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Sep 27 2023 03:41 PM
Elizabeth A. Brown
Clerk of Supreme Court

Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

FORE STARS, LTD., a Nevada limited
liability company; 180 LAND CO., LLC; A
NEVADA LIMITED LIABILITY
COMPANY; SEVENTY ACRES, LLC, a
Nevada limited liability company,

Plaintiffs,

vs.

DANIEL OMERZA, DARREN BRESEE,
STEVE CARIA, and DOES 1 THROUGH
100,

Defendants.

Case No.: A-18-771224-C

Dept: XIX

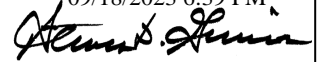
NOTICE OF APPEAL

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that Plaintiffs FORE STARS, LTD., 180 LAND CO, LLC,
AND SEVENTY ACRES, LLC, hereby appeal to orders entered on September 18, 2023 as

follows:

NOTICE OF APPEAL - 1


CLERK OF THE COURT

ORDR

MITCHELL J. LANGBERG, ESQ., Bar No. 10118
mlangberg@bhfs.com
BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106-4614
Telephone: 702.382.2101
Facsimile: 702.382.8135

Counsel for Defendants,
DANIEL OMERZA, DARREN BRESEE, and
STEVE CARIA

DISTRICT COURT

CLARK COUNTY, NEVADA

FORE STARS, LTD., a Nevada limited
liability company; 180 LAND CO., LLC; a
Nevada limited liability company;
SEVENTY ACRES, LLC, a Nevada
limited liability company,

Plaintiffs,

v.

DANIEL OMERZA, DARREN BRESEE,
STEVE CARIA, and DOES 1 THROUGH
100,

Defendants,

CASE NO.: A-18-771224-C
DEPT. NO.: ~~18~~ 19

**ORDER DENYING PLAINTIFFS'
MOTION TO RECONSIDER ORDER
GRANTING ATTORNEY'S FEES POST-
REMAND**

Plaintiffs' Motion to Reconsider Order Granting Attorney's Fees Post-Remand (the
"Motion") came on for chambers hearing before this Court on June 2, 2023.

After considering the Motion, the opposition thereto, and the reply in support thereof, the
Court will deny the motion:

1. On October 3, 2022, Plaintiffs filed their Motion seeking reconsideration of this
Court's September 19, 2022, Order Granting Defendants' Motion for Attorneys' Fees and
Additional Monetary Relief Pursuant to NRS 41.670 and NRS 18.010(2) (the "Fee Motion").
2. Defendants filed their opposition to the Motion on October 17, 2022.
3. Plaintiffs filed their reply in support of the Motion on October 28, 2022.

1 4. EDCR 2.24 provides that “[n]o motions once heard and disposed of may be
2 renewed in the same cause, nor may the same matters therein embraced be reheard, unless by
3 leave of the court granted upon motion therefor, after notice of such motion to the adverse
4 parties.” “[A] court may correct a clerical mistake or a mistake arising from oversight or omission
5 whenever one is found in a judgment, order, or other part of the record.” NRCP 60(a). This may
6 be done by the court sua sponte or on a timely motion from the parties, and does not require
7 notice by the court. *Id.*

8 5. To prevail on a motion for reconsideration, the moving party must establish that
9 there was an error of law, substantially new evidence discovered, or that the Court’s decision was
10 clearly erroneous. *See Masonry & Tile Contractors Ass’n of S. Nevada v. Jolley, Urga, & Wirth,*
11 *Ltd.*, 113 Nev. 737, 741 (1997).

12 6. “A finding is ‘clearly erroneous’ when although there is evidence to support it, the
13 reviewing court on the entire evidence is left with the definite and firm conviction that a mistake
14 has been committed.” *U.S. v. Gypsum*, 333 U.S. 364, 395 (1948).

15 7. Finally, any “[p]oints or contentions not raised in the original hearing cannot be
16 maintained or considered on rehearing.” *Achrem v. Expressway Plaza Ltd. P’ship*, 112 Nev. 737,
17 742 (1996).

18 8. Plaintiffs have failed to establish that there was an error of law, substantially new
19 evidence discovered, or that the Court’s decision was clearly erroneous.

20 9. Defendants are correct in that the Nevada Supreme Court remanded this matter to
21 the District Court for the sole purpose of considering the *Brunzell* factors in granting Defendants’
22 request for attorney’s fees. Specifically, the Nevada Supreme Court Ordered, “Consistent with
23 the foregoing, we affirm the district court’s order granting respondents’ special motion to dismiss
24 in Docket No. 82338, and we vacate the order awarding attorney fees in Docket 82880, and
25 remand for the court to consider the *Brunzell* factors and make the necessary findings to support
26 the fee amount awarded.”

1 10. This Court considered the *Brunzell* factors and issued its own Order on the matter,
2 filed on September 19, 2022 [Docket #132], which articulated the factors this Court considered
3 and necessary findings to support its decision in granting Defendants’ Motion for attorney’s fees.

4 11. Plaintiffs’ new argument that reasonable fees must include fees for which the
5 Defendants are liable is not a basis for reconsideration.

6 12. The Court does not need to resolve these issues. As noted above, when an anti-
7 SLAPP motion is granted, the Court “shall award reasonable costs and attorney’s fees.” NRS
8 41.670(1)(a). The Nevada Supreme Court has repeatedly directed that application of the *Brunzell*
9 factors are the method by which a reasonable fee is determined and this Court interprets this to
10 mean that only the Brunzell factors shall be analyzed and that it shall award fees that are
11 reasonable pursuant to *Brunzell*.

12 13. Thus, whether the Court is considering:

- 13 (a) A traditional hourly arrangement;
- 14 (b) fees paid by a third party (*Macias v. Hartwell*, 55 Cal. App. 4th 669, 674-
15 75 (1997)—anti-SLAPP fees awarded even if third party, not defendant,
16 paid fee);
- 17 (c) a pro bono relationship (*See Rosenaur v. Scherer*, 88 Cal. App. 4th 260,
18 281-287 (2001), as modified (Apr. 5, 2001)—anti-SLAPP fees on pro bono
19 matter)
- 20 (d) a contingency fee arrangement (*See Ketchum v. Moses*, 24 Cal. 4th 1122,
21 1132-33 (2001) - granting fees to contingency fee counsel on anti-SLAPP
22 motion); or
- 23 (e) a contingency fee arrangement without a written agreement that could
24 somehow be challenged by third parties such as Plaintiffs (Restatement
25 (Third) of the Law Governing Lawyers § 39 (2000)—lawyer entitled to
26 reasonable fee even where there is no valid contract),

27 the Court’s task is the same: to determine and award reasonable attorneys’ fees. That is exactly
28 what the Court did.

14. Thus, there was no basis for reconsideration.

Therefore, it is hereby ORDERED that Plaintiffs' Motion to Reconsider Order Granting Attorney's Fees Post-Remand is DENIED.

Dated this 18th day of September, 2023



4FD 36E 8E78 ED4B
Crystal Eller
District Court Judge

Respectfully Submitted By:

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: /s/ Mitchell J. Langberg
MITCHELL J. LANGBERG, ESQ., Bar No. 10118
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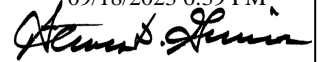
Counsel for Defendants
DANIEL OMERZA, DARREN BRESEE, and
STEVE CARIA

Approved as to form:

THE LAW OFFICES OF KRISTINA WILDEVELD & ASSOCIATES

By: /s/ Lisa A. Rsmussen
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Counsel for Plaintiffs
FORE STARS, LTD., 180 LAND CO., LLC; and
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DANIEL OMERZA, DARREN BRESEE, and
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DISTRICT COURT

CLARK COUNTY, NEVADA

FORE STARS, LTD., a Nevada limited
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Nevada limited liability company;
SEVENTY ACRES, LLC, a Nevada
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Plaintiffs,

v.

DANIEL OMERZA, DARREN BRESEE,
STEVE CARIA, and DOES 1 THROUGH
100,

Defendants,

CASE NO.: A-18-771224-C
DEPT. NO.: ~~11~~ 19

**ORDER GRANTING , IN PART,
DEFENDANTS' SUPPLEMENTAL
MOTION FOR ATTORNEYS' FEES; AND**

**DENYING PLAINTIFFS' MOTION FOR
LEAVE TO FILE SUR-REPLY TO
DEFENDANTS' REPLY**

Defendants' Supplemental Motion for Attorneys' Fees (the " Supplemental Fee Motion")
and Plaintiff's Motion for Leave to File Sur-Reply to Defendants' Reply.(the "Sur-Reply Motion")
came on for chambers hearing before this Court on June 2, 2023.

After considering the Supplemental Fee Motion and the Sur-Reply Motion and all of the
papers filed in support of and in opposition to the motions, the Court makes the follow order
granting the Supplemental Fee Motion, in part, and denying the Sur-Reply Motion as moot:

1. Defendants' anti-SLAPP motion under NRS 41.670 was granted and substantively
affirmed by the Nevada Supreme Court. The Nevada Supreme Court reversed the initial
attorneys' fee award for reconsideration after further consideration of the *Brunzell* factors.

1 2. On remand, this Court issued a fee award.

2 3. On November 23, 2022, Defendants filed the Supplemental Fee Motion seeking
3 fees for work that had not been addressed by this Court’s prior fee award, including the fees
4 related to the appeal.

5 4. Plaintiffs filed their opposition to the Supplemental Fee Motion on December 23,
6 2022.

7 5. Defendants filed their reply in support of the Supplemental Fee Motion on January
8 6, 2023.

9 6. Plaintiffs filed their Sur-Reply Motion on January 17, 2023.

10 7. In a case where claims have been successfully dismissed by way of an anti-SLAPP
11 motion, NRS 41.670(1)(a) states that a court “shall award reasonable cost and attorney’s fees to
12 the person against whom the action was brought.”

13 8. An award of additional amounts, up to \$10,000, are also permitted under NRS
14 41.670(1)(b).

15 9. Further, where *all* claims are disposed of by the motion, fees incurred that are not
16 directly related to the anti-SLAPP motion are recoverable. *See Goldman v. Clark Cty. Sch. Dist.*,
17 2020 WL 5633065, *1, *5 (Nev. Sept. 18, 2020)(affirming an award of fees and costs “because
18 the facts and legal arguments in the NRCP 12(b)(5) motion were intrinsically intertwined with
19 those in the anti-SLAPP motion”).

20 10. Further, such fees shall include “all reasonable fees and costs incurred from the
21 inception of the litigation...” *Smith v. Zilverberg*, 137 Nev. 65, 73 (2021). This means that a
22 prevailing defendant is entitled “to recover reasonable attorney fees and costs incurred in the
23 entire action, not just those incurred litigating the anti-SLAPP special motion to dismiss.” *Id.* at
24 75.

25 11. Additionally, NRS 18.010 provides for an award of attorney’s fees where: (1)
26 authorized by a specific statute; (2) the prevailing party has not recovered more than \$20,000; or
27 (3) notwithstanding the recovery sought, the court finds that a “claim, counterclaim, cross-claim
28

1 or third-party complaint or defense” was maintained without reasonable ground or to harass the
2 prevailing party.”

3 12. Additionally, the provisions of the statute are to be “liberally construe[d] ... in
4 favor of awarding attorney’s fees in all appropriate situations.” *Id.*

5 13. Further, such an award is also intended as a sanction to punish and deter frivolous
6 and vexatious claims, pursuant to NRCP 11. *Id.* “[A] claim is frivolous or groundless if there is
7 no credible evidence to support it.” *Capanna v. Orth*, 134 Nev. 888, 895 (2018).

8 14. Here, an award of fees is warranted. NRS 41.670(1)(a) is abundantly clear that the
9 Court “*shall* award” reasonable costs and fees.

10 15. In opposition to this motion and in other papers filed with this Court, Plaintiffs
11 have repeatedly argued that no fees can be awarded under the anti-SLAPP Statute unless
12 Defendants prove that are actually liable for, or have actually paid attorneys fees, or that they
13 provide a copy of a contingency agreement. Plaintiffs argue that in the absence of evidence that
14 the work performed by defense counsel created a legal obligation for defendants to pay, no fees
15 should be awarded because “[t]his is not a contingency case; it is a pro bono case.”

16 16. The Court does not need to resolve these issues. As noted above, when an anti-
17 SLAPP motion is granted, the Court “shall award reasonable costs and attorney’s fees.” NRS
18 41.670(1)(a). The Nevada Supreme Court has repeatedly directed that application of the *Brunzell*
19 factors are the method by which a reasonable fee is determined and this Court interprets this to
20 mean that only the *Brunzell* factors shall be analyzed and that it shall award fees that are
21 reasonable pursuant to *Brunzell*.

22 17. Thus, this Court is required to consider the *Brunzell* factors in considering
23 Defendants’ request for supplemental fees in the amount of \$43,620.50 which is the *Lodestar*
24 amount (rate multiplied by hours) requested by Defendants’ counsel.

25 18. The factors are (1) the qualities of the advocate: their ability, training, education,
26 experience, professional standing and skill; (2) the character of the work to be done: its difficulty,
27 its intricacy, its importance, time and skill required, the responsibility imposed and the
28 prominence and character of the parties where they affect the importance of the litigation; (3) the

1 work actually performed by the lawyer: the skill, time and attention given to the work; (4) the
2 result: whether the attorney was successful and what benefits were derived. *Brunzell v. Golden*
3 *Gate Nat. Bank*, 85 Nev. 345, 349 (1969).

4 19. As to the quality of the advocate, Mitchell Langberg performed the majority of the
5 work for the supplemental fees requested. The Court finds, as set out in his declaration, that
6 Mitchell Langberg has been lead counsel on this matter. He graduated from the University of
7 Southern California School of Law in 1994. During his 29 years of practice, one of his primary
8 focuses has been on defamation and First Amendment litigation. He is recognized by Best
9 Lawyers in the area of Media and First Amendment Law. He is recognized with a Preeminent
10 AV rating from Martindale-Hubbell. Mr. Langberg has handled approximately 50 cases
11 involving anti-SLAPP motions (on both sides). He testified as an expert in the Nevada
12 Legislature when the current anti-SLAPP statute was debated in 2015. He has taught anti-SLAPP
13 law, including most recently as a lecturer on the subject at the Colorado Judicial Conference. As
14 further set out in Mr. Langberg's declaration, Laura Langberg briefly assisted on this case. She is
15 a 2007 J.D./M.B.A. graduate of the Boyd School of Law. She has worked with Mr. Langberg on
16 defamation cases since 2008 and has assisted with several anti-SLAPP motions and oppositions.
17 Based on these undisputed facts, this Court finds that the quality of the advocates is very high.

18 20. As to the character of the work done, as this Court has previously found in this
19 case, the work itself implicated important First Amendment rights on issues that are of immense
20 concern in this community—including matters of regulating development and resident input in
21 that process. The anti-SLAPP statute, itself, is designed to identify meritless litigation arising
22 from the exercise of First Amendment rights. The fact the Legislature has created a special
23 procedure in these cases emphasizes the social importance of anti-SLAPP litigation. Further,
24 when taken in the context of a developer with expansive financial resources attempting to silence
25 its opposition in their attempts to have their concerns heard by the City Counsel, speaks volumes
26 about the challenges in the case. Therefore, the character of work is extremely significant.

27 21. As to the work actually performed, the Court has reviewed the charges provided
28 by Defendants setting out the work performed by category. All of the work was necessitated by

1 Plaintiffs' persistent pursuit of claims seeking damages of tens of millions of dollars in the
2 Nevada Supreme Court—claims that Court has confirmed lacked all merit. Defendants' counsel
3 spent less than 60 hours to resist a motion for reconsideration, draft a settlement conference
4 statement, attend a mandatory settlement conference in person, draft an appeal brief on the
5 complicated issues in this case, and then resist yet another motion for reconsideration. The Court
6 is directly familiar with all the work that was filed with this Court and, based on the Nevada
7 Supreme Court decision and the Court's own experience, understands the work that was required
8 for the settlement conference and the appellate briefing. Defendants' efforts were successful and
9 the quality of the work was clearly very good. The number of hours requested is very reasonable
10 in light of the work performed.

11 22. As to the result, Defendants were successful. The Nevada Supreme Court
12 affirmed the substantive grant of the anti-SLAPP motion. Remand was only for this Court to
13 reconsider the amount of fees and expressly articulate the application of the *Brunzell* factors in its
14 order. And, this Court issued an award of the full fees after again considering the *Brunzell*
15 factors.

16 23. The Court finds that the rates applied by counsel for the *Lodestar* analysis are
17 reasonable. When this case began several years ago, the rate of \$655 per hour Mr. Langberg
18 applied for this matter was less than his regular billable rate. In the more than four years since
19 then, Mr. Langberg's standard billable rate has increased annually, which is common in the legal
20 community. Another Court in this district has recently approved Mr. Langberg's rate of \$825 per
21 hour on an anti-SLAPP motion. For the work that is the subject of the Supplemental Fee Motion,
22 Mr. Langberg has requested only \$700 per hour, less than 7% more than his initial rate was more
23 than four years ago. The rate applied to Mrs. Langberg's limited work was \$505.

24 24. The Court is familiar with the rates charged in this community for complex or
25 specialty litigation such as First Amendment and anti-SLAPP litigation. The Court finds that the
26 rates applied are reasonable and appropriate for the nature and quality of the work performed. In
27 fact, they are lower than some rates approved on anti-SLAPP motions in this district.
28

25. The Court also finds that the total hours requested in the Supplemental Fee Motion (58.3 hours) and the reply in support of that motion (4.6 hours) is reasonable for all of the work performed.

26. Therefore, the Court finds that total fees in the amount of \$43,620.50 are reasonable and appropriate after consideration of the *Lodestar* and *Brunzell* factors.

27. In the reply in support of the Supplemental Fee Motion, Defendants requested that the Court make a referral to Bar Counsel pursuant to Nevada Rules of Professional Conduct 3.3. The Court will deny that request.

28. Therefore, Plaintiff's Motion for Leave to File a Sur-Reply will be denied as moot.

Therefore, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. Defendants' Supplemental Motion for Attorneys Fees is GRANTED in part and DENIED in part;

2. Defendants request for attorneys' fees is GRANTED and Defendants are awarded supplemental attorneys' fees (in addition to fees already awarded by the Court) as against Plaintiffs, and each of them, jointly and severally, in the total amount of \$43,620.50, and Plaintiffs are hereby ORDERED to pay such fees to Defendants within 60 days unless this fee award is stayed pursuant to statute, rule, or subsequent court order;

3. Defendants' request for referral to Bar Counsel is DENIED; and

4. Plaintiff's Motion for Leave to File Sur-Reply to Defendants' Reply is DENIED as moot.

Dated this 18th day of September, 2023



DF3 253 7696 0544
Crystal Eller
District Court Judge

1 Respectfully Submitted By:

2 BROWNSTEIN HYATT FARBER SCHRECK, LLP

3
4 By: /s/ Mitchell J. Langberg

MITCHELL J. LANGBERG, ESQ., Bar No. 10118

mlangberg@bhfs.com

100 North City Parkway, Suite 1600

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7
8 *Counsel for Defendants*

DANIEL OMERZA, DARREN BRESEE, and

STEVE CARIA

9
10 Approved as to form:

11 THE LAW OFFICES OF KRISTINA WILDEVELD & ASSOCIATES

12
13 By: /s/ Lisa A. Rsmussen

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Las Vegas, Nevada 89104

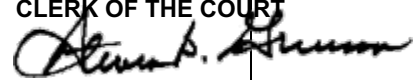
Telephone: 702.222.0007

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16 *Counsel for Plaintiffs*

FORE STARS, LTD., 180 LAND CO., LLC; and

SEVENTY ACRES, LLC



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Email: Lisa@LRasmussenLaw.com

Attorneys for Plaintiffs

DISTRICT COURT
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100,

Defendants.

Case No.: A-18-771224-C

Dept: XIX

CASE APPEAL STATEMENT

The Plaintiffs, Fore Stars, Ltd., 180 Land Co., LLC and Seventy Acres, LLC, by
and through their counsel, hereby submit this Case Appeal Statement in accordance
with NRAP 3(f) as follows:

...

CASE APPEAL STATEMENT - 1

1 **1. Name of appellants filing this case appeal statement:**

2 Plaintiffs Fore Stars, LTD; 180 Land Co. LLC; Seventy Acres, LLC

3 **2. The Judge issuing the decision, judgment or order appealed from:**

4 The Honorable Crystal Eller

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

7 a. Fore Stars, LTD, a Nevada limited liability company;

8 b. 180 Land Co, LLC, a Nevada limited liability company; and

9 c. Seventy Acres, LLC, a Nevada limited liability company.

