceeds on for a trial. Court NOTE the motion regarding of fees is on appeal and believe that removes jurisdiction, except for collateral matters. Ms. Blackburn argued the defendants position is the request is moot because of the Motion to Alter and Amend under NRCP 59. Mr. Jaffe argued Judge Cherry granted the motion and entered a dispositive ruling their right to appeal is not established and that does not necessarily require certification. Plaintiff had to file an appeal timely within the limitations and restrictions imposed by the Nevada Appellate Court Rules. Ms. Blackburn argued they submitted the appeal under the guidelines of NRAP. If the court grants the motion to alter or amend it renders the appeal moot. Arguments by counsel as to Nutton and Renown.

COURT DOES NOT FIND the Court erred in denying leave to amend as there was no showing of

good cause. COURT FINDS with the Plaintiff submitting the video with the arguments that were made in the pleadings. And since the video became an item outside of the pleadings the Court could consider they had notice summary judgment could be granted on the claim of negligence. As to summary judgment on the negligence COURT FINDS clear error. COURT DOES NOT FIND as to the negligent hiring claim the Plaintiff had notice she would have to defend the claim of negligent hiring. Under the Renown the Plaintiff was not on notice, and was not given the opportunity to come forward with evidence and FINDS clear error.

Mr. Jaffe clarified the dispositive motion in no longer fully dispositive and count two of the complaint remains, which is negligent hiring, training, and supervision against Defendant, Thompson as the owner. And fully and finally dispositive as to the claims against Defendant, Henderson. Mr. Jaffe requested leave to bring another motion for summary judgment as you cannot proceed on negligent hiring, training and supervision without the employee. COURT GRANTED the request.

COURT ORDERED, Defendants, Robert Thompson and Tyrone Henderson's Motion for Costs CONTINUED to June 13, 2022 and Status Check regarding appeal SET.

COURT ORDERED, Plaintiff's Motion to Alter or Amend Judgment Pursuant to NRCP 59 DENIED as to negligence, certification, negligent hiring and training.

Mr. Jaffe to prepare the Order.

6/13/22 9:00 AM STATUS CHECK: APPEAL

CONTINUED TO: 6/13/22 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

April 11, 2022

A-19-787989-C Maria McMillin, Plaintiff(s)
vs.
7-Eleven, Inc, Defendant(s)

April 11, 2022 9:00 AM Status Check

HEARD BY: Yeager, Bitia **COURTROOM:** RJC Courtroom 05C

COURT CLERK: Maricela Grant

RECORDER: Aimee Curameng

REPORTER:

PARTIES

PRESENT: Guindy, Joseph W Attorney
Jaffe, Steven T. Attorney

JOURNAL ENTRIES

- Hearing held by BlueJeans remote conferencing. Upon Courts Inquire, Mr. Guindy stated they had submitted a proposed order to opposing council a few times before submitting to the court. Mr. Jaffe stated his firm did receive the email and assumed Ms. Hernandez took care of it. Mr. Jaffe stated they are not stipulating to certification. Court directed counsel to submit competing orders on the issue. COURT ORDERED, Status Check SET.

STATUS CHECK 6/15/2022 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Premises Liability

COURT MINUTES

June 13, 2022

| | |
|---------------|------------------------------|
| A-19-787989-C | Maria McMillin, Plaintiff(s) |
| | vs. |
| | 7-Eleven, Inc, Defendant(s) |

June 13, 2022

9:00 AM

All Pending Motions

HEARD BY: Yeager, Bitu

COURTROOM: RJC Courtroom 05C

COURT CLERK: Michele Tucker

RECORDER: Lisa Lizotte

REPORTER:

PARTIES

PRESENT:

Guindy, Joseph W

Attorney

Hernandez, Cindie D.

Attorney

JOURNAL ENTRIES

- ALL PENDING - STATUS CHECK: RESETTING - DEFENDANTS, ROBERT THOMPSON AND TYRON[E] HENDERSON'S MOTION FOR COSTS ...STATUS CHECK: APPEAL

Court STATED it had not been fully clear on distinguishing its previous order by saying it was the lack of substitution of the parties and not the lack of the requirements for the tort that was insufficiently pled. Court FURTHER STATED it would issue a minute order in regards to this. At the time of the hearing the appeal was still with the Supreme Court. Since that time the appeal has been dismissed and this Court now has jurisdiction. Colloquy as to what will be put in the order and resetting the trial date. Ms. Hernandez requested contacting chambers with the new deadlines and date for trial. Court DIRECTED counsel to submit a stipulation and order as the dates. COURT ORDERED, Motion for Costs DENIED WITHOUT PREJUDICE.



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

SARAH A. MORRIS, ESQ.
5450 W. SAHARA AVE., SUITE 330
LAS VEGAS, NV 89146

DATE: July 20, 2022
CASE: A-19-787989-C

RE CASE: MARIA MCMILLIN vs. ROBERT THOMPSON; TYRON HENDERSON

NOTICE OF APPEAL FILED: July 18, 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; ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO NRCP 59; NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO NRCP 59; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

MARIA MCMILLIN,

Plaintiff(s),

vs.

ROBERT THOMPSON; TYRON
HENDERSON,

Defendant(s),


Case No: A-19-787989-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 20 day of July 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