10
11 Lisa Rasmussen, Esq. (NV Bar 7491)

12 The Law Offices of Kristina Wildeveld & Associates

13 550 E. Charleston Blvd., Suite A

14 Las Vegas, NV 89104

15 (702) 222-0007

16 Lisa@Veldlaw.com

17 **4. Identify each respondent and the name and address of appellate counsel,**
18 **if known, for each respondent:**

19 a. Daniel Omerza;

20 b. Darren Bresee; and

21 c. Steve Caria

22 Mitchell J. Langberg, Esq. (NV Bar No. 10118)

23 Brownstein, Hyatt Farber Schreck, LLP

24 100 North City Parkway, Suite 1600

25 Las Vegas, NV 89106-4614

26 (702) 382-2101

27 Email: mlangberg@bhfs.com

- 1 **5. Indicate whether any attorney identified above in response to question 3**
2 **or 4 is not licensed to practice law in Nevada and, if so, whether the**
3 **district court granted that attorney permission to appear under SCR 42.**

4 None/NA

- 5 **6. Indicate whether appellants were represented by appointed or retained**
6 **counsel in the district court:**

7 Appellants were represented by retained counsel in the district court.

- 8 **7. Indicate whether appellees are represented by appointed or retained**
9 **counsel on appeal:**

10 Appellees are represented by retained counsel on appeal.

- 11 **8. Indicate whether appellants were granted leave to proceed in forma**
12 **pauperis, and the date of entry of the district court order granting such**
13 **leave:**

14 No/NA

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

17 Plaintiffs' Complaint was filed on March 15, 2018 in the Eighth Judicial
18 District Court.

- 19 **10. Provide a brief description of the nature of the action and results in the**
20 **district court, including the type of judgment or order being appealed and**
21 **the relief granted by the district court:**

22 Plaintiffs are limited liability companies whose assets are parcels of land that
23 previously comprised the Badlands Golf Course and the parcels are adjacent
24 to the Queensridge residential community. Plaintiffs alleged generally that
25 defendants made false statements and encouraged, aided, abetted and
26 caused others to make false statements to the City of Las Vegas in order to
27 prevent development on the Plaintiff parcels, and that their conduct resulted
28

1 in damages to Plaintiffs. Plaintiffs sought injunctive relief and monetary
2 recompense in their complaint. Defendants filed a Special Motion to
3 Dismiss pursuant to Nevada's anti-SLAPP statute (NRS 41.635, et seq). The
4 district court denied the motion, defendants appeal that order in 2018, the
5 Nevada Supreme Court reversed in 2020 and ultimately granted the Special
6 Motion to Dismiss. Plaintiffs appealed the district court's award of
7 attorney's fees. The Nevada Supreme Court remanded and the district court
8 entered another order granting the same amount of attorney's fees. Plaintiffs
9 appeal this determination herein. Defendants also filed a Supplemental
10 Motion for Attorney's Fees. The district court granted the Supplemental Fees
11 and Plaintiffs also appeal that determination herein. Plaintiffs appeal two
12 attorney fee orders in this appeal.

13
14 **11. Indicate whether the case has previously been the subject of an appeal to**
15 **or original writ proceeding in the Supreme Court and, if so, the caption**
16 **and the Supreme Court docket number of the prior proceeding:**

17 Yes, as noted, there is a prior appeal on the same matter as follows:

18 Daniel Omerza, et al v. Fore Stars, Ltd, et al

19 NSC Docket No. 76273

20 &

21 Fore Stars, et al v. Daniel Omerza, et al

22 NSC Docket No. 82338, consolidated with No. 82880

23 &

24 Fore Stars, et al v. Daniel Omerza, et al

25 NSC Docket No. 85542

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

27 No/NA

28 . . .



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Nevada Bar No. 7491
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Defendants.

Case No.: A-18-771224-C

Dept: XIX

**NOTICE OF POSTING CASH BOND
WITH THE CLERK OF THE COURT**

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that Plaintiffs FORE STARS, LTD., 180 LAND CO, LLC,
AND SEVENTY ACRES, LLC, posted a cash bond with the Clerk of the Court on today's date in
the amount of \$406,864.50 (Four Hundred Thousand, Eight Hundred and Sixty Four Dollars and
NOTICE OF POSTING CASH BOND WITH THE CLERK OF THE COURT - 1

1 Fifty Cents). A receipt showing the funds were deposited with the clerk of the Court is attached
2 hereto.

3 Dated this 22nd day of September, 2023.
4

5 **THE LAW OFFICES OF KRISTINA WILDEVELD & ASSOCIATES,**

6 */s/ Lisa Rasmussen*

7 LISA A. RASMUSSEN, ESQ.

8 NEVADA BAR NO. 7491

9 ATTORNEYS FOR PLAINTIFFS

10 **CERTIFICATE OF SERVICE**

11 I hereby certify that I served a copy of the foregoing NOTICE OF POSTING CASH
12 BOND upon all parties participating in this Court's electronic file and serve program on
13 this 22ND day of September, 2023, including, but not limited to the following person(s):
14

15 Mr. Mitchell J. Langberg, Esq.

Counsel for Defendants

16 */s/ Lisa A. Rasmussen*

17
18 **LISA A. RASMUSSEN, ESQ.**

OFFICIAL RECEIPT

District Court Clerk of the Court 200 Lewis Ave, 3rd Floor Las Vegas, NV 89101

Payor
Western Alliance Bank - Remitter Fore Stars Ltd.

Receipt No.
2023-82462-CCCLK

Transaction Date
09/22/2023

Description	Amount Paid
-------------	-------------

On Behalf Of Fore Stars Ltd
A-18-771224-C
Fore Stars Ltd, Plaintiff(s) vs. Daniel Omerza, Defendant(s)
Miscellaneous Fee Code

Miscellaneous Fee Code
SUBTOTAL

406,864.50
406,864.50

PAYMENT TOTAL **406,864.50**

Cashier Check (Ref #2135200953) Tendered 406,864.50
Total Tendered **406,864.50**
Change 0.00

9-22-2023 Notice of Appeal Provided by Payer

09/22/2023
11:52 AM

Cashier
Station RJC1C

Audit
38534432

OFFICIAL RECEIPT

CASE SUMMARY**CASE NO. A-18-771224-C**

Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

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Location: **Department 19**
 Judicial Officer: **Eller, Crystal**
 Filed on: **03/15/2018**
 Case Number History:
 Cross-Reference Case Number: **A771224**
 Supreme Court No.: **76273**
82338
82880
85542

CASE INFORMATION**Statistical Closures**

10/05/2022 Motion to Dismiss by the Defendant(s)

Case Type: **Other Civil Matters**Case Status: **10/05/2022 Dismissed****DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number A-18-771224-C
 Court Department 19
 Date Assigned 01/04/2021
 Judicial Officer Eller, Crystal

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	180 Land Co LLC	Rasmussen, Lisa A. <i>Retained</i> 702-222-0007(W)
	Fore Stars Ltd	Rasmussen, Lisa A. <i>Retained</i> 702-222-0007(W)
	Seventy Acres LLC	Rasmussen, Lisa A. <i>Retained</i> 702-222-0007(W)
Defendant	Bresee, Darren	Langberg, Mitchell J. <i>Retained</i> 702-382-2101(W)
	Caria, Steve	Langberg, Mitchell J. <i>Retained</i> 702-382-2101(W)
	Omerza, Daniel	Langberg, Mitchell J. <i>Retained</i> 702-382-2101(W)

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

03/15/2018
















Initial Appearance Fee Disclosure

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[1] Initial Appearance Fee Disclosure

CASE SUMMARY

CASE NO. A-18-771224-C

03/15/2018	 Complaint Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[2] Complaint</i>
03/16/2018	 Summons Electronically Issued - Service Pending Party: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[3] Summons</i>
03/16/2018	 Summons Electronically Issued - Service Pending Party: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[4] Summons</i>
03/16/2018	 Summons Electronically Issued - Service Pending Party: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[5] Summons</i>
03/26/2018	 Affidavit of Service Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[6] Affidavit of Service</i>
03/26/2018	 Summons Filed by: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[7] Summons</i>
03/26/2018	 Summons Filed by: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[8] Summons</i>
03/26/2018	 Summons Filed by: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[9] Summons</i>
03/27/2018	 Affidavit of Service Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[10] Affidavit of Service</i>
03/27/2018	 Affidavit of Service Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[11] Affidavit of Service</i>
04/06/2018	 Notice of Appearance Party: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[12] Notice of Appearance</i>
04/06/2018	 Initial Appearance Fee Disclosure Filed By: Defendant Caria, Steve; Defendant Bresee, Darren <i>[13] Initial Appearance Fee Disclosure</i>
04/13/2018	 Request for Judicial Notice <i>[14] Defendants' Request for Judicial Notice In Support of (1) Defendants' Special Motion to</i>

CASE SUMMARY

CASE NO. A-18-771224-C

Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 et. seq. and (2) Defendants' Motion to Dismiss Pursuant to NRCP 12(b)(5)

04/13/2018



Motion to Dismiss

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren
[15] Defendants' Motion to Dismiss Pursuant to NRCP 12(b)(5)

04/13/2018



Motion

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren
[17] Defendants' Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 et. seq.

04/17/2018



Notice of Department Reassignment

[16] Notice of Department Reassignment

04/19/2018



Peremptory Challenge

Filed by: Plaintiff Fore Stars Ltd
[18] Peremptory Challenge of Judge

04/20/2018



Notice of Department Reassignment

[19] Notice of Department Reassignment

05/01/2018



Stipulation and Order

Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren
[20] Stipulation and Order Continuing Hearing Dates for Defendants' Motion to Dismiss and Special Motion to Dismiss (Anti-SLAPP Motion) and Related Briefing Deadlines

05/02/2018



Notice of Entry of Stipulation and Order

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren
[21] Notice of Entry of Stipulation and Order Continuing Hearing Dates for Defendants' Motion to Dismiss and Special Motion to Dismiss (Anti-SLAPP Motion) and Related Briefing Deadlines

05/04/2018



Opposition

Filed By: Plaintiff Fore Stars Ltd
[22] Plaintiffs' Opposition to Defendants' Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 Et Seq.

05/07/2018



Opposition

Filed By: Plaintiff Fore Stars Ltd
[23] Plaintiffs' Opposition to Defendants' Motion to Dismiss Pursuant to NRCP 12(b)(5)

05/09/2018



Reply in Support

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren
[24] Defendants' Reply In Support of Special Motion To Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 Et. Seq.

05/09/2018



Reply in Support

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren
[25] Defendants' Reply Brief In Support of Motion to Dismiss Pursuant to NRCP 12(B)(5)

05/09/2018



Request for Judicial Notice

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren
[26] Defendants' Request for Judicial Notice In Support of (1) Defendants' Reply In Support of Special Motion To Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS

CASE SUMMARY

CASE NO. A-18-771224-C

41.635 Et. Seq. and (2) Defendants' Reply In Support of Motion To Dismiss Pursuant to NRCPL 12(B)(5)

05/11/2018



Supplement

Filed by: Plaintiff Fore Stars Ltd

[27] Plaintiffs' First Supplement to their Opposition to Defendants' Special Motion to Dismiss

05/11/2018



Supplement

Filed by: Plaintiff Fore Stars Ltd

[28] Plaintiffs' Second Supplement to their Opposition to Defendants' Special Motion to Dismiss

05/11/2018



Notice of Association of Counsel

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[29] Notice of Association of Counsel

05/14/2018



Notice

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[30] Plaintiffs' Notice of Submitting A Physical Thumb Drive Containing the Video File (.MOV) Labelled "Omerza Video" Attached to "Plaintiffs' First Supplement to Their Opposition to Defendants' Special Motion to Dismiss (Anti-Slapp Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 ET SEQ." to the Court's Exhibit Vault

05/17/2018



Recorders Transcript of Hearing

[31] All Pending Motions 5-14-18

05/23/2018



Supplemental Brief

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren

[32] Defendants' Supplemental Brief In Support of Special Motion To Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 Et. Seq.

05/23/2018



Supplement

Filed by: Plaintiff Fore Stars Ltd

[33] Plaintiffs' Supplement in Support of Opposition to Defendants' Special Motion to Dismiss (Anti-SLAPP)

05/25/2018



Motion to Strike

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren

[34] Defendants' Motion to Strike Portions of Plaintiffs' Supplement in Support of Opposition to Defendants' Special Motion to Dismiss or in the Alternative, for Further Supplemental Briefing

05/30/2018



Notice of Early Case Conference

Filed By: Plaintiff Fore Stars Ltd

[35] Notice of Early Case Conference

06/11/2018



Errata

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[36] Errata to Complaint

06/12/2018















Notice

Filed By: Plaintiff Fore Stars Ltd

[37] Notice of Vacating Early Case Conference















CASE SUMMARY

CASE NO. A-18-771224-C

06/12/2018	 Amended Notice Filed By: Plaintiff Fore Stars Ltd <i>[38] Amended Notice of Early Case Conference</i>
06/14/2018	 Opposition Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[39] Plaintiffs' Opposition to Defendants' Motion to Strike Portions of Plaintiff's Supplement in Support of Opposition to Defendants' Special Motion to Dismiss or in the Alternative for Further Supplemental Briefing</i>
06/20/2018	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff Fore Stars Ltd <i>[40] Findings of Fact, Conclusions of Law, and Order</i>
06/21/2018	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Plaintiff Fore Stars Ltd <i>[41] Notice of Entry of Findings of Fact, Conclusions of Law, and Order</i>
06/27/2018	 Case Appeal Statement Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[42] Case Appeal Statement</i>
06/27/2018	 Notice of Appeal Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[43] Notice of Appeal</i>
06/28/2018	 Posting of Appeal Bond Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[44] Notice of Posting Bond on Appeal</i>
09/14/2018	 Motion Filed By: Plaintiff Fore Stars Ltd <i>[45] Plaintiffs' Motion for Order Allowing Commencement of Discovery</i>
10/01/2018	 Opposition to Motion Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[46] Defendants' Opposition to Plaintiffs' Motion for Order Allowing Commencement of Discovery and Defendants' Request for Sanctions Pursuant to EDCR 7.60(b)</i>
10/12/2018	 Reply in Support Filed By: Plaintiff Fore Stars Ltd <i>[47]</i>
10/17/2018	 Supplement Filed by: Plaintiff Fore Stars Ltd <i>[48] Plaintiffs' Supplemental Exhibit in Further Support of Their Motion for Order Allowing Commencement of Discovery</i>
10/18/2018	 Supplemental Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[49] Defendants' Supplemental Exhibits In Further Support of Their Opposition To Plaintiffs' Motion for Order Allowing Commencement of Discovery And Defendants Request for Sanctions Pursuant to EDCR 7.60(b)</i>

CASE SUMMARY

CASE NO. A-18-771224-C

10/31/2018	 Recorders Transcript of Hearing <i>[50] Recorders Transcript of Hearing - Plaintiffs' Motion for Order Allowing Commencement of Discovery - heard on Oct. 19, 2018</i>
01/03/2019	 Objection to Discovery Commissioners Report and Recommend Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[51] Defendants' Objections to Discovery Commissioner's Report and Recommendation</i>
01/30/2019	 Response Filed by: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[52] PLAINTIFFS RESPONSE TO DEFENDANTS OBJECTIONS TO DISCOVERY COMMISSIONER S REPORT AND RECOMMENDATIONS</i>
02/04/2019	 Discovery Commissioners Report and Recommendations Filed By: Plaintiff Fore Stars Ltd <i>[53] Discovery Commissioner's Report and Recommendations</i>
03/22/2019	 Notice of Withdrawal <i>[54] The Jimmerson Law Firm, P.C.'s Notice of Withdrawal as Co-Counsel of Record</i>
04/11/2019	 Order Denying Motion Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[55] Order Denying Plaintiff's Motion to Commence Discovery</i>
04/11/2019	 Notice of Entry of Order Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[56] Notice of Entry of Order Denying Plaintiffs' Motion To Commence Discovery</i>
09/11/2019	 Order Scheduling Status Check <i>[57] Order Scheduling Status Check Re: Joint Case Conference Report</i>
09/12/2019	 Order Scheduling Status Check <i>[58] Order Scheduling Status Check RE: Joint Case Conference Report/Special Motion Appeal</i>
03/02/2020	 Change of Status Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[59] Status Update Regarding Supreme Court Appeal</i>
03/02/2020	 Clerk's Notice of Hearing <i>[60] Notice of Hearing</i>
04/01/2020	 NV Supreme Court Clerks Certificate/Judgment -Remanded <i>[61] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Vacated and Remand</i>
04/28/2020	 Notice of Appearance Party: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[62] Notice of Apperance of Counsel for Plaintiffs</i>
05/06/2020	 Brief Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[63] Plaintiffs' Brief in Support of Limited Discovery</i>

CASE SUMMARY

CASE NO. A-18-771224-C

05/11/2020



Brief

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren
[64] *Defenants' Brienf in Opposition to Request for Limited Discovery*

05/29/2020



Request

Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren
[65] *Defendant's Request for Clarification Re May 29, 2020 Order*

06/15/2020



Recorders Transcript of Hearing

Party: Defendant Omerza, Daniel
[66] *Recorders Transcript of Video Conference Hearing: Status Check: Supreme Court Appeal 4.29.20*

07/02/2020



Motion for Protective Order

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren
[67] *Defendants' Motion For Protective Order Limiting Discovery on Order Shortening Time*

07/07/2020



Response

Filed by: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC
[68] *Plaintiff's Response to Motion for Protective Order*

07/09/2020



Reply in Support

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren
[69] *Defendant's Reply In Support of Motion For Protective Order Limiting Discovery*

07/17/2020



Memorandum

[70] *07/29/20 Blue Jeans Hearing Information for Department 2*

08/03/2020



Order Granting Motion

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren
[71] *Order Granting Defendants' Motion For Protective Order Limited Discovery*

08/04/2020



Certificate of Service

[72]

08/05/2020



Notice of Entry of Order

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren
[73] *Notice of Entry of Order Granting Defendants' Motion for Protective Order Limiting Discovery*

09/30/2020



Notice of Hearing

[74] *Notice of Hearing on Motion to Dismiss*

10/06/2020



Stipulation

Filed by: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC
[75] *Stipulation Regarding Briefing Deadlines*

10/07/2020



Stipulation and Order

Filed by: Attorney Rasmussen, Lisa A.; Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC
[76] *Stipulation and Order Regarding Briefing Deadlines*

10/07/2020



Memorandum

CASE SUMMARY

CASE NO. A-18-771224-C

[77] 10/26/20 Blue Jeans Hearing Information for Department 2

10/14/2020



Supplement to Opposition

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[78] Supplement to Opposition to Special Motion to Dismiss (Anti-SLAPP)

10/14/2020



Exhibits

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[79] Exhibits 1 through 3

10/14/2020



Exhibits

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[80] Exhibits 4 through 6

10/14/2020



Exhibits

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[81] Exhibits 7 through 13

10/14/2020



Exhibits

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[82] Exhibits 14 through 19

10/14/2020



Errata

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[83] Errata to Supplemental Opposition to Special Motion to Dismiss

10/15/2020



Motion to Strike

Filed By: Defendant Caria, Steve; Defendant Bresee, Darren

[84] Motion to Strike and for Imposition of Sanction and Request for Order Shortening Time

10/15/2020



Stipulation and Order

Filed by: Plaintiff Fore Stars Ltd; Plaintiff 180 Land Co LLC

[85] Stipulation Regarding Briefing deadlines (Second Stipulation)

10/20/2020



Opposition and Countermotion

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[86] Opposition to Motion to Strike & for Sanctions / Countermotion for Sanctions

10/21/2020



Reply

Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren

[87] Defendants' Reply In Support of Motion To Strike and for Sanctions; Opposition to Countermotion

10/30/2020



Supplemental Brief

Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren

[88] Defendants' Supplemental Brief In Support of Special Motion To Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 Et. Seq.

10/30/2020













CASE SUMMARY

CASE NO. A-18-771224-C

	 Declaration Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[89] Declaration of Mitchell J. Langberg In Support of Defendants' Supplemental Brief In Support of Special Motion To Dismiss (Anti-SLAPP Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 Et. Seq.</i>
11/04/2020	 Stipulation and Order Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[90] Stipulation and Order Re Defendant Supplemental Re in Support of Anti- Slap</i>
11/04/2020	 Notice of Entry of Stipulation and Order Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[91] Notice of Entry of Stipulation and Order Re Defendants' Supplemental Reply In Support of Anti-SLAPP</i>
11/05/2020	 Memorandum <i>[92] 11/09/20 Blue Jeans Hearing Information for Department 2</i>
11/30/2020	 Stipulation and Order Filed by: Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[93] STIPULATION REGARDING DEADLINE TO SUBMIT PROPOSED ORDER; ORDER THEREON</i>
12/03/2020	 Objection Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[94] Objection to Defendants' Proposed Order and Submission of Plaintiffs' Proposed Order</i>
12/10/2020	 Findings of Fact, Conclusions of Law and Judgment Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[95] Findings of Fact Conclusions of Law and Order</i>
12/10/2020	 Notice of Entry of Order Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[96] Notice of Entry of Findings of Facts, Conclusions of Law, and Order</i>
12/24/2020	 Motion to Reconsider Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[97] Motion to Reconsider Court's Order Dated December 10, 2020 Order</i>
12/29/2020	 Clerk's Notice of Hearing <i>[98] Notice of Hearing</i>
12/31/2020	 Motion for Attorney Fees Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[99] Defendants' Motion for Attorneys' Fees and Additional Monetary Relief Pursuant to NRS 41.670 and NRS 18.010(2)</i>
01/04/2021	Case Reassigned to Department 19 <i>Judicial Reassignment to Judge Crystal Eller</i>
01/05/2021	 Clerk's Notice of Hearing <i>[100] Clerk's Notice of Hearing</i>












CASE SUMMARY

CASE NO. A-18-771224-C

01/07/2021	 Opposition to Motion Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[101] Defendants' Opposition To Plaintiffs' Motion for Reconsideration of Court's Order Dated December 10, 2020</i>
01/08/2021	 Notice of Appeal Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[102] Notice of Appeal</i>
01/08/2021	 Case Appeal Statement Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[103] Case Appeal Statement</i>
01/14/2021	 Reply to Opposition Filed by: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[104] Plaintiffs' Reply to Defendants' Opposition to Motion for Reconsideration of Court's Order Dated December 10 2020</i>
01/14/2021	 Errata Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[105] Errata to Plaintiffs' Reply to Defendants' Opposition to Motion for Reconsideration of Court's Order Dated December 10 2020 (Exhibit 1 to Reply)</i>
01/20/2021	 Stipulation and Order Filed by: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[106] STIPULATION REGARDING BRIEFING DEADLINES AND HEARING ON MOTION FOR ATTORNEY'S FEES</i>
01/22/2021	 Opposition to Motion Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[107] Response in Opposition to Defendants' Motion for Attorney's Fees and Additional Monetary Relief Pursuant to NRS 41.670 and 18.010(2)</i>
01/28/2021	 Memorandum <i>[108] Notice of Change of Hearing Dates</i>
02/02/2021	 Motion to Reconsider Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[109] Motion to Reconsider January 29, 2021 Minute Order (re: Motion to Reconsider Anti-Slapp Order)</i>
02/03/2021	 Clerk's Notice of Hearing <i>[110] Notice of Hearing</i>
02/03/2021	 Statement Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[111] Defendants' Statement of Limited Non-Opposition To Plaintiff's Motion To Reconsider Minute Order Ruling Re Motion To Reconsider (Anti-SLAPP)</i>
02/04/2021	 Order Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren















CASE SUMMARY

CASE NO. A-18-771224-C

	<i>[112] Order Denying Plaintiffs' Motion for Reconsideration of Court's order Dated December 10, 2020</i>
02/04/2021	 Notice of Entry of Order Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[113] Notice of Entry of Order Denying Plaintiffs' Motion for Reconsideration of Court's Order Dated December 10, 2020</i>
02/11/2021	 Request Filed by: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[114] Request for Transcripts</i>
02/11/2021	 Notice of Posting Bond Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[115] Notice of Posting of Bond on Appeal</i>
02/12/2021	 Supplement Filed by: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[116] Declaration of Lisa Rasmussen Submitted as Supplement to Plaintiffs' Opposition to Motion for Attorney's Fees</i>
02/12/2021	 Reply Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[117] Defendants' Reply To Plaintiffs' Response In Opposition To Motion For Attorneys' Fees and Additional Monetary Relief Pursuant To NRS 41.670 and NRS 18.010(2)</i>
03/23/2021	 Recorders Transcript of Hearing <i>[118] RECORDER'S TRANSCRIPT OF HEARING: DEFENDANT'S MOTION TO DISMISS</i>
03/23/2021	 Recorders Transcript of Hearing <i>[119] Recorders Transcript of Hearing Re: Defendants' Motion for Protective Order Limiting Discovery on Order Shortening Time, July 13, 2020</i>
04/07/2021	 Order Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[120] Order Re: 1. Granting Plaintiff's Motion To Reconsider January 25, 2021 Minute Order Ruling Re: Motion To Reconsider (Anti-SLAPP); and 2. On Reconsideration Denying Motion to Reconsider (Anti- Slapp)</i>
04/07/2021	 Notice of Entry of Order Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[121] Notice of Entry of Order Re: 1. Granting Plaintiff's Motion To Reconsider January 25, 2021 Minute Order Ruling Re: Motion To Reconsider (Anti-SLAPP); and 2. On Reconsideration Denying Motion to Reconsider (Anti-SLAPP)</i>
04/16/2021	 Order Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[122] Order RE: Defendants' Motion for Attorneys' Fees and Additional Monetary Relief Pursuant ot NRS 41.070 and NRS 18.010(2)</i>
04/16/2021	 Notice of Entry of Order Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[123] Notice of Entry of Order Re: Defendants' Motion for Attorneys' Fees and Additional Monetary Relief Pursuant to NRS 41.670 and NRS 18.010(2)</i>














CASE SUMMARY

CASE NO. A-18-771224-C

05/05/2021	 Notice of Appeal Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[124] Notice of Appeal</i>
05/05/2021	 Case Appeal Statement Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[125] Case Appeal Statement</i>
05/05/2021	 Request Filed by: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[126] Request for Transcript</i>
05/28/2021	 Notice of Cost Bond Filed By: Plaintiff Fore Stars Ltd <i>[127] Notice of Posting of Bond on Appeal</i>
06/07/2021	 Recorders Transcript of Hearing <i>[128] Recorders Transcript of Hearing Re: 3.31.21 Defendants' Motion for Attorneys' Fees and Additional Monetary Relief Pursuant to NRS 41.670 and NRS 18.010 (2)</i>
06/09/2021	 Recorders Transcript of Hearing <i>[129] Recorders Transcript of Hearing Re: Anti-SLAPP, November 9, 2020</i>
06/14/2021	 Bond Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[130] Notice of Posting of Bond in the Amount of \$363,244 pending Appeal</i>
05/25/2022	 NV Supreme Court Clerks Certificate/Judgment -Remanded <i>[131] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed in Docket No. 82338 and Vacated and Remand in Docket No. 82880</i>
09/19/2022	 Order <i>[132] Order Granting Defendants' Motion for Attorneys' Fees</i>
09/19/2022	 Notice of Entry of Order Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[133] Notice of Entry of Order Granting Defendants' Motion for Attorneys' Fees and Additional Monetary Relief Pursuant to NRS 41.670 and NRS 18.010(2)</i>
10/03/2022	 Motion to Reconsider Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[134] Motion to Reconsider Order Granting Attorney's Fees Post-Remand</i>
10/05/2022	 Order to Statistically Close Case <i>[135] Civil Order to Statistically Close Case</i>
10/05/2022	 Clerk's Notice of Hearing <i>[136] Clerk's Notice of Hearing</i>
10/17/2022	 Opposition

CASE SUMMARY

CASE NO. A-18-771224-C

	<p>Filed By: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[137] Defendants' Opposition To Motion To Reconsider Granting Attorney's Fees Post-Remand</i></p>
10/17/2022	<p> Notice of Appeal Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[138] Notice of Appeal</i></p>
10/17/2022	<p> Case Appeal Statement Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[139] Case Appeal Statement</i></p>
10/21/2022	<p> Notice of Cost Bond Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[140] Notice of Posting of Cost Bond</i></p>
10/28/2022	<p> Reply in Support Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[141] Plaintiff's Reply in Support of Motion for Reconsideration of Order Granting Defendants' Motion for Attorneys' Fees and Additional Monetary Relief Pursuant to NRS 41.670 and NRS 18.010 (2)</i></p>
11/23/2022	<p> Supplement Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[142] Defendants' Supplemental Motion for Attorneys' Fees</i></p>
11/30/2022	<p> Clerk's Notice of Hearing <i>[143] Notice of Hearing</i></p>
12/15/2022	<p> Stipulation and Order <i>[144] SAO re Briefing Deadlines and Continue Hearing</i></p>
12/23/2022	<p> Opposition to Motion Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC <i>[145] Opposition to Defendants' Supplemental Motion for Attorney's Fees</i></p>
01/06/2023	<p> Reply Filed by: Defendant Omerza, Daniel; Defendant Caria, Steve; Defendant Bresee, Darren <i>[146] Reply In Support of Defendants' Supplemental Motion for Attorneys' Fees</i></p>
01/17/2023	<p> Motion for Leave to File <i>[147] Motion for Leave to File Sur-Reply to Defendants' Reply</i></p>
02/08/2023	<p> Clerk's Notice of Nonconforming Document <i>[148] Clerk's Notice of Nonconforming Document</i></p>
03/08/2023	<p> NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>[149] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i></p>
03/15/2023	<p> Clerk's Notice of Nonconforming Document and Curative Action</p>

CASE SUMMARY

CASE NO. A-18-771224-C

[150] Clerk's Notice of Nonconforming and Curative Action

03/15/2023



Clerk's Notice of Hearing

[151] Notice of Hearing

08/28/2023



Stipulation and Order

[152] Stipulation to Exonerate Bond Posed on June 14, 2021 and Order

08/28/2023



Notice of Entry

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[153] Notice of Entry of Order

09/18/2023



Order

[154] Order Granting, in Part, Defendant's Supplemental Motion for Attorney's Fees; and Denying Plaintiffs' Motion for Leave to File Sur-Reply to Defendants' Reply

09/18/2023



Order

[155] Order Denying Plaintiffs' Motion to Reconsider Order Granting Attorney's Fees Post-Remand

09/19/2023



Notice of Entry of Order

Filed By: Defendant Caria, Steve

[156] Notice of Entry of Order Granting, In Part, Defendants' Supplemental Motion for Attorneys' Fees; and Denying Plaintiffs' Motion for Leave to File Sur-Reply to Defendants' Reply

09/19/2023



Notice of Entry of Order

Filed By: Defendant Caria, Steve

[157] Notice of Entry of Order Denying Plaintiffs Motion To Reconsider Order Granting Attorneys Fees Post-Remand

09/22/2023



Notice of Appeal

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[158] Notice of Appeal to Attorney Fee Orders

09/22/2023



Case Appeal Statement

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[159] Case Appeal Statement

09/22/2023



Notice of Posting Bond

Filed By: Plaintiff Fore Stars Ltd; Plaintiff Seventy Acres LLC; Plaintiff 180 Land Co LLC

[160] Notice of Posting Cash Bond With Clerk of the Court

DISPOSITIONS

04/01/2020

Clerk's Certificate (Judicial Officer: Scotti, Richard F.)

Debtors: Daniel Omerza (Defendant), Steve Caria (Defendant), Darren Bresee (Defendant)

Creditors: Seventy Acres LLC (Plaintiff), 180 Land Co LLC (Plaintiff), Daniel Omerza

(Defendant), Steve Caria (Defendant), Darren Bresee (Defendant)

Judgment: 04/01/2020, Docketed: 04/02/2020

Comment: Supreme Court No. 76273; Denied

12/10/2020

Order of Dismissal (Judicial Officer: Scotti, Richard F.)



Debtors: Fore Stars Ltd (Plaintiff), Seventy Acres LLC (Plaintiff), 180 Land Co LLC (Plaintiff)

CASE SUMMARY

CASE NO. A-18-771224-C

	<p>Creditors: Daniel Omerza (Defendant), Steve Caria (Defendant), Darren Bresee (Defendant) Judgment: 12/10/2020, Docketed: 12/11/2020 Comment: Certain Claims</p>
04/16/2021	<p>Order (Judicial Officer: Eller, Crystal) Debtors: Fore Stars Ltd (Plaintiff), Seventy Acres LLC (Plaintiff), 180 Land Co LLC (Plaintiff) Creditors: Daniel Omerza (Defendant), Steve Caria (Defendant), Darren Bresee (Defendant) Judgment: 04/16/2021, Docketed: 04/19/2021 Total Judgment: 363,244.00</p>
05/25/2022	<p>Clerk's Certificate (Judicial Officer: Eller, Crystal) Debtors: Fore Stars Ltd (Plaintiff), Seventy Acres LLC (Plaintiff), 180 Land Co LLC (Plaintiff) Creditors: Daniel Omerza (Defendant), Steve Caria (Defendant), Darren Bresee (Defendant) Judgment: 05/25/2022, Docketed: 05/25/2022 Comment: Supreme Court No. 82338 Appeal Affirmed; Docket 828880 Vacated</p>
09/19/2022	<p>Order (Judicial Officer: Eller, Crystal) Debtors: Fore Stars Ltd (Plaintiff), Seventy Acres LLC (Plaintiff), 180 Land Co LLC (Plaintiff) Creditors: Daniel Omerza (Defendant), Steve Caria (Defendant), Darren Bresee (Defendant) Judgment: 09/19/2022, Docketed: 09/20/2022 Total Judgment: 363,244.00</p>
03/08/2023	<p>Clerk's Certificate (Judicial Officer: Eller, Crystal) Debtors: Fore Stars Ltd (Plaintiff), Seventy Acres LLC (Plaintiff), 180 Land Co LLC (Plaintiff) Creditors: Daniel Omerza (Defendant), Steve Caria (Defendant), Darren Bresee (Defendant) Judgment: 03/08/2023, Docketed: 03/10/2023 Comment: Supreme Court NO 85542 - "APPEAL DISMISSED"</p>
09/18/2023	<p>Judgment for Attorney's Fees (Judicial Officer: Eller, Crystal) Debtors: Fore Stars Ltd (Plaintiff), Seventy Acres LLC (Plaintiff), 180 Land Co LLC (Plaintiff) Creditors: Daniel Omerza (Defendant), Steve Caria (Defendant), Darren Bresee (Defendant) Judgment: 09/18/2023, Docketed: 09/20/2023 Total Judgment: 43,620.50 Comment: Defendants are awarded supplemental attorneys fees (in addition to fees already awarded by the Court) as against Plaintiffs, and each of them, jointly and severally.</p>

HEARINGS

04/16/2018	<p> Minute Order (1:00 PM) (Judicial Officer: Kishner, Joanna S.) Minute Order - No Hearing Held; Journal Entry Details: <i>Although the Court could and would rule fairly and without bias, recusal is appropriate in the present case in accordance with Canon 2.11(A)(3) of the Nevada Code of Judicial Conduct in order to avoid the appearance of impartiality or implied bias as the Court could be viewed to have information relating to the facts and/or circumstances regarding the underlying issues. Thus, the Court recuses itself from the matter and requests that it be randomly reassigned in accordance with appropriate procedures.;</i></p>
05/14/2018	<p> Motion to Dismiss (9:00 AM) (Judicial Officer: Scotti, Richard F.) 05/14/2018, 05/23/2018 <i>Defendants' Motion to Dismiss Pursuant to NRCP 12(b)(5)</i> Matter Continued; Matter Continued; DENIED WITHOUT PREJUDICE - Defendants Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint Journal Entry Details: <i>These matters are continued to the May 30, 2018 Chambers Calendar. CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Natalie Ortega, to all registered parties for Odyssey File & Serve. ndo/5/23/18 ;</i> Matter Continued; Matter Continued;</p>

CASE SUMMARY

CASE NO. A-18-771224-C

DENIED WITHOUT PREJUDICE - Defendants Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint

05/14/2018

Motion (9:00 AM) (Judicial Officer: Scotti, Richard F.)

05/14/2018, 05/23/2018

Defendants' Special Motion to Dismiss (Anti-Slapp Motion) Plaintiffs' Complaint Pursuant to NRS 41.635 Et. Seq

Matter Continued;

05/14/2018



All Pending Motions (9:00 AM) (Judicial Officer: Scotti, Richard F.)

Matter Heard;

Journal Entry Details:

Arguments by Mr. Langberg and Mr. Jimmerson. Court DIRECTED, counsel to submit a 2 page Supplemental Briefing by close of business day Wednesday 05/23/18, if counsel believes there is additional information. COURT ORDERED, matter CONTINUED to 05/23/18 Chamber Calendar. CONTINUED TO: 05/23/18 (CHAMBER CALENDAR);

05/29/2018



Minute Order (10:41 AM) (Judicial Officer: Scotti, Richard F.)

Defendants Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint

Minute Order - No Hearing Held; Defendants' Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint

Journal Entry Details:

The Court DENIES without prejudice Defendants Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint pursuant to NRS 41.635 et. Seq. Nevada s anti-SLAPP statute does not apply to fraudulent conduct, which Plaintiffs have alleged. Even if it did so apply, at this early stage in the litigation and given the numerous allegations of fraud, the Court is not convinced by a preponderance of the evidence that Defendants conduct constituted good faith communications in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern, as described in NRS 41.637. The Court also DENIES Defendants Motion to Dismiss Pursuant to NRCP 12(b)(5). Plaintiffs have stated valid claims for relief. Plaintiffs shall prepare the proposed Order, adding appropriate context and authorities. The 5/30/2018 Chambers Hearing on this matter hereby VACATED. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Jennifer Lott, to all registered parties for Odyssey File & Serve. jl;

06/27/2018

CANCELED Motion to Strike (3:00 AM) (Judicial Officer: Scotti, Richard F.)

Vacated - per Clerk

Defendant's Motion to Strike Portions of Plaintiff's Supplement in Support of Opposition to Defendant's Special Motion to Dismiss or in the Alternative for Further Supplemental Briefing

10/19/2018



Motion for Order (9:00 AM) (Judicial Officer: Truman, Erin)

Plaintiffs' Motion for Order Allowing Commencement of Discovery

Granted in Part; Plaintiffs' Motion for Order Allowing Commencement of Discovery

Journal Entry Details:

Mr. Jimmerson addressed Judge Scotti's ruling and the Court found that Defts' anti-slapp Motion did not apply to intentional torts pled by Plaintiffs in the case, and the Motion to Dismiss on the basis of anti-slapp was Denied. There is an immediate right to Appeal which Defts availed themselves to. Mr. Jimmerson attempted to file an Early Case Conference, however, counsel have returned before the Commissioner to begin discovery. Defts have failed to filed an Answer, but Mr. Jimmerson doesn't intent to default Defts. The case needs to go forward and begin discovery. Argument by Mr. Jimmerson. Mr. Langberg discussed whether or not the anti-slapp Statute applies to the tort causes of action that Plaintiffs asserted. Defts filed a Writ of Mandamus, however, it was not brought on the same grounds as the anti-slapp. Mr. Langberg stated the Statute says if an anti-slapp Motion is filed, discovery is stayed pending a ruling on the Motion. Argument by Mr. Langberg. Commissioner stated based on the Supreme Court Denial of the Petition for Writ, the case is ready to be Answered, and 16.1 should be complied with. Mr. Langberg stated the Appeal is still pending. There was a Writ as to the Denial of the 12(b)(5) Motion because there is no Appeal from that. Mr. Langberg stated there is an automatic Appeal on Denial of an anti-slapp Motion, the Appeal is still pending, and the Opening Brief is due 10-22-18. Upon Commissioner's inquiry, Mr. Jimmerson stated there are no exigent circumstances that would warrant discovery before 16.1 is complied with. Given the fact that the Appeal is still pending, and an Answer is not yet required, COMMISSIONER RECOMMENDED, there is no reasonable basis for discovery to go forward at this point, and

CASE SUMMARY

CASE NO. A-18-771224-C

counsel will wait until the Supreme Court hears the issue. Following that the Answer will be due, and 16.1 will be complied with. Mr. Jimmerson stated there will be a 18 month to 2 year delay. Arguments by counsel. Mr. Langberg read the Statute into the record. Commissioner doesn't believe the case is stayed under the authority cited by Mr. Langberg. The Court determined that it doesn't apply to the causes of action, therefore, COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; discovery needs to go forward and within 30 days of Judge Scotti's ruling on the forthcoming Objection counsel should comply with 16.1 and file the JCCR. Mr. Langberg requested an extension to object to the Report and Recommendation. Colloquy. Mr. Jimmerson to prepare the Report and Recommendations, and Mr. Langberg to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.;

12/20/2018 **CANCELED Status Check: Compliance (3:00 AM)** (Judicial Officer: Bulla, Bonnie)

Vacated - per Commissioner

Status Check: Compliance (10-19-18 Report and Recommendation)


02/20/2019  **Hearing (9:00 AM)** (Judicial Officer: Scotti, Richard F.)

re DCRR (set by telephone conference 02/04/19)

Matter Heard;

Journal Entry Details:


Arguments by counsel whether anti-slap statute applies and whether motion was filed in good faith. COURT ORDERED, matter UNDER ADVISEMENT. Court needs to review the Patton v. Lee case and whether it has jurisdiction, as well as the case law just presented. ;

03/15/2019  **Minute Order (10:00 AM)** (Judicial Officer: Scotti, Richard F.)

Minute Order - No Hearing Held;

Journal Entry Details:

The Court DENIES Plaintiff's Motion to Commence Discovery, pursuant to NRS 41.660(3)(e). The Court had denied Defendants Special Motion to Dismiss, in part, on the grounds that Defendants did not meet their threshold burden of establishing, by a preponderance of the evidence, that the Land owners claims against them are based on their good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. . See Plaintiff's Motion at p. 6 (quoting NRS 41.660(3)(a). Under these circumstances the statute mandates that the Court stay discovery pending an appeal of an Order denying the Special Motion to Dismiss. Defendants to prepare the Order. CLERK'S NOTE: A copy of this Minute Order has been distributed to the following: James Jimmerson, Esq. (JJJ@jimmersonlawfirm.com) and Mitchell Langberg, Esq. (mlangberg@bhfs.com). //ev 3/15/19;

08/21/2019  **Status Check (3:00 AM)** (Judicial Officer: Scotti, Richard F.)

ISC - Supreme Court Appeal

Matter Heard;

Journal Entry Details:

Matter heard.;

10/02/2019  **Status Check (9:00 AM)** (Judicial Officer: Scotti, Richard F.)

Stayed;

Journal Entry Details:

Mr. Langberg conveyed Elizabeth Ghanem emailed him that morning and advised this matter was pending in Supreme Court and she had a conflict, and the matter was still before the Supreme Court regarding the denial of the Motion to Dismiss. COURT ORDERED, Stay CONTINUED. Mr. Langberg advised discovery never commenced. COURT ORDERED, parties to SUBMIT a one-page status update 30 days after the Supreme Court rules on the Appeal from the denial of the Motion to Dismiss.;

03/25/2020  **Status Check (3:00 AM)** (Judicial Officer: Scotti, Richard F.)

Remittitur

Matter Heard;





Journal Entry Details:

Matter heard.;

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-18-771224-C

03/26/2020	<p>CANCELED Status Check (3:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Vacated</i></p> <p><i>ISC - Supreme Court Appeal</i></p>
04/06/2020	<p> Motion (3:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Status Update Regarding Supreme Court Appeal</i></p> <p>Granted;</p> <p>Journal Entry Details:</p> <p><i>The Court GRANTS the Motion for a Status Update and hereby SETS a Status Check for Wednesday, April 29, 2020 at 9AM. Further, in light of the continued ban on in-person hearings, the Court directs the parties to make the appropriate arrangements necessary to appear remotely through the available audio (CourtCall) or audiovisual (Blue Jeans) platforms in preparation for this hearing. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve and mailed to the following: Seventy Acres LLC 1215 S. Fort Apache Rd. Ste 120 Las Vegas, NV 89117 180 Land Co 1215 S. Fort Apache Rd. Ste 120 Las Vegas, NV 89117 Daniel Omerza 800 Petit Chalet Court Las Vegas, NV 89145 //ev 4/20/20;</i></p>
04/29/2020	<p> Status Check (9:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Status Check: Supreme Court Appeal</i></p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Lisa Rasmussen, Esq. also present on behalf of Plaintiffs. Court provided a brief overview of the history of the case. Arguments by counsel regarding additional supplemental briefing and additional discovery. Court stated counsel would be given an opportunity to provide additional briefing limited to 5 pages regarding why additional discovery was needed. COURT ORDERED, Plaintiff to provide supplemental briefing by May 6, Defendants' Opposition to the Motion due May 11, and Reply, if needed, due May 13. Court inquired if there were any issues left to decide other than limited discovery. Ms. Rasmussen stated the Supreme Court focused on one prong and not the other, and additional briefing may be needed regarding the second prong. Court stated in the event limited discovery was denied, ruling on the Motion to Dismiss would proceed. Court stated any emergency requests would be considered, and a decision would be provided by May 18, 2020 regarding the Motion for Limited Discovery. 5/13/20 STATUS CHECK: OPTIONAL REPLY (CHAMBERS) 5/18/20 MOTION FOR LIMITED DISCOVERY (CHAMBERS) 5/25/20 DECISION: MOTION TO DISMISS (CHAMBERS);</i></p>
05/13/2020	<p> Status Check (3:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Status Check: Optional Reply</i></p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>Matter heard.;</i></p>
05/18/2020	<p>Motion (3:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Motion for Limited Discovery</i></p> <p>Granted in Part;</p>
05/27/2020	<p>CANCELED Decision (3:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p><i>Vacated</i></p> <p><i>Decision: Motion to Dismiss</i></p>
05/29/2020	<p> Minute Order (10:00 AM) (Judicial Officer: Scotti, Richard F.)</p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>The Court GRANTS in part, and DENIES in part, Plaintiff's request for limited discovery. Plaintiff may serve one set of requests for production of documents, with no more than a total of fifteen (15) requests for documents to be allocated among the defendants, as Plaintiff sees fit; Defendants shall have two weeks to respond to such requests. Further, Plaintiff may take the depositions of the three defendants, each limited to four (4) hours. This limited discovery period commences immediately, and concludes on Friday, July 17, 2020, absent stipulation of the parties. The defendants have the option of appearing for deposition in person, or appearing by audio/visual means (at their own arrangements). The depositions may be set on</i></p>

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two week s notice, at the time and place noticed by Plaintiff after good faith attempt to meet and confer on the same. Any discovery dispute shall be brought before this Court upon request for an Order Shortening Time. Plaintiff may file a supplemental brief in opposition to the Motion to Dismiss by Wednesday, July 22, 2020. Plaintiff may file a supplemental reply by Monday, July, 27, 2020. The Court will conduct a Hearing on the Defendants Motion to Dismiss on Wednesday, July 29, 2020. The parties may modify this schedule by written stipulation approved by the Court. 7/29/20 9:30 AM DEFENDANTS' MOTION TO DISMISS
CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve. //ev 5/29/20;

06/05/2020



Minute Order (12:00 PM) (Judicial Officer: Scotti, Richard F.)

Minute Order - No Hearing Held;

Journal Entry Details:

With regard to this Court s May 29, 2020 Minute Order, granting in part and denying in Part Plaintiff s request for limited discovery, the Court issues this clarification: The discovery permitted by the prior order must relate to the second prong of the anti-SLAPP analysis, and is limited to the matters identified in Plaintiff s papers, or the matters identified by the Plaintiff at the April 29th hearing. CLERK'S NOTE: A copy of this Minute Order was electronically served to all registered parties by the Courtroom Clerk, Elizabeth Vargas via Odyssey Efile and Serve. //ev 6/5/20;

07/13/2020



Motion for Protective Order (9:00 AM) (Judicial Officer: Scotti, Richard F.)

Defendants' Motion For Protective Order Limiting Discovery on Order Shortening Time

Motion Granted;

Journal Entry Details:

Court stated procedural aspect of Plaintiff's response to the motion, noting they expressed concerns that this Court issued a minute order providing clarification of its prior discovery order before having had a chance to receive and review Plaintiff's Response to Defendant's written request for clarification. This matter came back after a remand from the Nevada Supreme Court where it appeared to the Court that the Supreme Court had resolved prong 1 and was remanding back to this Court for appropriate proceedings regarding prong 2, whether limited discovery should go forward and resolve the issue of the litigation privilege. Following arguments by counsel regarding their respective positions, Court advised it was not one hundred percent convinced that prong 1 was completely disposed of by the Nevada Supreme Court, after hearing Ms. Rasmussen paraphrasing the order. Court advised it needs to go back and review the Supreme Court order. COURT ORDERED, matter TAKEN UNDER ADVISEMENT; discovery STAYED pending ruling on motion for protective order and if Court needs additional briefing regarding the litigation privilege issue, it will inform the parties by minute order.;

07/21/2020



Minute Order (3:00 PM) (Judicial Officer: Scotti, Richard F.)

Minute Order - No Hearing Held;

Journal Entry Details:

The Court GRANTS Defendants Motion for Protective Order Limiting Discovery. Discovery is limited to the second prong of the anti-SLAPP analysis. Discovery is limited to what is identified by Plaintiffs on p.5, lines 15-21 of Plaintiffs Brief in Support of Request for Limited Discovery (5-6-20). The Defendants shall prepare the proposed Order, consistent with the relief sought in their motion. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Carolyn Jackson, to all registered parties for Odyssey File & Serve. /cj 07/21/20;

07/29/2020



Motion to Dismiss (9:30 AM) (Judicial Officer: Scotti, Richard F.)

Defendants' Motion to Dismiss

Matter Continued; Date to be determined

Journal Entry Details:

Court noted this matter was set for a continued hearing on the Motion to Dismiss. Mr. Langberg stated he believes on the 21st the Court issued a minute order on their Motion for Protective Order defining the scope of discovery. The parties should conduct the discovery the Court ordered, noting they have been working on a formal order. Mr. Langberg stated he does not believe they have any dispute about what the Court ordered to occur however, there is a disagreement as to the findings that led to that decision. Court advised it would be its preference if the parties could work out and decrease the number of findings and get to the heart of the matter on the scope of discovery. Ms. Rasmussen stated by minimizing the findings

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in the proposed order that will probably resolve all their issues and they should be able to get the proposed order over to the Court today. Ms. Rasmussen stated they did their own proposed briefing schedule which takes them out into October; it allows the Court to set a date for the continued hearing. COURT ORDERED, hearing for Motion to Dismiss CONTINUED, to a date to be determined. COURT FURTHER ORDERED, matter SET for status check. 9/28/20 STATUS CHECK: STATUS OF CASE (CHAMBERS) ;

09/28/2020

**Status Check** (3:00 AM) (Judicial Officer: Scotti, Richard F.)*Status Check: Status of Case**Matter Heard;**Journal Entry Details:**Matter heard.;*

10/22/2020

Motion to Strike (3:00 AM) (Judicial Officer: Scotti, Richard F.)*Defendants' Motion to Strike and for Imposition of Sanctions (on OST)**Matter Heard;*

10/22/2020

Opposition and Countermotion (3:00 AM) (Judicial Officer: Scotti, Richard F.)*Opposition to Motion to Strike & for Sanctions / Countermotion for Sanctions**Matter Heard;*

10/22/2020

**All Pending Motions** (3:00 AM) (Judicial Officer: Scotti, Richard F.)*Matter Heard;**Journal Entry Details:**DEFENDANTS' MOTION TO STRIKE AND FOR IMPOSITION OF SANCTIONS (ON OST)...OPPOSITION TO MOTION TO STRIKE & FOR SANCTIONS / COUNTERMOTION FOR SANCTIONS The Court will issue a Minute Order resolving this matter.;*

10/26/2020

**Minute Order** (3:00 AM) (Judicial Officer: Scotti, Richard F.)*Minute Order - No Hearing Held;**Journal Entry Details:**The Court DENIES Defendants Motion to Strike and for Imposition of Sanctions. The Court places no restriction on the content Plaintiff may include in its Brief. Plaintiff did not violate EDCR 7.60(b). The Court, further, DENIES Plaintiff's Countermotion because Defendants motion was meritless, but not frivolous. Plaintiff to prepare and submit the Order, pursuant to the electronic submission requirements of AO 20-17. CLERK'S NOTE: This Minute Order was e-mailed by Courtroom Clerk, Grecia Snow to: Lisa Rasmussen Esq., at Lisa@Veldlaw.com, Mitchell J. Langberg Esq., at mlangber@bhfs.com, and Elizabeth M. Ghanem Esq., at eghanem@gs-lawyers.com. 10/26/20 gs;*

11/09/2020

**Motion to Dismiss** (9:30 AM) (Judicial Officer: Scotti, Richard F.)*Anti-Slapp**Granted;**Journal Entry Details:**Court noted it read the motion, support briefs, and orders. Arguments by counsel. COURT took matter UNDER ADVISEMENT, stated it would issue a minute order. Ms. Rasmussen stated it filed a support brief and Mr. Langberg moved to strike, requested Court review the Motion to strike and respond.;*

11/09/2020

**Minute Order** (12:16 PM) (Judicial Officer: Thompson, Charles)*Minute Order - No Hearing Held;**Journal Entry Details:**On June 20, 2018, Judge Scotti entered Findings of Fact, Conclusions of Law and an Order denying this motion. Defendants appealed and on January 23, 2020, the Nevada Supreme Court entered an Order vacating Judge Scotti's order and remanding with an opportunity for Plaintiffs to conduct limited discovery. Plaintiffs first argue that they may revisit step one of the anti-SLAPP analysis. On July 13, 2020, Judge Scotti entered a minute order including the following: This matter came back after a remand from the Nevada Supreme Court where it appeared to the Court that the Supreme Court had resolved prong 1 and was remanding back to this Court for appropriate proceedings regarding prong 2, whether limited discovery should go forward and resolve the issue of the litigation privilege. Following arguments by counsel*

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regarding their respective positions, Court advised it was not one hundred percent convinced that prong 1 was completely disposed of by the Nevada Supreme Court, after hearing Ms. Rasmussen paraphrasing the order. Court advised it needs to go back and review the Supreme Court order. On July 21, 2020, after reviewing the Supreme Court Order, Judge Scotti entered a minute order which contained the following: Discovery is limited to the second prong of the anti-SLAPP analysis. It is clear from this minute order that Judge Scotti believed that prong 1 was resolved and that the limited discovery was only allowed with regard to prong 2. This Court agrees with Judge Scotti. It is clear from the Supreme Court's order filed January 23, 2020, that the Defendants met their burden at step one of the anti-SLAPP analysis. In other words, the Court found that the Defendant's communications were in furtherance of their right to petition the government in connection with an issue of public concern and that the communications were in good faith. The Court then held that the Plaintiffs had not met their step-two burden of demonstrating with prima facie evidence a probability of prevailing on their claims. However, they believed that the Plaintiffs should be permitted limited discovery to see if they could meet that step-two burden. Thereafter, Judge Scotti entered an order prescribing the limited discovery that would be permitted. Plaintiffs complain that the order was too limited. I believe that the judge appropriately exercised his discretion in this regard. Also, I do not sit as an appellate court over Judge Scotti. Thus, I decline to find that his Order was in any way in error. Defendants first argue that the litigation privilege is dispositive of the prong 2 issue. I find that the argument has merit. First, the City Council proceedings were quasi-judicial and the privilege does apply to quasi-judicial proceedings. Also, the privilege applies even though the communications are not directed at the Council itself. *Fink v. Oshins*, 118 Nev. 428 (2002). In accordance with the holding in *Oshins*, communications between the residents would be included. Today, Ms. Rasmussen cited *Spencer v. Klementi*, 466 P.3d 1241 (Nev. 2020), for the proposition that the privilege does not apply to quasi-judicial proceedings where due process protections similar to those provided in a court of law are not present. This Court believes that *Spencer* is distinguishable from the current matter. *Spencer* involved a defamation suit arising out of defamatory comments made to a public body during a public comment session. The speaker was not under oath. No opportunity to respond was provided. No cross-examination was allowed and the holding in the decision appears to be expressly limited to defamation suits. I believe that the *Oshins* case is more on point. The civil conspiracy claim is the only claim that Plaintiff has argued meets the prong two test. However, a civil conspiracy must be to accomplish some unlawful objective where damage results. There was no unlawful objective here. Further, no damage to Plaintiffs may be claimed because the proceeding never occurred. Even if the litigation privilege is not dispositive of the prong two issue, I find that Plaintiff has failed to demonstrate with prima facie evidence a probability of prevailing on any of their claims. For the reasons set forth in Defendants Supplemental Brief filed October 30, 2020, the Motion to Dismiss is GRANTED. Mr. Langberg is directed to prepare a proposed appropriate order with findings. Further, he is directed to submit the Order, pursuant to the electronic submission requirements of AO 20-17. CLERK'S NOTE: The above minute order has been distributed to: Lisa Rasmussen: Lisa@VeldLaw.Com, Mitchell Langberg: mlangber@bhfs.com. 11/10 km;

01/25/2021

**Motion For Reconsideration (3:00 AM) (Judicial Officer: Eller, Crystal)***Motion to Reconsider Court's Order Dated December 10, 2020 Order*

Denied;

Journal Entry Details:

The Court DENIES Plaintiffs' Motion for Reconsideration for lack of jurisdiction. "[A] timely notice of appeal divests the district court of jurisdiction to act and vests jurisdiction in [the Supreme Court]." *Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 688 (1987). However, "where the issue is 'entirely collateral to and independent from that part of the case taken up by appeal, and in no way affected the merits of the appeal,'" this Court may proceed with hearing the matter. *Kantor v. Kantor*, 116 Nev. 886, 895 (2000). Here, Plaintiffs seek reconsideration of this Court's December 10, 2020 Order. However, on January 8, 2021, Plaintiffs appealed that very same Order to the Nevada Supreme Court. As the matters in Plaintiffs' motion and on appeal are identical, and neither "collateral to" nor "independent from" each other, this Court lacks jurisdiction to hear Plaintiffs' motion. Defendant shall prepare and submit the Order, pursuant to the electronic submission requirements of AOs 20-17 and 20-24. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Dauriana Simpson, to all registered parties for Odyssey File and Serve. 1/29/2021/ds;

03/01/2021

**Motion for Attorney Fees (3:00 AM) (Judicial Officer: Eller, Crystal)**

Defendants' Motion for Attorneys' Fees and Additional Monetary Relief Pursuant to NRS 41.670 & NRS 18.010(2)

Minute Order - No Hearing Held;

CASE SUMMARY

CASE NO. A-18-771224-C

Journal Entry Details:

The Court shall issue a Minute Order resolving this matter.;

03/08/2021



Motion to Reconsider (3:00 AM) (Judicial Officer: Eller, Crystal)

Plaintiff's Motion to Reconsider January 29, 2021 Minute Order (re: Motion to Reconsider Anti-Slapp Order)

Matter Heard;

Journal Entry Details:

The Court will issue a Minute Order resolving this matter.;

03/22/2021



Minute Order (3:00 AM) (Judicial Officer: Eller, Crystal)

Minute Order - No Hearing Held;

Journal Entry Details:

The Court GRANTS Plaintiffs Motion to Reconsider January 25, 2021 Minute Order. [A] court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. NRCP 60(a). This may be done by the court sua sponte or on a timely motion from the parties, and does not require notice by the court. Id. Further, to prevail on a motion for reconsideration, the moving party must establish that there was an error of law, substantially new evidence discovered, or that the Court's decision was clearly erroneous. See Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga, & Wirth, Ltd., 113 Nev. 737, 741 (1997). As Plaintiff notes, when a case is on appeal, NRCP 62.1 allows a court to (1) defer considering the motion; (2) deny the motion; or (3) issue a statement that it will grant the motion, if remanded for that purpose, or that the motion raises a substantial issue. In the January 25th Minute Order, this Court failed to specify which of the above three options were in application. Accordingly, the Court reconsiders its prior Order, only for the sake of clarifying that Plaintiffs original Motion for Reconsideration is DENIED pursuant to item number two (2) of NRCP 62.1. The Court leaves resolution of that matter to the Supreme Court appeal. Defendant shall prepare a modified version of its February 2, 2021 Order and resubmit with all necessary email authorizations, and in PDF format, pursuant to AOs 20-17 and 20-24 to DC19Inbox@clarkcountycourts.us within ten (10) days, allowing opposing counsel a minimum of twenty-four (24) hours for review as to form and content. The Court also addresses that matter of Defendants Motion for Attorneys Fees and Additional Monetary Relief, filed on December 31, 2020. The Court has read and reviewed the parties submitted papers. However, the Court has some questions and concerns that can only be resolved by oral argument. Accordingly, the Court temporarily defers issuing a ruling on the matter, and SETS the motion for a hearing on Wednesday, March 31, 2021 at 9:00 AM. Pursuant to AO 20-24's strong discouragement of in-person appearances, the Court provides the March 31st Blue Jeans information below. 3/31/2021 Phone #: 408.419.1715 Session ID: 121 893 497 <https://bluejeans.com/121893497> CLERK'S NOTE: A copy of this Minute Order was provided to: Lisa Rasmussen: Lisa@VeldLaw.com; Mitchell Langberg: mlangberg@bhfs.com. 3-22-21 sa ;

03/31/2021



Motion for Attorney Fees (9:00 AM) (Judicial Officer: Eller, Crystal)

Defendants' Motion for Attorneys' Fees and Additional Monetary Relief Pursuant to NRS 41.670 and NRS 18.010 (2)

Granted in Part;

Journal Entry Details:

Counsel appeared via BlueJeans. Arguments by Mr. Langberg in support of and by Ms. Rasmussen in opposition to the motion. COURT stated its findings and ORDERED, motion GRANTED in PART, attorney's fees granted in the amount of \$339,777.00 and \$23,467.00 for a total of \$363,244.00 and DENIED in PART regarding the additional monetary relief. Mr. Langberg to prepare the order.;

05/23/2022



Status Check (3:00 AM) (Judicial Officer: Eller, Crystal)

ISC - Remittitur

Matter Heard;

Journal Entry Details:

Remittitur not received.;

06/22/2022



Status Check (3:00 AM) (Judicial Officer: Eller, Crystal)

ISC - Brunzell

CASE SUMMARY

CASE NO. A-18-771224-C

Matter Heard;
Journal Entry Details:
Minute order to be issued.;

11/09/2022

Motion to Reconsider (3:00 AM) (Judicial Officer: Eller, Crystal)
Events: 10/03/2022 Motion to Reconsider
Motion to Reconsider Order Granting Attorney's Fees Post-Remand
Matter Heard;

01/18/2023

Motion for Attorney Fees (3:00 AM) (Judicial Officer: Eller, Crystal)
Events: 11/23/2022 Supplement
Defendants' Supplemental Motion for Attorneys' Fees
Per SAO
Matter Heard;

04/17/2023

Motion for Leave (3:00 AM) (Judicial Officer: Eller, Crystal)
Plaintiff's Motion for Leave to File Sur-Reply to Defendants' Reply
Matter Heard;

06/02/2023



Minute Order (9:30 AM) (Judicial Officer: Eller, Crystal)

Minute Order - No Hearing Held;
Journal Entry Details:

The Court DENIES Plaintiff's Motion to Reconsider Order Granting Attorney's Fees Post-Remand. EDCR 2.24 states that [n]o motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties. [A] court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. NRCP 60(a). This may be done by the court sua sponte or on a timely motion from the parties, and does not require notice by the court. Id. Further, to prevail on a motion for reconsideration, the moving party must establish that there was an error of law, substantially new evidence discovered, or that the Court's decision was clearly erroneous. See Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga, & Wirth, Ltd., 113 Nev. 737, 741 (1997). A finding is clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed. U.S. v. Gypsum, 333 U.S. 364, 395 (1948). Finally, any [p]oints or contentions not raised in the original hearing cannot be maintained or considered on rehearing. Achrem v. Expressway Plaza Ltd. P'ship, 112 Nev. 737, 742 (1996). Plaintiff has failed to establish that there was an error of law, substantially new evidence discovered, or that the Court's decision was clearly erroneous. Rather, Plaintiff reargues various arguments, which were previously asserted in the underlying Anti-SLAPP Motion. Defendants are correct in that the Nevada Supreme Court remanded this matter to the District Court for the sole purpose of considering the Brunzell factors in granting Defendants request for attorney's fees. Specifically, the Nevada Supreme Court Ordered, Consistent with the foregoing, we affirm the district court's order granting respondents special motion to dismiss in Docket No. 82338, and we vacate the order awarding attorney fees in Docket 82880, and remand for the court to consider the Brunzell factors and make the necessary findings to support the fee amount awarded. This Court considered the Brunzell factors and issued its own Order on the matter, filed on September 19, 2022 [Docket #132], which articulated the factors this Court considered and necessary findings to support its decision in granting Defendants Motion for attorney's fees. Defendant is directed to prepare the Order; correcting for any scrivener error, and adding appropriate context and authorities. Further, Defendant shall submit the Order to DC19Inbox@clarkcountycourts.us within fourteen (14) calendar days, allowing a minimum of twenty-four (24) hours for opposing counsel to review. CLERK'S NOTE: The above minute order has been distributed to all registered parties via Odyssey File and Serve./bb 06/02/2023;

06/02/2023



Minute Order (9:30 AM) (Judicial Officer: Eller, Crystal)

Minute Order - No Hearing Held;
Journal Entry Details:

The Court GRANTS, in part, Defendants Supplemental Motion for Attorneys Fees and DENIES Plaintiff's Motion for Leave to File Sur-Reply to Defendants Reply, as moot. In a case where claims have been successfully dismissed by way of an anti-SLAPP motion, NRS 41.670 (1)(a) states that a court shall award reasonable cost and attorney's fees to the person against

CASE SUMMARY**CASE NO. A-18-771224-C**

whom the action was brought. An award of additional amounts, up to \$10,000, are also permitted under NRS 41.670(1)(b). Further, where all claims are disposed of by the motion, fees incurred that are not directly related to the anti-SLAPP motion are recoverable. See *Goldman v. Clark Cty. Sch. Dist.*, 2020 WL 5633065, *1, *5 (Nev. Sept. 18, 2020)(affirming an award of fees and costs because the facts and legal arguments in the NRCP 12(b)(5) motion were intrinsically intertwined with those in the anti-SLAPP motion). Additionally, NRS 18.010 provides for an award of attorney s fees where: (1) authorized by a specific statute; (2) the prevailing party has not recovered more than \$20,000; or (3) notwithstanding the recovery sought, the court finds that a claim, counterclaim, cross-claim or third-party complaint or defense was maintained without reasonable ground or to harass the prevailing party. Additionally, the provisions of the statute are to be liberally construe[d] in favor of awarding attorney s fees in all appropriate situations. *Id.* Further, such an award is also intended as a sanction to punish and deter frivolous and vexatious claims, pursuant to NRCP 11. *Id.* [A] claim is frivolous or groundless if there is no credible evidence to support it. *Capanna v. Orth*, 134 Nev. 888, 895 (2018). Here, an award of fees is warranted. NRS 41.670(1)(a) is abundantly clear that the Court shall award reasonable costs and fees. Further, fees incurred that are not directly related to the anti-SLAPP motion are recoverable. *Goldman v. Clark Cty. Sch. Dist.*, 2020 WL 5633065, *1, *5 (Nev. Sept. 18, 2020)(affirming an award of fees and costs because the facts and legal arguments in the NRCP 12(b)(5) motion were intrinsically intertwined with those in the anti-SLAPP motion). This Court FINDS that Defendants requested fees are reasonable and properly supported by Brunzell analysis. Defendants have sufficiently demonstrated that they incurred additional attorney s fees in having to oppose and defend all of the various motions and appeals initiated by Plaintiffs in this matter. Accordingly, the Court GRANTS Defendants request for attorneys fees in the amount of \$43,620.50. However, the Court DENIES Defendants request for referral to Bar Counsel, pursuant to Nevada Rules of Professional Conduct 3.3. Therefore, Plaintiff s Motion for Leave to File a Sur-Reply is DENIED, as moot. Defendant is directed to prepare the Order; correcting for any scrivener error, and adding appropriate context and authorities, including a thorough Brunzell analysis for the fees granted by the Court. Further, Defendant shall submit the Order to DC19Inbox@clarkcountycourts.us within fourteen (14) calendar days, allowing a minimum of twenty-four (24) hours for opposing counsel to review. CLERK'S NOTE: The above minute order has been distributed to all registered parties via Odyssey File and Serve./bb 06/02/2023;

DATE**FINANCIAL INFORMATION**

Defendant Caria, Steve	
Total Charges	24.00
Total Payments and Credits	24.00
Balance Due as of 9/26/2023	0.00
Defendant Omerza, Daniel	
Total Charges	283.00
Total Payments and Credits	283.00
Balance Due as of 9/26/2023	0.00
Plaintiff Fore Stars Ltd	
Total Charges	876.00
Total Payments and Credits	876.00
Balance Due as of 9/26/2023	0.00
Defendant Omerza, Daniel	
Appeal Bond Balance as of 9/26/2023	500.00
Plaintiff Fore Stars Ltd	
Appeal Bond Balance as of 9/26/2023	1,500.00
Plaintiff Fore Stars Ltd	
Miscellaneous Fee Code Balance as of 9/26/2023	406,864.50

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

A-18-771224-C

Case No. _____

(Assigned by Clerk's Office)

Department 31

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

Plaintiff(s) (name/address/phone): <div style="text-align: center;">Fore Stars, Ltd., a Nevada Limited Liability Company</div> <div style="text-align: center;">1215 S. Fort Apache Rd., Suite 120</div> <div style="text-align: center;">Las Vegas, NV 89117</div> <div style="text-align: center;">(702) 940-6930</div>	Defendant(s) (name/address/phone): <div style="text-align: center;">Daniel Omerza and Steve Caria</div> <div style="text-align: center;">800 Petit Chalet Court</div> <div style="text-align: center;">Las Vegas, NV 89145</div>
Attorney (name/address/phone): <div style="text-align: center;">James J. Jimmerson, Esq. (702) 388-7171</div> <div style="text-align: center;">Jimmerson Law Firm, P.C.</div> <div style="text-align: center;">415 S. 6th Street, Suite 100</div> <div style="text-align: center;">Las Vegas, NV 89101</div>	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 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 <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 checked="" type="checkbox"/> Other Civil Matters

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

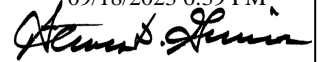
3/15/18

Date

/s/James J. Jimmerson

Signature of initiating party or representative

See other side for family-related case filings.


CLERK OF THE COURT

ORDR

MITCHELL J. LANGBERG, ESQ., Bar No. 10118
mlangberg@bhfs.com
BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106-4614
Telephone: 702.382.2101
Facsimile: 702.382.8135

Counsel for Defendants,
DANIEL OMERZA, DARREN BRESEE, and
STEVE CARIA

DISTRICT COURT

CLARK COUNTY, NEVADA

FORE STARS, LTD., a Nevada limited
liability company; 180 LAND CO., LLC; a
Nevada limited liability company;
SEVENTY ACRES, LLC, a Nevada
limited liability company,

Plaintiffs,

v.

DANIEL OMERZA, DARREN BRESEE,
STEVE CARIA, and DOES 1 THROUGH
100,

Defendants,

CASE NO.: A-18-771224-C
DEPT. NO.: ~~11~~ 19

**ORDER GRANTING , IN PART,
DEFENDANTS' SUPPLEMENTAL
MOTION FOR ATTORNEYS' FEES; AND**

**DENYING PLAINTIFFS' MOTION FOR
LEAVE TO FILE SUR-REPLY TO
DEFENDANTS' REPLY**

Defendants' Supplemental Motion for Attorneys' Fees (the " Supplemental Fee Motion")
and Plaintiff's Motion for Leave to File Sur-Reply to Defendants' Reply.(the "Sur-Reply Motion")
came on for chambers hearing before this Court on June 2, 2023.

After considering the Supplemental Fee Motion and the Sur-Reply Motion and all of the
papers filed in support of and in opposition to the motions, the Court makes the follow order
granting the Supplemental Fee Motion, in part, and denying the Sur-Reply Motion as moot:

1. Defendants' anti-SLAPP motion under NRS 41.670 was granted and substantively
affirmed by the Nevada Supreme Court. The Nevada Supreme Court reversed the initial
attorneys' fee award for reconsideration after further consideration of the *Brunzell* factors.

1 2. On remand, this Court issued a fee award.

2 3. On November 23, 2022, Defendants filed the Supplemental Fee Motion seeking
3 fees for work that had not been addressed by this Court’s prior fee award, including the fees
4 related to the appeal.

5 4. Plaintiffs filed their opposition to the Supplemental Fee Motion on December 23,
6 2022.

7 5. Defendants filed their reply in support of the Supplemental Fee Motion on January
8 6, 2023.

9 6. Plaintiffs filed their Sur-Reply Motion on January 17, 2023.

10 7. In a case where claims have been successfully dismissed by way of an anti-SLAPP
11 motion, NRS 41.670(1)(a) states that a court “shall award reasonable cost and attorney’s fees to
12 the person against whom the action was brought.”

13 8. An award of additional amounts, up to \$10,000, are also permitted under NRS
14 41.670(1)(b).

15 9. Further, where *all* claims are disposed of by the motion, fees incurred that are not
16 directly related to the anti-SLAPP motion are recoverable. *See Goldman v. Clark Cty. Sch. Dist.*,
17 2020 WL 5633065, *1, *5 (Nev. Sept. 18, 2020)(affirming an award of fees and costs “because
18 the facts and legal arguments in the NRCP 12(b)(5) motion were intrinsically intertwined with
19 those in the anti-SLAPP motion”).

20 10. Further, such fees shall include “all reasonable fees and costs incurred from the
21 inception of the litigation...” *Smith v. Zilverberg*, 137 Nev. 65, 73 (2021). This means that a
22 prevailing defendant is entitled “to recover reasonable attorney fees and costs incurred in the
23 entire action, not just those incurred litigating the anti-SLAPP special motion to dismiss.” *Id.* at
24 75.

25 11. Additionally, NRS 18.010 provides for an award of attorney’s fees where: (1)
26 authorized by a specific statute; (2) the prevailing party has not recovered more than \$20,000; or
27 (3) notwithstanding the recovery sought, the court finds that a “claim, counterclaim, cross-claim
28

1 or third-party complaint or defense” was maintained without reasonable ground or to harass the
2 prevailing party.”

3 12. Additionally, the provisions of the statute are to be “liberally construe[d] ... in
4 favor of awarding attorney’s fees in all appropriate situations.” *Id.*

5 13. Further, such an award is also intended as a sanction to punish and deter frivolous
6 and vexatious claims, pursuant to NRCP 11. *Id.* “[A] claim is frivolous or groundless if there is
7 no credible evidence to support it.” *Capanna v. Orth*, 134 Nev. 888, 895 (2018).

8 14. Here, an award of fees is warranted. NRS 41.670(1)(a) is abundantly clear that the
9 Court “*shall* award” reasonable costs and fees.

10 15. In opposition to this motion and in other papers filed with this Court, Plaintiffs
11 have repeatedly argued that no fees can be awarded under the anti-SLAPP Statute unless
12 Defendants prove that are actually liable for, or have actually paid attorneys fees, or that they
13 provide a copy of a contingency agreement. Plaintiffs argue that in the absence of evidence that
14 the work performed by defense counsel created a legal obligation for defendants to pay, no fees
15 should be awarded because “[t]his is not a contingency case; it is a pro bono case.”

16 16. The Court does not need to resolve these issues. As noted above, when an anti-
17 SLAPP motion is granted, the Court “shall award reasonable costs and attorney’s fees.” NRS
18 41.670(1)(a). The Nevada Supreme Court has repeatedly directed that application of the *Brunzell*
19 factors are the method by which a reasonable fee is determined and this Court interprets this to
20 mean that only the Brunzell factors shall be analyzed and that it shall award fees that are
21 reasonable pursuant to *Brunzell*.

22 17. Thus, this Court is required to consider the *Brunzell* factors in considering
23 Defendants’ request for supplemental fees in the amount of \$43,620.50 which is the *Lodestar*
24 amount (rate multiplied by hours) requested by Defendants’ counsel.

25 18. The factors are (1) the qualities of the advocate: their ability, training, education,
26 experience, professional standing and skill; (2) the character of the work to be done: its difficulty,
27 its intricacy, its importance, time and skill required, the responsibility imposed and the
28 prominence and character of the parties where they affect the importance of the litigation; (3) the

1 work actually performed by the lawyer: the skill, time and attention given to the work; (4) the
2 result: whether the attorney was successful and what benefits were derived. *Brunzell v. Golden*
3 *Gate Nat. Bank*, 85 Nev. 345, 349 (1969).

4 19. As to the quality of the advocate, Mitchell Langberg performed the majority of the
5 work for the supplemental fees requested. The Court finds, as set out in his declaration, that
6 Mitchell Langberg has been lead counsel on this matter. He graduated from the University of
7 Southern California School of Law in 1994. During his 29 years of practice, one of his primary
8 focuses has been on defamation and First Amendment litigation. He is recognized by Best
9 Lawyers in the area of Media and First Amendment Law. He is recognized with a Preeminent
10 AV rating from Martindale-Hubbell. Mr. Langberg has handled approximately 50 cases
11 involving anti-SLAPP motions (on both sides). He testified as an expert in the Nevada
12 Legislature when the current anti-SLAPP statute was debated in 2015. He has taught anti-SLAPP
13 law, including most recently as a lecturer on the subject at the Colorado Judicial Conference. As
14 further set out in Mr. Langberg's declaration, Laura Langberg briefly assisted on this case. She is
15 a 2007 J.D./M.B.A. graduate of the Boyd School of Law. She has worked with Mr. Langberg on
16 defamation cases since 2008 and has assisted with several anti-SLAPP motions and oppositions.
17 Based on these undisputed facts, this Court finds that the quality of the advocates is very high.

18 20. As to the character of the work done, as this Court has previously found in this
19 case, the work itself implicated important First Amendment rights on issues that are of immense
20 concern in this community—including matters of regulating development and resident input in
21 that process. The anti-SLAPP statute, itself, is designed to identify meritless litigation arising
22 from the exercise of First Amendment rights. The fact the Legislature has created a special
23 procedure in these cases emphasizes the social importance of anti-SLAPP litigation. Further,
24 when taken in the context of a developer with expansive financial resources attempting to silence
25 its opposition in their attempts to have their concerns heard by the City Counsel, speaks volumes
26 about the challenges in the case. Therefore, the character of work is extremely significant.

27 21. As to the work actually performed, the Court has reviewed the charges provided
28 by Defendants setting out the work performed by category. All of the work was necessitated by

1 Plaintiffs' persistent pursuit of claims seeking damages of tens of millions of dollars in the
2 Nevada Supreme Court—claims that Court has confirmed lacked all merit. Defendants' counsel
3 spent less than 60 hours to resist a motion for reconsideration, draft a settlement conference
4 statement, attend a mandatory settlement conference in person, draft an appeal brief on the
5 complicated issues in this case, and then resist yet another motion for reconsideration. The Court
6 is directly familiar with all the work that was filed with this Court and, based on the Nevada
7 Supreme Court decision and the Court's own experience, understands the work that was required
8 for the settlement conference and the appellate briefing. Defendants' efforts were successful and
9 the quality of the work was clearly very good. The number of hours requested is very reasonable
10 in light of the work performed.

11 22. As to the result, Defendants were successful. The Nevada Supreme Court
12 affirmed the substantive grant of the anti-SLAPP motion. Remand was only for this Court to
13 reconsider the amount of fees and expressly articulate the application of the *Brunzell* factors in its
14 order. And, this Court issued an award of the full fees after again considering the *Brunzell*
15 factors.

16 23. The Court finds that the rates applied by counsel for the *Lodestar* analysis are
17 reasonable. When this case began several years ago, the rate of \$655 per hour Mr. Langberg
18 applied for this matter was less than his regular billable rate. In the more than four years since
19 then, Mr. Langberg's standard billable rate has increased annually, which is common in the legal
20 community. Another Court in this district has recently approved Mr. Langberg's rate of \$825 per
21 hour on an anti-SLAPP motion. For the work that is the subject of the Supplemental Fee Motion,
22 Mr. Langberg has requested only \$700 per hour, less than 7% more than his initial rate was more
23 than four years ago. The rate applied to Mrs. Langberg's limited work was \$505.

24 24. The Court is familiar with the rates charged in this community for complex or
25 specialty litigation such as First Amendment and anti-SLAPP litigation. The Court finds that the
26 rates applied are reasonable and appropriate for the nature and quality of the work performed. In
27 fact, they are lower than some rates approved on anti-SLAPP motions in this district.
28

25. The Court also finds that the total hours requested in the Supplemental Fee Motion (58.3 hours) and the reply in support of that motion (4.6 hours) is reasonable for all of the work performed.

26. Therefore, the Court finds that total fees in the amount of \$43,620.50 are reasonable and appropriate after consideration of the *Lodestar* and *Brunzell* factors.

27. In the reply in support of the Supplemental Fee Motion, Defendants requested that the Court make a referral to Bar Counsel pursuant to Nevada Rules of Professional Conduct 3.3. The Court will deny that request.

28. Therefore, Plaintiff's Motion for Leave to File a Sur-Reply will be denied as moot.

Therefore, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. Defendants' Supplemental Motion for Attorneys Fees is GRANTED in part and DENIED in part;

2. Defendants request for attorneys' fees is GRANTED and Defendants are awarded supplemental attorneys' fees (in addition to fees already awarded by the Court) as against Plaintiffs, and each of them, jointly and severally, in the total amount of \$43,620.50, and Plaintiffs are hereby ORDERED to pay such fees to Defendants within 60 days unless this fee award is stayed pursuant to statute, rule, or subsequent court order;

3. Defendants' request for referral to Bar Counsel is DENIED; and

4. Plaintiff's Motion for Leave to File Sur-Reply to Defendants' Reply is DENIED as moot.

Dated this 18th day of September, 2023



DF3 253 7696 0544
Crystal Eller
District Court Judge

1 Respectfully Submitted By:

2 BROWNSTEIN HYATT FARBER SCHRECK, LLP

3
4 By: /s/ Mitchell J. Langberg

MITCHELL J. LANGBERG, ESQ., Bar No. 10118

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Telephone: 702.382.2101

Facsimile: 702.382.8135

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8 *Counsel for Defendants*

DANIEL OMERZA, DARREN BRESEE, and

STEVE CARIA

9
10 Approved as to form:

11 THE LAW OFFICES OF KRISTINA WILDEVELD & ASSOCIATES

12
13 By: /s/ Lisa A. Rsmussen

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Facsimile: 702.222.0001

16 *Counsel for Plaintiffs*

FORE STARS, LTD., 180 LAND CO., LLC; and

SEVENTY ACRES, LLC

From: Lisa Rasmussen <lisa@veldlaw.com>
Sent: Wednesday, September 13, 2023 7:55 PM
To: Langberg, Mitchell
Cc: Crudup, DeEtra
Subject: Re: Orders for Signature

Hi Mitch,

I responded and said you may add my signature. Sorry if you did not get my email.

Lisa

Get [Outlook for iOS](#)

From: Langberg, Mitchell <mlangberg@bhfs.com>
Sent: Wednesday, September 13, 2023 6:34 PM
To: lisa@veldlaw.com <lisa@veldlaw.com>
Cc: Crudup, DeEtra <DCrudup@bhfs.com>
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Just want to make sure you got this.

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On Sep 11, 2023, at 9:17 AM, Langberg, Mitchell <mlangberg@bhfs.com> wrote:

Lisa,

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I have accepted all changes in your last edits to these orders. Because of the time that has passed, please run a compare to assure yourself.

Please let me know if we may added your /s/ signature and submit.

Thank you.

Mitch

Mitchell J. Langberg
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Las Vegas, NV 89106

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<[Proposed] Order re Defs' Supp Motion for Atty Fees & Pltf Motion for Leave to File Sur-Reply
etc.(25765218.3).docx>
<[Proposed] Order re Motion for Reconsideration Order re Atty Fee - Post Remand(25765113.3).docx>

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4	
5	
6 Fore Stars, Ltd., Plaintiff(s)	CASE NO: A-18-771224-C
7 vs.	DEPT. NO. Department 19
8 Daniel Omerza, Defendant(s)	
9	

10 **AUTOMATED CERTIFICATE OF SERVICE**

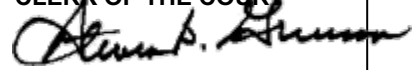
11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 9/18/2023

15 Elizabeth Ham	EHam@ehbcompanies.com
16 Todd Davis	tdavis@ehbcompanies.com
17 Jennifer Knighton	jknighton@ehbcompanies.com
18 Mitchell Langberg	mlangberg@bhfs.com
19 Lisa Rasmussen	Lisa@Veldlaw.com
20 Kristina Wildeveld	Kristina@Veldlaw.com
21 Mitchell Langberg	mlangberg@bhfs.com
22 Mitchell Langberg	mlangberg@bfhs.com
23 Samuel Reyes	Sam@veldlaw.com
24 Diana B	diana@veldlaw.com
25 Alex Loglia	alex@veldlaw.com
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Lisa Rasmussen	Lisa@Veldlaw.com
Lisa Rasmussen	Lisa@Veldlaw.com



1 **NEOJ**

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3 mlangberg@bhfs.com

4 BROWNSTEIN HYATT FARBER SCHRECK, LLP

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6 Las Vegas, NV 89106-4614

7 Telephone: 702.382.2101

8 Facsimile: 702.382.8135

9 *Counsel for Defendants,*

10 DANIEL OMERZA, DARREN BRESEE, and

11 STEVE CARIA

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 FORE STARS, LTD., a Nevada limited
15 liability company; 180 LAND CO., LLC; a
16 Nevada limited liability company;
17 SEVENTY ACRES, LLC, a Nevada
18 limited liability company,

19 Plaintiffs,

20 v.

21 DANIEL OMERZA, DARREN BRESEE,
22 STEVE CARIA, and DOES 1 THROUGH
23 100,

24 Defendants,

CASE NO.: A-18-771224-C

DEPT NO.: 19

**NOTICE OF ENTRY OF ORDER GRANTING,
IN PART, DEFENDANTS' SUPPLEMENTAL
MOTION FOR ATTORNEYS' FEES; AND**

**DENYING PLAINTIFFS' MOTION FOR
LEAVE TO FILE SUR-REPLY TO
DEFENDANTS' REPLY**

25 PLEASE TAKE NOTICE that the Order Granting, In Part, Defendants' Supplemental
26 Motion For Attorneys' Fees; and Denying Plaintiffs' Motion For Leave To File Sur-Reply To
27 Defendants' Reply was entered on September 18, 2023.

28 ...

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A true and correct copy of said Order is attached hereto.

DATED this 19th day of September, 2023.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

BY: /s/ Mitchell J. Langberg

MITCHELL J. LANGBERG, ESQ., Bar No. 10118

mlangberg@bhfs.com

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Telephone: 702.382.2101

Facsimile: 702.382.8135

Counsel for Defendants

DANIEL OMERZA, DARREN BRESEE, and
STEVE CARIA

CERTIFICATE OF SERVICE

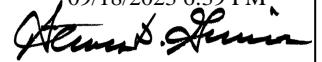
I HEREBY CERTIFY that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING, IN PART, DEFENDANTS' SUPPLEMENTAL MOTION FOR ATTORNEYS' FEES; AND DENYING PLAINTIFFS' MOTION FOR LEAVE TO FILE SUR-REPLY TO DEFENDANTS' REPLY** be submitted electronically for filing and/or service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 19th day of September, 2023, to the following:

Lisa A. Rasmussen, Esq.
The Law Offices of Kristina Wildeveld & Associates
550 E. Charleston Boulevard, Suite A
Las Vegas, Nevada 89104
Email: lisa@lrasmussenlaw.com

Elizabeth Ham, Esq.
EHB Companies, LLC
9755 West Charleston Boulevard
Las Vegas, Nevada 89117
Email: eham@ehbcompanies.com

Attorneys for Plaintiffs
FORE STARS, LTD., 180 LAND CO., LLC;
and SEVENTY ACRES, LLC

/s/ DeEtra Crudup
an employee of Brownstein Hyatt Farber Schreck, LLP


CLERK OF THE COURT

ORDR

MITCHELL J. LANGBERG, ESQ., Bar No. 10118
mlangberg@bhfs.com
BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106-4614
Telephone: 702.382.2101
Facsimile: 702.382.8135

Counsel for Defendants,
DANIEL OMERZA, DARREN BRESEE, and
STEVE CARIA

DISTRICT COURT

CLARK COUNTY, NEVADA

FORE STARS, LTD., a Nevada limited
liability company; 180 LAND CO., LLC; a
Nevada limited liability company;
SEVENTY ACRES, LLC, a Nevada
limited liability company,

Plaintiffs,

v.

DANIEL OMERZA, DARREN BRESEE,
STEVE CARIA, and DOES 1 THROUGH
100,

Defendants,

CASE NO.: A-18-771224-C
DEPT. NO.: ~~11~~ 19

**ORDER GRANTING , IN PART,
DEFENDANTS' SUPPLEMENTAL
MOTION FOR ATTORNEYS' FEES; AND**

**DENYING PLAINTIFFS' MOTION FOR
LEAVE TO FILE SUR-REPLY TO
DEFENDANTS' REPLY**

Defendants' Supplemental Motion for Attorneys' Fees (the " Supplemental Fee Motion")
and Plaintiff's Motion for Leave to File Sur-Reply to Defendants' Reply.(the "Sur-Reply Motion")
came on for chambers hearing before this Court on June 2, 2023.

After considering the Supplemental Fee Motion and the Sur-Reply Motion and all of the
papers filed in support of and in opposition to the motions, the Court makes the follow order
granting the Supplemental Fee Motion, in part, and denying the Sur-Reply Motion as moot:

1. Defendants' anti-SLAPP motion under NRS 41.670 was granted and substantively
affirmed by the Nevada Supreme Court. The Nevada Supreme Court reversed the initial
attorneys' fee award for reconsideration after further consideration of the *Brunzell* factors.

2. On remand, this Court issued a fee award.

3. On November 23, 2022, Defendants filed the Supplemental Fee Motion seeking fees for work that had not been addressed by this Court’s prior fee award, including the fees related to the appeal.

4. Plaintiffs filed their opposition to the Supplemental Fee Motion on December 23, 2022.

5. Defendants filed their reply in support of the Supplemental Fee Motion on January 6, 2023.

6. Plaintiffs filed their Sur-Reply Motion on January 17, 2023.

7. In a case where claims have been successfully dismissed by way of an anti-SLAPP motion, NRS 41.670(1)(a) states that a court “shall award reasonable cost and attorney’s fees to the person against whom the action was brought.”

8. An award of additional amounts, up to \$10,000, are also permitted under NRS 41.670(1)(b).

9. Further, where *all* claims are disposed of by the motion, fees incurred that are not directly related to the anti-SLAPP motion are recoverable. *See Goldman v. Clark Cty. Sch. Dist.*, 2020 WL 5633065, *1, *5 (Nev. Sept. 18, 2020)(affirming an award of fees and costs “because the facts and legal arguments in the NRCP 12(b)(5) motion were intrinsically intertwined with those in the anti-SLAPP motion”).

10. Further, such fees shall include “all reasonable fees and costs incurred from the inception of the litigation...” *Smith v. Zilverberg*, 137 Nev. 65, 73 (2021). This means that a prevailing defendant is entitled “to recover reasonable attorney fees and costs incurred in the entire action, not just those incurred litigating the anti-SLAPP special motion to dismiss.” *Id.* at 75.

11. Additionally, NRS 18.010 provides for an award of attorney’s fees where: (1) authorized by a specific statute; (2) the prevailing party has not recovered more than \$20,000; or (3) notwithstanding the recovery sought, the court finds that a “claim, counterclaim, cross-claim

1 or third-party complaint or defense” was maintained without reasonable ground or to harass the
2 prevailing party.”

3 12. Additionally, the provisions of the statute are to be “liberally construe[d] ... in
4 favor of awarding attorney’s fees in all appropriate situations.” *Id.*

5 13. Further, such an award is also intended as a sanction to punish and deter frivolous
6 and vexatious claims, pursuant to NRCP 11. *Id.* “[A] claim is frivolous or groundless if there is
7 no credible evidence to support it.” *Capanna v. Orth*, 134 Nev. 888, 895 (2018).

8 14. Here, an award of fees is warranted. NRS 41.670(1)(a) is abundantly clear that the
9 Court “*shall* award” reasonable costs and fees.

10 15. In opposition to this motion and in other papers filed with this Court, Plaintiffs
11 have repeatedly argued that no fees can be awarded under the anti-SLAPP Statute unless
12 Defendants prove that are actually liable for, or have actually paid attorneys fees, or that they
13 provide a copy of a contingency agreement. Plaintiffs argue that in the absence of evidence that
14 the work performed by defense counsel created a legal obligation for defendants to pay, no fees
15 should be awarded because “[t]his is not a contingency case; it is a pro bono case.”

16 16. The Court does not need to resolve these issues. As noted above, when an anti-
17 SLAPP motion is granted, the Court “shall award reasonable costs and attorney’s fees.” NRS
18 41.670(1)(a). The Nevada Supreme Court has repeatedly directed that application of the *Brunzell*
19 factors are the method by which a reasonable fee is determined and this Court interprets this to
20 mean that only the *Brunzell* factors shall be analyzed and that it shall award fees that are
21 reasonable pursuant to *Brunzell*.

22 17. Thus, this Court is required to consider the *Brunzell* factors in considering
23 Defendants’ request for supplemental fees in the amount of \$43,620.50 which is the *Lodestar*
24 amount (rate multiplied by hours) requested by Defendants’ counsel.

25 18. The factors are (1) the qualities of the advocate: their ability, training, education,
26 experience, professional standing and skill; (2) the character of the work to be done: its difficulty,
27 its intricacy, its importance, time and skill required, the responsibility imposed and the
28 prominence and character of the parties where they affect the importance of the litigation; (3) the

1 work actually performed by the lawyer: the skill, time and attention given to the work; (4) the
2 result: whether the attorney was successful and what benefits were derived. *Brunzell v. Golden*
3 *Gate Nat. Bank*, 85 Nev. 345, 349 (1969).

4 19. As to the quality of the advocate, Mitchell Langberg performed the majority of the
5 work for the supplemental fees requested. The Court finds, as set out in his declaration, that
6 Mitchell Langberg has been lead counsel on this matter. He graduated from the University of
7 Southern California School of Law in 1994. During his 29 years of practice, one of his primary
8 focuses has been on defamation and First Amendment litigation. He is recognized by Best
9 Lawyers in the area of Media and First Amendment Law. He is recognized with a Preeminent
10 AV rating from Martindale-Hubbell. Mr. Langberg has handled approximately 50 cases
11 involving anti-SLAPP motions (on both sides). He testified as an expert in the Nevada
12 Legislature when the current anti-SLAPP statute was debated in 2015. He has taught anti-SLAPP
13 law, including most recently as a lecturer on the subject at the Colorado Judicial Conference. As
14 further set out in Mr. Langberg's declaration, Laura Langberg briefly assisted on this case. She is
15 a 2007 J.D./M.B.A. graduate of the Boyd School of Law. She has worked with Mr. Langberg on
16 defamation cases since 2008 and has assisted with several anti-SLAPP motions and oppositions.
17 Based on these undisputed facts, this Court finds that the quality of the advocates is very high.

18 20. As to the character of the work done, as this Court has previously found in this
19 case, the work itself implicated important First Amendment rights on issues that are of immense
20 concern in this community—including matters of regulating development and resident input in
21 that process. The anti-SLAPP statute, itself, is designed to identify meritless litigation arising
22 from the exercise of First Amendment rights. The fact the Legislature has created a special
23 procedure in these cases emphasizes the social importance of anti-SLAPP litigation. Further,
24 when taken in the context of a developer with expansive financial resources attempting to silence
25 its opposition in their attempts to have their concerns heard by the City Counsel, speaks volumes
26 about the challenges in the case. Therefore, the character of work is extremely significant.

27 21. As to the work actually performed, the Court has reviewed the charges provided
28 by Defendants setting out the work performed by category. All of the work was necessitated by

1 Plaintiffs' persistent pursuit of claims seeking damages of tens of millions of dollars in the
2 Nevada Supreme Court—claims that Court has confirmed lacked all merit. Defendants' counsel
3 spent less than 60 hours to resist a motion for reconsideration, draft a settlement conference
4 statement, attend a mandatory settlement conference in person, draft an appeal brief on the
5 complicated issues in this case, and then resist yet another motion for reconsideration. The Court
6 is directly familiar with all the work that was filed with this Court and, based on the Nevada
7 Supreme Court decision and the Court's own experience, understands the work that was required
8 for the settlement conference and the appellate briefing. Defendants' efforts were successful and
9 the quality of the work was clearly very good. The number of hours requested is very reasonable
10 in light of the work performed.

11 22. As to the result, Defendants were successful. The Nevada Supreme Court
12 affirmed the substantive grant of the anti-SLAPP motion. Remand was only for this Court to
13 reconsider the amount of fees and expressly articulate the application of the *Brunzell* factors in its
14 order. And, this Court issued an award of the full fees after again considering the *Brunzell*
15 factors.

16 23. The Court finds that the rates applied by counsel for the *Lodestar* analysis are
17 reasonable. When this case began several years ago, the rate of \$655 per hour Mr. Langberg
18 applied for this matter was less than his regular billable rate. In the more than four years since
19 then, Mr. Langberg's standard billable rate has increased annually, which is common in the legal
20 community. Another Court in this district has recently approved Mr. Langberg's rate of \$825 per
21 hour on an anti-SLAPP motion. For the work that is the subject of the Supplemental Fee Motion,
22 Mr. Langberg has requested only \$700 per hour, less than 7% more than his initial rate was more
23 than four years ago. The rate applied to Mrs. Langberg's limited work was \$505.

24 24. The Court is familiar with the rates charged in this community for complex or
25 specialty litigation such as First Amendment and anti-SLAPP litigation. The Court finds that the
26 rates applied are reasonable and appropriate for the nature and quality of the work performed. In
27 fact, they are lower than some rates approved on anti-SLAPP motions in this district.
28

25. The Court also finds that the total hours requested in the Supplemental Fee Motion (58.3 hours) and the reply in support of that motion (4.6 hours) is reasonable for all of the work performed.

26. Therefore, the Court finds that total fees in the amount of \$43,620.50 are reasonable and appropriate after consideration of the *Lodestar* and *Brunzell* factors.

27. In the reply in support of the Supplemental Fee Motion, Defendants requested that the Court make a referral to Bar Counsel pursuant to Nevada Rules of Professional Conduct 3.3. The Court will deny that request.

28. Therefore, Plaintiff's Motion for Leave to File a Sur-Reply will be denied as moot.

Therefore, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. Defendants' Supplemental Motion for Attorneys Fees is GRANTED in part and DENIED in part;

2. Defendants request for attorneys' fees is GRANTED and Defendants are awarded supplemental attorneys' fees (in addition to fees already awarded by the Court) as against Plaintiffs, and each of them, jointly and severally, in the total amount of \$43,620.50, and Plaintiffs are hereby ORDERED to pay such fees to Defendants within 60 days unless this fee award is stayed pursuant to statute, rule, or subsequent court order;

3. Defendants' request for referral to Bar Counsel is DENIED; and

4. Plaintiff's Motion for Leave to File Sur-Reply to Defendants' Reply is DENIED as moot.

Dated this 18th day of September, 2023



DF3 253 7696 0544
Crystal Eller
District Court Judge

1 Respectfully Submitted By:

2 BROWNSTEIN HYATT FARBER SCHRECK, LLP

3 By: /s/ Mitchell J. Langberg

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7 *Counsel for Defendants*

8 DANIEL OMERZA, DARREN BRESEE, and

9 STEVE CARIA

10 Approved as to form:

11 THE LAW OFFICES OF KRISTINA WILDEVELD & ASSOCIATES

12 By: /s/ Lisa A. Rsmussen

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Las Vegas, Nevada 89104

15 Telephone: 702.222.0007

Facsimile: 702.222.0001

16 *Counsel for Plaintiffs*

17 FORE STARS, LTD., 180 LAND CO., LLC; and

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1 **CSERV**

2
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CLARK COUNTY, NEVADA

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6 Fore Stars, Ltd., Plaintiff(s)	CASE NO: A-18-771224-C
7 vs.	DEPT. NO. Department 19
8 Daniel Omerza, Defendant(s)	
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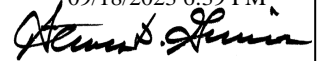
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ORDR

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Counsel for Defendants,
DANIEL OMERZA, DARREN BRESEE, and
STEVE CARIA

DISTRICT COURT

CLARK COUNTY, NEVADA

FORE STARS, LTD., a Nevada limited
liability company; 180 LAND CO., LLC; a
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SEVENTY ACRES, LLC, a Nevada
limited liability company,

Plaintiffs,

v.

DANIEL OMERZA, DARREN BRESEE,
STEVE CARIA, and DOES 1 THROUGH
100,

Defendants,

CASE NO.: A-18-771224-C
DEPT. NO.: ~~18~~ 19

**ORDER DENYING PLAINTIFFS'
MOTION TO RECONSIDER ORDER
GRANTING ATTORNEY'S FEES POST-
REMAND**

Plaintiffs' Motion to Reconsider Order Granting Attorney's Fees Post-Remand (the
"Motion") came on for chambers hearing before this Court on June 2, 2023.

After considering the Motion, the opposition thereto, and the reply in support thereof, the
Court will deny the motion:

1. On October 3, 2022, Plaintiffs filed their Motion seeking reconsideration of this
Court's September 19, 2022, Order Granting Defendants' Motion for Attorneys' Fees and
Additional Monetary Relief Pursuant to NRS 41.670 and NRS 18.010(2) (the "Fee Motion").
2. Defendants filed their opposition to the Motion on October 17, 2022.
3. Plaintiffs filed their reply in support of the Motion on October 28, 2022.

1 4. EDCR 2.24 provides that “[n]o motions once heard and disposed of may be
2 renewed in the same cause, nor may the same matters therein embraced be reheard, unless by
3 leave of the court granted upon motion therefor, after notice of such motion to the adverse
4 parties.” “[A] court may correct a clerical mistake or a mistake arising from oversight or omission
5 whenever one is found in a judgment, order, or other part of the record.” NRCp 60(a). This may
6 be done by the court sua sponte or on a timely motion from the parties, and does not require
7 notice by the court. *Id.*

8 5. To prevail on a motion for reconsideration, the moving party must establish that
9 there was an error of law, substantially new evidence discovered, or that the Court’s decision was
10 clearly erroneous. *See Masonry & Tile Contractors Ass’n of S. Nevada v. Jolley, Urga, & Wirth,*
11 *Ltd.*, 113 Nev. 737, 741 (1997).

12 6. “A finding is ‘clearly erroneous’ when although there is evidence to support it, the
13 reviewing court on the entire evidence is left with the definite and firm conviction that a mistake
14 has been committed.” *U.S. v. Gypsum*, 333 U.S. 364, 395 (1948).

15 7. Finally, any “[p]oints or contentions not raised in the original hearing cannot be
16 maintained or considered on rehearing.” *Achrem v. Expressway Plaza Ltd. P’ship*, 112 Nev. 737,
17 742 (1996).

18 8. Plaintiffs have failed to establish that there was an error of law, substantially new
19 evidence discovered, or that the Court’s decision was clearly erroneous.

20 9. Defendants are correct in that the Nevada Supreme Court remanded this matter to
21 the District Court for the sole purpose of considering the *Brunzell* factors in granting Defendants’
22 request for attorney’s fees. Specifically, the Nevada Supreme Court Ordered, “Consistent with
23 the foregoing, we affirm the district court’s order granting respondents’ special motion to dismiss
24 in Docket No. 82338, and we vacate the order awarding attorney fees in Docket 82880, and
25 remand for the court to consider the *Brunzell* factors and make the necessary findings to support
26 the fee amount awarded.”

10. This Court considered the *Brunzell* factors and issued its own Order on the matter, filed on September 19, 2022 [Docket #132], which articulated the factors this Court considered and necessary findings to support its decision in granting Defendants’ Motion for attorney’s fees.

11. Plaintiffs’ new argument that reasonable fees must include fees for which the Defendants are liable is not a basis for reconsideration.

12. The Court does not need to resolve these issues. As noted above, when an anti-SLAPP motion is granted, the Court “shall award reasonable costs and attorney’s fees.” NRS 41.670(1)(a). The Nevada Supreme Court has repeatedly directed that application of the *Brunzell* factors are the method by which a reasonable fee is determined and this Court interprets this to mean that only the Brunzell factors shall be analyzed and that it shall award fees that are reasonable pursuant to *Brunzell*.

13. Thus, whether the Court is considering:

- (a) A traditional hourly arrangement;
- (b) fees paid by a third party (*Macias v. Hartwell*, 55 Cal. App. 4th 669, 674-75 (1997)—anti-SLAPP fees awarded even if third party, not defendant, paid fee);
- (c) a pro bono relationship (*See Rosenaur v. Scherer*, 88 Cal. App. 4th 260, 281-287 (2001), as modified (Apr. 5, 2001)—anti-SLAPP fees on pro bono matter)
- (d) a contingency fee arrangement (*See Ketchum v. Moses*, 24 Cal. 4th 1122, 1132-33 (2001) - granting fees to contingency fee counsel on anti-SLAPP motion); or
- (e) a contingency fee arrangement without a written agreement that could somehow be challenged by third parties such as Plaintiffs (Restatement (Third) of the Law Governing Lawyers § 39 (2000)—lawyer entitled to reasonable fee even where there is no valid contract),

the Court’s task is the same: to determine and award reasonable attorneys’ fees. That is exactly what the Court did.

14. Thus, there was no basis for reconsideration.

Therefore, it is hereby ORDERED that Plaintiffs' Motion to Reconsider Order Granting Attorney's Fees Post-Remand is DENIED.

Dated this 18th day of September, 2023



4FD 36E 8E78 ED4B
Crystal Eller
District Court Judge

Respectfully Submitted By:

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: /s/ Mitchell J. Langberg
MITCHELL J. LANGBERG, ESQ., Bar No. 10118
mlangberg@bhfs.com
100 North City Parkway, Suite 1600
Las Vegas, Nevada 89106-4614
Telephone: 702.382.2101
Facsimile: 702.382.8135

Counsel for Defendants
DANIEL OMERZA, DARREN BRESEE, and
STEVE CARIA

Approved as to form:

THE LAW OFFICES OF KRISTINA WILDEVELD & ASSOCIATES

By: /s/ Lisa A. Rsmussen
LISA A. RASMUSSEN, ESQ., Bar No. 7491
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Las Vegas, Nevada 89104
Telephone: 702.222.0007
Facsimile: 702.222.0001

Counsel for Plaintiffs
FORE STARS, LTD., 180 LAND CO., LLC; and
SEVENTY ACRES, LLC

From: Lisa Rasmussen <lisa@veldlaw.com>
Sent: Wednesday, September 13, 2023 7:55 PM
To: Langberg, Mitchell
Cc: Crudup, DeEtra
Subject: Re: Orders for Signature

Hi Mitch,

I responded and said you may add my signature. Sorry if you did not get my email.

Lisa

Get [Outlook for iOS](#)

From: Langberg, Mitchell <mlangberg@bhfs.com>
Sent: Wednesday, September 13, 2023 6:34 PM
To: lisa@veldlaw.com <lisa@veldlaw.com>
Cc: Crudup, DeEtra <DCrudup@bhfs.com>
Subject: Re: Orders for Signature

Just want to make sure you got this.

...

On Sep 11, 2023, at 9:17 AM, Langberg, Mitchell <mlangberg@bhfs.com> wrote:

Lisa,

I know it has been three weeks since you sent your last edits. Health issues persist here. Thank you for your patience.

I have accepted all changes in your last edits to these orders. Because of the time that has passed, please run a compare to assure yourself.

Please let me know if we may added your /s/ signature and submit.

Thank you.

Mitch

Mitchell J. Langberg
Brownstein Hyatt Farber Schreck, LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106

702.464.7098 tel
mlangberg@bhfs.com

<[Proposed] Order re Defs' Supp Motion for Atty Fees & Pltf Motion for Leave to File Sur-Reply
etc.(25765218.3).docx>
<[Proposed] Order re Motion for Reconsideration Order re Atty Fee - Post Remand(25765113.3).docx>

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4		
5		
6	Fore Stars, Ltd., Plaintiff(s)	CASE NO: A-18-771224-C
7	vs.	DEPT. NO. Department 19
8	Daniel Omerza, Defendant(s)	
9		

10 **AUTOMATED CERTIFICATE OF SERVICE**

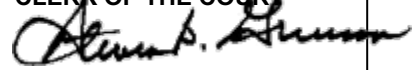
11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 9/18/2023

15 Elizabeth Ham	EHam@ehbcompanies.com
16 Todd Davis	tdavis@ehbcompanies.com
17 Jennifer Knighton	jknighton@ehbcompanies.com
18 Mitchell Langberg	mlangberg@bhfs.com
19 Lisa Rasmussen	Lisa@Veldlaw.com
20 Kristina Wildeveld	Kristina@Veldlaw.com
21 Mitchell Langberg	mlangberg@bhfs.com
22 Mitchell Langberg	mlangberg@bfhs.com
23 Samuel Reyes	Sam@veldlaw.com
24 Diana B	diana@veldlaw.com
25 Alex Loglia	alex@veldlaw.com
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Veld Law	Efile@veldlaw.com
Lisa Rasmussen	Lisa@Veldlaw.com
Lisa Rasmussen	Lisa@Veldlaw.com



1 **NEOJ**
2 MITCHELL J. LANGBERG, ESQ., Bar No. 10118
3 mlangberg@bhfs.com
4 BROWNSTEIN HYATT FARBER SCHRECK, LLP
5 100 North City Parkway, Suite 1600
6 Las Vegas, NV 89106-4614
7 Telephone: 702.382.2101
8 Facsimile: 702.382.8135

9 *Counsel for Defendants,*
10 DANIEL OMERZA, DARREN BRESEE, and
11 STEVE CARIA

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

14 FORE STARS, LTD., a Nevada limited
15 liability company; 180 LAND CO., LLC; a
16 Nevada limited liability company;
17 SEVENTY ACRES, LLC, a Nevada
18 limited liability company,

19 Plaintiffs,

20 v.

21 DANIEL OMERZA, DARREN BRESEE,
22 STEVE CARIA, and DOES 1 THROUGH
23 100,

24 Defendants,

CASE NO.: A-18-771224-C
DEPT NO.: 19

**NOTICE OF ENTRY OF ORDER DENYING
PLAINTIFFS' MOTION TO RECONSIDER
ORDER GRANTING ATTORNEY'S FEES
POST-REMAND**

25 PLEASE TAKE NOTICE that the Order Denying Plaintiffs' Motion To Reconsider Order
26 Granting Attorneys' Fees Post-Remand was entered on September 18, 2023.

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A true and correct copy of said Order is attached hereto.

DATED this 19th day of September, 2023.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

BY: /s/ Mitchell J. Langberg

MITCHELL J. LANGBERG, ESQ., Bar No. 10118

mlangberg@bhfs.com

100 North City Parkway, Suite 1600

Las Vegas, NV 89106-4614

Telephone: 702.382.2101

Facsimile: 702.382.8135

Counsel for Defendants

DANIEL OMERZA, DARREN BRESEE, and
STEVE CARIA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Brownstein Hyatt Farber Schreck, LLP, and pursuant to NRCP 5(b), EDCR 8.05, Administrative Order 14-2, and NEFCR 9, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER DENYING PLAINTIFFS' MOTION TO RECONSIDER ORDER GRANTING ATTORNEY'S FEES POST-REMAND** be submitted electronically for filing and/or service with the Eighth Judicial District Court via the Court's Electronic Filing System on the 19th day of September, 2023, to the following:

Lisa A. Rasmussen, Esq.
The Law Offices of Kristina Wildeveld & Associates
550 E. Charleston Boulevard, Suite A
Las Vegas, Nevada 89104
Email: lisa@lasmussenlaw.com

Elizabeth Ham, Esq.
EHB Companies, LLC
9755 West Charleston Boulevard
Las Vegas, Nevada 89117
Email: eham@ehbcompanies.com

Attorneys for Plaintiffs
FORE STARS, LTD., 180 LAND CO., LLC;
and SEVENTY ACRES, LLC

/s/ DeEtra Crudup
an employee of Brownstein Hyatt Farber Schreck, LLP

ORDR

MITCHELL J. LANGBERG, ESQ., Bar No. 10118
mlangberg@bhfs.com
BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106-4614
Telephone: 702.382.2101
Facsimile: 702.382.8135

Counsel for Defendants,
DANIEL OMERZA, DARREN BRESEE, and
STEVE CARIA

DISTRICT COURT

CLARK COUNTY, NEVADA

FORE STARS, LTD., a Nevada limited
liability company; 180 LAND CO., LLC; a
Nevada limited liability company;
SEVENTY ACRES, LLC, a Nevada
limited liability company,

Plaintiffs,

v.

DANIEL OMERZA, DARREN BRESEE,
STEVE CARIA, and DOES 1 THROUGH
100,

Defendants,

CASE NO.: A-18-771224-C
DEPT. NO.: ~~18~~ 19

**ORDER DENYING PLAINTIFFS'
MOTION TO RECONSIDER ORDER
GRANTING ATTORNEY'S FEES POST-
REMAND**

Plaintiffs' Motion to Reconsider Order Granting Attorney's Fees Post-Remand (the
"Motion") came on for chambers hearing before this Court on June 2, 2023.

After considering the Motion, the opposition thereto, and the reply in support thereof, the
Court will deny the motion:

1. On October 3, 2022, Plaintiffs filed their Motion seeking reconsideration of this
Court's September 19, 2022, Order Granting Defendants' Motion for Attorneys' Fees and
Additional Monetary Relief Pursuant to NRS 41.670 and NRS 18.010(2) (the "Fee Motion").
2. Defendants filed their opposition to the Motion on October 17, 2022.
3. Plaintiffs filed their reply in support of the Motion on October 28, 2022.

1 4. EDCR 2.24 provides that “[n]o motions once heard and disposed of may be
2 renewed in the same cause, nor may the same matters therein embraced be reheard, unless by
3 leave of the court granted upon motion therefor, after notice of such motion to the adverse
4 parties.” “[A] court may correct a clerical mistake or a mistake arising from oversight or omission
5 whenever one is found in a judgment, order, or other part of the record.” NRCP 60(a). This may
6 be done by the court sua sponte or on a timely motion from the parties, and does not require
7 notice by the court. *Id.*

8 5. To prevail on a motion for reconsideration, the moving party must establish that
9 there was an error of law, substantially new evidence discovered, or that the Court’s decision was
10 clearly erroneous. *See Masonry & Tile Contractors Ass’n of S. Nevada v. Jolley, Urga, & Wirth,*
11 *Ltd.*, 113 Nev. 737, 741 (1997).

12 6. “A finding is ‘clearly erroneous’ when although there is evidence to support it, the
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14 has been committed.” *U.S. v. Gypsum*, 333 U.S. 364, 395 (1948).

15 7. Finally, any “[p]oints or contentions not raised in the original hearing cannot be
16 maintained or considered on rehearing.” *Achrem v. Expressway Plaza Ltd. P’ship*, 112 Nev. 737,
17 742 (1996).

18 8. Plaintiffs have failed to establish that there was an error of law, substantially new
19 evidence discovered, or that the Court’s decision was clearly erroneous.

20 9. Defendants are correct in that the Nevada Supreme Court remanded this matter to
21 the District Court for the sole purpose of considering the *Brunzell* factors in granting Defendants’
22 request for attorney’s fees. Specifically, the Nevada Supreme Court Ordered, “Consistent with
23 the foregoing, we affirm the district court’s order granting respondents’ special motion to dismiss
24 in Docket No. 82338, and we vacate the order awarding attorney fees in Docket 82880, and
25 remand for the court to consider the *Brunzell* factors and make the necessary findings to support
26 the fee amount awarded.”
27
28

1 10. This Court considered the *Brunzell* factors and issued its own Order on the matter,
2 filed on September 19, 2022 [Docket #132], which articulated the factors this Court considered
3 and necessary findings to support its decision in granting Defendants’ Motion for attorney’s fees.

4 11. Plaintiffs’ new argument that reasonable fees must include fees for which the
5 Defendants are liable is not a basis for reconsideration.

6 12. The Court does not need to resolve these issues. As noted above, when an anti-
7 SLAPP motion is granted, the Court “shall award reasonable costs and attorney’s fees.” NRS
8 41.670(1)(a). The Nevada Supreme Court has repeatedly directed that application of the *Brunzell*
9 factors are the method by which a reasonable fee is determined and this Court interprets this to
10 mean that only the Brunzell factors shall be analyzed and that it shall award fees that are
11 reasonable pursuant to *Brunzell*.

12 13. Thus, whether the Court is considering:

- 13 (a) A traditional hourly arrangement;
- 14 (b) fees paid by a third party (*Macias v. Hartwell*, 55 Cal. App. 4th 669, 674-
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- 23 (e) a contingency fee arrangement without a written agreement that could
24 somehow be challenged by third parties such as Plaintiffs (Restatement
25 (Third) of the Law Governing Lawyers § 39 (2000)—lawyer entitled to
26 reasonable fee even where there is no valid contract),

27 the Court’s task is the same: to determine and award reasonable attorneys’ fees. That is exactly
28 what the Court did.

14. Thus, there was no basis for reconsideration.

Therefore, it is hereby ORDERED that Plaintiffs' Motion to Reconsider Order Granting Attorney's Fees Post-Remand is DENIED.

Dated this 18th day of September, 2023



4FD 36E 8E78 ED4B
Crystal Eller
District Court Judge

Respectfully Submitted By:

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: /s/ Mitchell J. Langberg
MITCHELL J. LANGBERG, ESQ., Bar No. 10118
mlangberg@bhfs.com
100 North City Parkway, Suite 1600
Las Vegas, Nevada 89106-4614
Telephone: 702.382.2101
Facsimile: 702.382.8135

Counsel for Defendants
DANIEL OMERZA, DARREN BRESEE, and
STEVE CARIA

Approved as to form:

THE LAW OFFICES OF KRISTINA WILDEVELD & ASSOCIATES

By: /s/ Lisa A. Rsmussen
LISA A. RASMUSSEN, ESQ., Bar No. 7491
lisa@lrasmussenlaw.com
550 E. Charleston Boulevard, Suite A
Las Vegas, Nevada 89104
Telephone: 702.222.0007
Facsimile: 702.222.0001

Counsel for Plaintiffs
FORE STARS, LTD., 180 LAND CO., LLC; and
SEVENTY ACRES, LLC

From: Lisa Rasmussen <lisa@veldlaw.com>
Sent: Wednesday, September 13, 2023 7:55 PM
To: Langberg, Mitchell
Cc: Crudup, DeEtra
Subject: Re: Orders for Signature

Hi Mitch,

I responded and said you may add my signature. Sorry if you did not get my email.

Lisa

Get [Outlook for iOS](#)

From: Langberg, Mitchell <mlangberg@bhfs.com>
Sent: Wednesday, September 13, 2023 6:34 PM
To: lisa@veldlaw.com <lisa@veldlaw.com>
Cc: Crudup, DeEtra <DCrudup@bhfs.com>
Subject: Re: Orders for Signature

Just want to make sure you got this.

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Lisa,

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I have accepted all changes in your last edits to these orders. Because of the time that has passed, please run a compare to assure yourself.

Please let me know if we may added your /s/ signature and submit.

Thank you.

Mitch

Mitchell J. Langberg
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100 North City Parkway, Suite 1600
Las Vegas, NV 89106

702.464.7098 tel
mlangberg@bhfs.com

<[Proposed] Order re Defs' Supp Motion for Atty Fees & Pltf Motion for Leave to File Sur-Reply
etc.(25765218.3).docx>
<[Proposed] Order re Motion for Reconsideration Order re Atty Fee - Post Remand(25765113.3).docx>

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4		
5		
6	Fore Stars, Ltd., Plaintiff(s)	CASE NO: A-18-771224-C
7	vs.	DEPT. NO. Department 19
8	Daniel Omerza, Defendant(s)	
9		

10 **AUTOMATED CERTIFICATE OF SERVICE**

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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: 9/18/2023

15 Elizabeth Ham	EHam@ehbcompanies.com
16 Todd Davis	tdavis@ehbcompanies.com
17 Jennifer Knighton	jknighton@ehbcompanies.com
18 Mitchell Langberg	mlangberg@bhfs.com
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20 Kristina Wildeveld	Kristina@Veldlaw.com
21 Mitchell Langberg	mlangberg@bhfs.com
22 Mitchell Langberg	mlangberg@bfhs.com
23 Samuel Reyes	Sam@veldlaw.com
24 Diana B	diana@veldlaw.com
25 Alex Loglia	alex@veldlaw.com
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Veld Law	Efile@veldlaw.com
Lisa Rasmussen	Lisa@Veldlaw.com
Lisa Rasmussen	Lisa@Veldlaw.com

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

April 16, 2018

A-18-771224-C	Fore Stars Ltd, Plaintiff(s)
	vs.
	Daniel Omerza, Defendant(s)

April 16, 2018	1:00 PM	Minute Order
-----------------------	----------------	---------------------

HEARD BY: Kishner, Joanna S.

COURTROOM: Chambers

COURT CLERK: Tena Jolley

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Although the Court could and would rule fairly and without bias, recusal is appropriate in the present case in accordance with Canon 2.11(A)(3) of the Nevada Code of Judicial Conduct in order to avoid the appearance of impartiality or implied bias as the Court could be viewed to have information relating to the facts and/or circumstances regarding the underlying issues. Thus, the Court recuses itself from the matter and requests that it be randomly reassigned in accordance with appropriate procedures.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

May 14, 2018

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

May 14, 2018 9:00 AM All Pending Motions

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Vanessa Medina

RECORDER: Dalyne Easley

REPORTER:

PARTIES

PRESENT: Ghanem, Elizabeth M. Attorney
Jimmerson, James Joseph, ESQ Attorney
Langberg, Mitchell J. Attorney

JOURNAL ENTRIES

- Arguments by Mr. Langberg and Mr. Jimmerson. Court DIRECTED, counsel to submit a 2 page Supplemental Briefing by close of business day Wednesday 05/23/18, if counsel believes there is additional information. COURT ORDERED, matter CONTINUED to 05/23/18 Chamber Calendar.

CONTINUED TO: 05/23/18 (CHAMBER CALENDAR)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

May 23, 2018

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

May 23, 2018 3:00 AM Motion to Dismiss

HEARD BY: Scotti, Richard F. **COURTROOM:** No Location

COURT CLERK: Natalie Ortega

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- These matters are continued to the May 30, 2018 Chambers Calendar.

CLERK'S NOTE: This minute order was electronically served by Courtroom Clerk, Natalie Ortega, to all registered parties for Odyssey File & Serve. ndo/5/23/18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

May 29, 2018

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

May 29, 2018	10:41 AM	Minute Order	Defendants' Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint
--------------	----------	--------------	---

HEARD BY: Scotti, Richard F.

COURTROOM: No Location

COURT CLERK: Jennifer Lott

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- The Court DENIES without prejudice Defendants Special Motion to Dismiss (Anti-SLAPP Motion) Plaintiffs Complaint pursuant to NRS 41.635 et. Seq. Nevada s anti-SLAPP statute does not apply to fraudulent conduct, which Plaintiffs have alleged. Even if it did so apply, at this early stage in the litigation and given the numerous allegations of fraud, the Court is not convinced by a preponderance of the evidence that Defendants conduct constituted good faith communications in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern, as described in NRS 41.637. The Court also DENIES Defendants Motion to Dismiss Pursuant to NRCP 12(b)(5). Plaintiffs have stated valid claims for relief. Plaintiffs shall prepare the proposed Order, adding appropriate context and authorities.

The 5/30/2018 Chambers Hearing on this matter hereby VACATED.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Jennifer Lott, to

all registered parties for Odyssey File & Serve. jl

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

October 19, 2018

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

October 19, 2018	9:00 AM	Motion for Order	Plaintiffs' Motion for Order Allowing Commencement of Discovery
------------------	---------	------------------	--

HEARD BY: Truman, Erin

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT:	Jimmerson, James Joseph, ESQ	Attorney
	Jimmerson, James M.	Attorney
	Langberg, Mitchell J.	Attorney

JOURNAL ENTRIES

- Mr. Jimmerson addressed Judge Scotti's ruling and the Court found that Defts' anti-slapp Motion did not apply to intentional torts pled by Plaintiffs in the case, and the Motion to Dismiss on the basis of anti-slapp was Denied. There is an immediate right to Appeal which Defts availed themselves to. Mr. Jimmerson attempted to file an Early Case Conference, however, counsel have returned before the Commissioner to begin discovery. Defts have failed to file an Answer, but Mr. Jimmerson doesn't intent to default Defts. The case needs to go forward and begin discovery. Argument by Mr. Jimmerson. Mr. Langberg discussed whether or not the anti-slapp Statute applies to the tort causes of action that Plaintiffs asserted. Defts filed a Writ of Mandamus, however, it was not brought on the same grounds as the anti-slapp. Mr. Langberg stated the Statute says if an anti-slapp Motion is filed, discovery is stayed pending a ruling on the Motion. Argument by Mr. Langberg.

Commissioner stated based on the Supreme Court Denial of the Petition for Writ, the case is ready to

be Answered, and 16.1 should be complied with. Mr. Langberg stated the Appeal is still pending. There was a Writ as to the Denial of the 12(b)(5) Motion because there is no Appeal from that. Mr. Langberg stated there is an automatic Appeal on Denial of an anti-slapp Motion, the Appeal is still pending, and the Opening Brief is due 10-22-18. Upon Commissioner's inquiry, Mr. Jimmerson stated there are no exigent circumstances that would warrant discovery before 16.1 is complied with.

Given the fact that the Appeal is still pending, and an Answer is not yet required, COMMISSIONER RECOMMENDED, there is no reasonable basis for discovery to go forward at this point, and counsel will wait until the Supreme Court hears the issue. Following that the Answer will be due, and 16.1 will be complied with. Mr. Jimmerson stated there will be a 18 month to 2 year delay. Arguments by counsel. Mr. Langberg read the Statute into the record.

Commissioner doesn't believe the case is stayed under the authority cited by Mr. Langberg. The Court determined that it doesn't apply to the causes of action, therefore, COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; discovery needs to go forward and within 30 days of Judge Scotti's ruling on the forthcoming Objection counsel should comply with 16.1 and file the JCCR. Mr. Langberg requested an extension to object to the Report and Recommendation. Colloquy. Mr. Jimmerson to prepare the Report and Recommendations, and Mr. Langberg to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

February 20, 2019

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

February 20, 2019 9:00 AM Hearing

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Louisa Garcia

RECORDER: Dalyne Easley

REPORTER:

PARTIES

PRESENT: Jimmerson, James Joseph, ESQ Attorney
 Jimmerson, James M. Attorney
 Langberg, Mitchell J. Attorney

JOURNAL ENTRIES

- Arguments by counsel whether anti-slap statute applies and whether motion was filed in good faith.
COURT ORDERED, matter UNDER ADVISEMENT. Court needs to review the Patton v. Lee case
and whether it has jurisdiction, as well as the case law just presented.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

March 15, 2019

A-18-771224-C	Fore Stars Ltd, Plaintiff(s)
	vs.
	Daniel Omerza, Defendant(s)

March 15, 2019	10:00 AM	Minute Order
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HEARD BY: Scotti, Richard F.	COURTROOM: Chambers
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COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court DENIES Plaintiff s Motion to Commence Discovery, pursuant to NRS 41.660(3)(e). The Court had denied Defendants Special Motion to Dismiss, in part, on the grounds that Defendants did not meet their threshold burden of establishing, by a preponderance of the evidence, that the Land owners claims against them are based on their good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. . See Plaintiff s Motion at p. 6 (quoting NRS 41.660(3)(a). Under these circumstances the statute mandates that the Court stay discovery pending an appeal of an Order denying the Special Motion to Dismiss. Defendants to prepare the Order.

CLERK'S NOTE: A copy of this Minute Order has been distributed to the following: James Jimmerson, Esq. (JJJ@jimmersonlawfirm.com) and Mitchell Langberg, Esq. (mlangberg@bhfs.com).
//ev 3/15/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

August 21, 2019

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

August 21, 2019 3:00 AM Status Check

HEARD BY: Scotti, Richard F. **COURTROOM:** Chambers

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Matter heard.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

October 02, 2019

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

October 02, 2019 9:00 AM Status Check

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER: Dalayne Easley

REPORTER:

PARTIES

PRESENT: Langberg, Mitchell J. Attorney

JOURNAL ENTRIES

- Mr. Langberg conveyed Elizabeth Ghanem emailed him that morning and advised this matter was pending in Supreme Court and she had a conflict, and the matter was still before the Supreme Court regarding the denial of the Motion to Dismiss. COURT ORDERED, Stay CONTINUED. Mr. Langberg advised discovery never commenced. COURT ORDERED, parties to SUBMIT a one-page status update 30 days after the Supreme Court rules on the Appeal from the denial of the Motion to Dismiss.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

March 25, 2020

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

March 25, 2020 3:00 AM Status Check

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Matter heard.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

April 06, 2020

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

April 06, 2020 3:00 AM Motion

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court GRANTS the Motion for a Status Update and hereby SETS a Status Check for Wednesday, April 29, 2020 at 9AM. Further, in light of the continued ban on in-person hearings, the Court directs the parties to make the appropriate arrangements necessary to appear remotely through the available audio (CourtCall) or audiovisual (Blue Jeans) platforms in preparation for this hearing.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas, to all registered parties for Odyssey File & Serve and mailed to the following:

Seventy Acres LLC
1215 S. Fort Apache Rd. Ste 120
Las Vegas, NV 89117

180 Land Co
1215 S. Fort Apache Rd. Ste 120
Las Vegas, NV 89117

Daniel Omerza

A-18-771224-C

800 Petit Chalet Court
Las Vegas, NV 89145

//ev 4/20/20

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

April 29, 2020

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

April 29, 2020 9:00 AM Status Check

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER: Dalayne Easley

REPORTER:

PARTIES

PRESENT: Ghanem, Elizabeth M. Attorney
 Langberg, Mitchell J. Attorney

JOURNAL ENTRIES

- Lisa Rasmussen, Esq. also present on behalf of Plaintiffs. Court provided a brief overview of the history of the case. Arguments by counsel regarding additional supplemental briefing and additional discovery. Court stated counsel would be given an opportunity to provide additional briefing limited to 5 pages regarding why additional discovery was needed. COURT ORDERED, Plaintiff to provide supplemental briefing by May 6, Defendants' Opposition to the Motion due May 11, and Reply, if needed, due May 13. Court inquired if there were any issues left to decide other than limited discovery. Ms. Rasmussen stated the Supreme Court focused on one prong and not the other, and additional briefing may be needed regarding the second prong. Court stated in the event limited discovery was denied, ruling on the Motion to Dismiss would proceed. Court stated any emergency requests would be considered, and a decision would be provided by May 18, 2020 regarding the Motion for Limited Discovery.

5/13/20 STATUS CHECK: OPTIONAL REPLY (CHAMBERS)

5/18/20 MOTION FOR LIMITED DISCOVERY (CHAMBERS)

5/25/20 DECISION: MOTION TO DISMISS (CHAMBERS)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

May 13, 2020

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

May 13, 2020 3:00 AM Status Check

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Matter heard.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

May 29, 2020

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

May 29, 2020 10:00 AM Minute Order

HEARD BY: Scotti, Richard F. COURTROOM: Chambers

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court GRANTS in part, and DENIES in part, Plaintiff s request for limited discovery. Plaintiff may serve one set of requests for production of documents, with no more than a total of fifteen (15) requests for documents to be allocated among the defendants, as Plaintiff sees fit; Defendants shall have two weeks to respond to such requests. Further, Plaintiff may take the depositions of the three defendants, each limited to four (4) hours. This limited discovery period commences immediately, and concludes on Friday, July 17, 2020, absent stipulation of the parties. The defendants have the option of appearing for deposition in person, or appearing by audio/visual means (at their own arrangements). The depositions may be set on two week s notice, at the time and place noticed by Plaintiff after good faith attempt to meet and confer on the same. Any discovery dispute shall be brought before this Court upon request for an Order Shortening Time. Plaintiff may file a supplemental brief in opposition to the Motion to Dismiss by Wednesday, July 22, 2020. Plaintiff may file a supplemental reply by Monday, July, 27, 2020. The Court will conduct a Hearing on the Defendants Motion to Dismiss on Wednesday, July 29, 2020. The parties may modify this schedule by written stipulation approved by the Court.

7/29/20 9:30 AM DEFENDANTS' MOTION TO DISMISS

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elizabeth Vargas,

to all registered parties for Odyssey File & Serve. //ev 5/29/20

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

June 05, 2020

A-18-771224-C	Fore Stars Ltd, Plaintiff(s) vs. Daniel Omerza, Defendant(s)
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June 05, 2020	12:00 AM	Minute Order
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HEARD BY: Scotti, Richard F.	COURTROOM: Chambers
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COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- With regard to this Court's May 29, 2020 Minute Order, granting in part and denying in Part Plaintiff's request for limited discovery, the Court issues this clarification: The discovery permitted by the prior order must relate to the second prong of the anti-SLAPP analysis, and is limited to the matters identified in Plaintiff's papers, or the matters identified by the Plaintiff at the April 29th hearing.

CLERK'S NOTE: A copy of this Minute Order was electronically served to all registered parties by the Courtroom Clerk, Elizabeth Vargas via Odyssey Efile and Serve. //ev 6/5/20

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

July 13, 2020

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

July 13, 2020 9:00 AM **Motion for Protective
Order**

HEARD BY: Scotti, Richard F.

COURTROOM: RJC Courtroom 03B

COURT CLERK: Louisa Garcia

RECORDER: Brittany Amoroso

REPORTER:

PARTIES

PRESENT: Langberg, Mitchell J. Attorney
Rasmussen, Lisa A. Attorney

JOURNAL ENTRIES

- Court stated procedural aspect of Plaintiff's response to the motion, noting they expressed concerns that this Court issued a minute order providing clarification of its prior discovery order before having had a chance to receive and review Plaintiff's Response to Defendant's written request for clarification. This matter came back after a remand from the Nevada Supreme Court where it appeared to the Court that the Supreme Court had resolved prong 1 and was remanding back to this Court for appropriate proceedings regarding prong 2, whether limited discovery should go forward and resolve the issue of the litigation privilege. Following arguments by counsel regarding their respective positions, Court advised it was not one hundred percent convinced that prong 1 was completely disposed of by the Nevada Supreme Court, after hearing Ms. Rasmussen paraphrasing the order. Court advised it needs to go back and review the Supreme Court order. COURT ORDERED, matter TAKEN UNDER ADVISEMENT; discovery STAYED pending ruling on motion for protective order and if Court needs additional briefing regarding the litigation privilege issue, it will inform the parties by minute order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

July 21, 2020

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

July 21, 2020 3:00 PM Minute Order

HEARD BY: Scotti, Richard F. **COURTROOM:** Chambers

COURT CLERK: Carolyn Jackson

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court GRANTS Defendants Motion for Protective Order Limiting Discovery. Discovery is limited to the second prong of the anti-SLAPP analysis. Discovery is limited to what is identified by Plaintiffs on p.5, lines 15-21 of Plaintiffs Brief in Support of Request for Limited Discovery (5-6-20). The Defendants shall prepare the proposed Order, consistent with the relief sought in their motion.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Carolyn Jackson, to all registered parties for Odyssey File & Serve. /cj 07/21/20

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

July 29, 2020

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

July 29, 2020

9:30 AM

Motion to Dismiss

Date to be
determined

HEARD BY: Scotti, Richard F.

COURTROOM: RJC Courtroom 03B

COURT CLERK: Louisa Garcia

RECORDER: Brittany Amoroso

REPORTER:

PARTIES

PRESENT: Langberg, Mitchell J. Attorney
 Rasmussen, Lisa A. Attorney

JOURNAL ENTRIES

- Court noted this matter was set for a continued hearing on the Motion to Dismiss. Mr. Langberg stated he believes on the 21st the Court issued a minute order on their Motion for Protective Order defining the scope of discovery. The parties should conduct the discovery the Court ordered, noting they have been working on a formal order. Mr. Langberg stated he does not believe they have any dispute about what the Court ordered to occur however, there is a disagreement as to the findings that led to that decision. Court advised it would be its preference if the parties could work out and decrease the number of findings and get to the heart of the matter on the scope of discovery. Ms. Rasmussen stated by minimizing the findings in the proposed order that will probably resolve all their issues and they should be able to get the proposed order over to the Court today. Ms. Rasmussen stated they did their own proposed briefing schedule which takes them out into October; it allows the Court to set a date for the continued hearing. COURT ORDERED, hearing for Motion to Dismiss CONTINUED, to a date to be determined. COURT FURTHER ORDERED, matter SET for status check.

9/28/20 STATUS CHECK: STATUS OF CASE (CHAMBERS)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

September 28, 2020

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

September 28, 2020 3:00 AM Status Check

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Matter heard.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

October 22, 2020

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

October 22, 2020 3:00 AM All Pending Motions

HEARD BY: Scotti, Richard F. **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Grecia Snow

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- DEFENDANTS' MOTION TO STIRKE AND FOR IMPOSITION OF SANCTIONS (ON
OST)...OPPOSITION TO MOTION TO STRIKE & FOR SANCTIONS / COUNTERMOTION FOR
SANCTIONS

The Court will issue a Minute Order resolving this matter.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

October 26, 2020

A-18-771224-C	Fore Stars Ltd, Plaintiff(s) vs. Daniel Omerza, Defendant(s)
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October 26, 2020	3:00 AM	Minute Order
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HEARD BY: Scotti, Richard F.	COURTROOM: Chambers
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COURT CLERK: Grecia Snow

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court DENIES Defendants Motion to Strike and for Imposition of Sanctions. The Court places no restriction on the content Plaintiff may include in its Brief. Plaintiff did not violate EDCR 7.60(b). The Court, further, DENIES Plaintiff s Countermotion because Defendants motion was meritless, but not frivolous. Plaintiff to prepare and submit the Order, pursuant to the electronic submission requirements of AO 20-17.

CLERK'S NOTE: This Minute Order was e-mailed by Courtroom Clerk, Grecia Snow to: Lisa Rasmussen Esq., at Lisa@Veldlaw.com, Mitchell J. Langberg Esq., at mlangber@bhfs.com, and Elizabeth M. Ghanem Esq., at eghanem@gs-lawyers.com. 10/26/20 gs

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

November 09, 2020

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

November 09, 2020 9:30 AM Motion to Dismiss

HEARD BY: Scotti, Richard F.; Thompson, Charles **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Kathryn Hansen-McDowell

RECORDER: Brittany Amoroso

REPORTER:

PARTIES

PRESENT: Langberg, Mitchell J. Attorney
 Rasmussen, Lisa A. Attorney

JOURNAL ENTRIES

- Court noted it read the motion, support briefs, and orders. Arguments by counsel. COURT took matter UNDER ADVISEMENT, stated it would issue a minute order. Ms. Rasmussen stated it filed a support brief and Mr. Langberg moved to strike, requested Court review the Motion to strike and respond.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

November 09, 2020

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

November 09, 2020 12:16 AM Minute Order

HEARD BY: Thompson, Charles

COURTROOM: No Location

COURT CLERK: Kathryn Hansen-McDowell

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- On June 20, 2018, Judge Scotti entered Findings of Fact, Conclusions of Law and an Order denying this motion. Defendants appealed and on January 23, 2020, the Nevada Supreme Court entered an Order vacating Judge Scotti's order and remanding with an opportunity for Plaintiffs to conduct limited discovery.

Plaintiffs first argue that they may revisit step one of the anti-SLAPP analysis. On July 13, 2020, Judge Scotti entered a minute order including the following: This matter came back after a remand from the Nevada Supreme Court where it appeared to the Court that the Supreme Court had resolved prong 1 and was remanding back to this Court for appropriate proceedings regarding prong 2, whether limited discovery should go forward and resolve the issue of the litigation privilege. Following arguments by counsel regarding their respective positions, Court advised it was not one hundred percent convinced that prong 1 was completely disposed of by the Nevada Supreme Court, after hearing Ms. Rasmussen paraphrasing the order. Court advised it needs to go back and review the Supreme Court order.

On July 21, 2020, after reviewing the Supreme Court Order, Judge Scotti entered a minute order which contained the following: Discovery is limited to the second prong of the anti-SLAPP analysis. It is clear from this minute order that Judge Scotti believed that prong 1 was resolved and that the

limited discovery was only allowed with regard to prong 2.

This Court agrees with Judge Scotti. It is clear from the Supreme Court's order filed January 23, 2020, that the Defendants met their burden at step one of the anti-SLAPP analysis. In other words, the Court found that the Defendant's communications were in furtherance of their right to petition the government in connection with an issue of public concern and that the communications were in good faith. The Court then held that the Plaintiffs had not met their step-two burden of demonstrating with prima facie evidence a probability of prevailing on their claims. However, they believed that the Plaintiffs should be permitted limited discovery to see if they could meet that step-two burden.

Thereafter, Judge Scotti entered an order prescribing the limited discovery that would be permitted. Plaintiffs complain that the order was too limited. I believe that the judge appropriately exercised his discretion in this regard. Also, I do not sit as an appellate court over Judge Scotti. Thus, I decline to find that his Order was in any way in error.

Defendants first argue that the litigation privilege is dispositive of the prong 2 issue. I find that the argument has merit. First, the City Council proceedings were quasi-judicial and the privilege does apply to quasi-judicial proceedings. Also, the privilege applies even though the communications are not directed at the Council itself. *Fink v. Oshins*, 118 Nev. 428 (2002). In accordance with the holding in *Oshins*, communications between the residents would be included.

Today, Ms. Rasmussen cited *Spencer v. Klementi*, 466 P.3d 1241 (Nev. 2020), for the proposition that the privilege does not apply to quasi-judicial proceedings where due process protections similar to those provided in a court of law are not present. This Court believes that *Spencer* is distinguishable from the current matter. *Spencer* involved a defamation suit arising out of defamatory comments made to a public body during a public comment session. The speaker was not under oath. No opportunity to respond was provided. No cross-examination was allowed and the holding in the decision appears to be expressly limited to defamation suits. I believe that the *Oshins* case is more on point.

The civil conspiracy claim is the only claim that Plaintiff has argued meets the prong two test. However, a civil conspiracy must be to accomplish some unlawful objective where damage results. There was no unlawful objective here. Further, no damage to Plaintiffs may be claimed because the proceeding never occurred.

Even if the litigation privilege is not dispositive of the prong two issue, I find that Plaintiff has failed to demonstrate with prima facie evidence a probability of prevailing on any of their claims.

For the reasons set forth in Defendants' Supplemental Brief filed October 30, 2020, the Motion to Dismiss is GRANTED. Mr. Langberg is directed to prepare a proposed appropriate order with findings. Further, he is directed to submit the Order, pursuant to the electronic submission requirements of AO 20-17.

CLERK'S NOTE: The above minute order has been distributed to: Lisa Rasmussen:
Lisa@VeldLaw.Com, Mitchell Langberg: mlangber@bhfs.com. 11/10 km

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

January 25, 2021

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

**January 25, 2021 3:00 AM Motion For
Reconsideration**

HEARD BY: Eller, Crystal

COURTROOM: Chambers

COURT CLERK:
Dauriana Simpson

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court DENIES Plaintiffs' Motion for Reconsideration for lack of jurisdiction.

"[A] timely notice of appeal divests the district court of jurisdiction to act and vests jurisdiction in [the Supreme Court]." Rust v. Clark Cty. Sch. Dist., 103 Nev. 686, 688 (1987). However, "where the issue is 'entirely collateral to and independent from that part of the case taken up by appeal, and in no way affected the merits of the appeal,'" this Court may proceed with hearing the matter. Kantor v. Kantor, 116 Nev. 886, 895 (2000). Here, Plaintiffs seek reconsideration of this Court's December 10, 2020 Order. However, on January 8, 2021, Plaintiffs appealed that very same Order to the Nevada Supreme Court. As the matters in Plaintiffs' motion and on appeal are identical, and neither "collateral to" not "independent from" each other, this Court lacks jurisdiction to hear Plaintiffs' motion.

Defendant shall prepare and submit the Order, pursuant to the electronic submission requirements of AOs 20-17 and 20-24.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Dauriana

Simpson, to all registered parties for Odyssey File and Serve. 1/29/2021/ds

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

March 01, 2021

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

March 01, 2021 3:00 AM Motion for Attorney Fees

HEARD BY: Eller, Crystal **COURTROOM:** Chambers

COURT CLERK: Louisa Garcia

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court shall issue a Minute Order resolving this matter.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

March 08, 2021

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

March 08, 2021 3:00 AM Motion to Reconsider

HEARD BY: Eller, Crystal **COURTROOM:** Chambers

COURT CLERK:

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court will issue a Minute Order resolving this matter.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

March 22, 2021

A-18-771224-C	Fore Stars Ltd, Plaintiff(s)
	vs.
	Daniel Omerza, Defendant(s)

March 22, 2021	3:00 AM	Minute Order
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HEARD BY: Eller, Crystal	COURTROOM: Chambers
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COURT CLERK: Samantha Albrecht

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court GRANTS Plaintiffs Motion to Reconsider January 25, 2021 Minute Order.

[A] court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. NRCP 60(a). This may be done by the court sua sponte or on a timely motion from the parties, and does not require notice by the court. Id. Further, to prevail on a motion for reconsideration, the moving party must establish that there was an error of law, substantially new evidence discovered, or that the Court's decision was clearly erroneous. See *Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga, & Wirth, Ltd.*, 113 Nev. 737, 741 (1997).

As Plaintiff notes, when a case is on appeal, NRCP 62.1 allows a court to (1) defer considering the motion; (2) deny the motion; or (3) issue a statement that it will grant the motion, if remanded for that purpose, or that the motion raises a substantial issue. In the January 25th Minute Order, this Court failed to specify which of the above three options were in application. Accordingly, the Court reconsiders its prior Order, only for the sake of clarifying that Plaintiffs' original Motion for Reconsideration is DENIED pursuant to item number two (2) of NRCP 62.1. The Court leaves resolution of that matter to the Supreme Court appeal.

Defendant shall prepare a modified version of its February 2, 2021 Order and resubmit with all

necessary email authorizations, and in PDF format, pursuant to AOs 20-17 and 20-24 to DC19Inbox@clarkcountycourts.us within ten (10) days, allowing opposing counsel a minimum of twenty-four (24) hours for review as to form and content.

The Court also addresses that matter of Defendants Motion for Attorneys Fees and Additional Monetary Relief, filed on December 31, 2020. The Court has read and reviewed the parties submitted papers. However, the Court has some questions and concerns that can only be resolved by oral argument. Accordingly, the Court temporarily defers issuing a ruling on the matter, and SETS the motion for a hearing on Wednesday, March 31, 2021 at 9:00 AM. Pursuant to AO 20-24's strong discouragement of in-person appearances, the Court provides the March 31st Blue Jeans information below.

3/31/2021 Phone #: 408.419.1715 Session ID: 121 893 497 <https://bluejeans.com/121893497>

CLERK'S NOTE: A copy of this Minute Order was provided to: Lisa Rasmussen: Lisa@VeldLaw.com; Mitchell Langberg: mlangber@bhfs.com. 3-22-21 sa

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

March 31, 2021

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

March 31, 2021 9:00 AM Motion for Attorney Fees

HEARD BY: Eller, Crystal **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Cynthia Moleres

RECORDER: Brittany Amoroso

REPORTER:

PARTIES

PRESENT: Langberg, Mitchell J. Attorney
Rasmussen, Lisa A. Attorney

JOURNAL ENTRIES

- Counsel appeared via BlueJeans.

Arguments by Mr. Langberg in support of and by Ms. Rasmussen in opposition to the motion. COURT stated its findings and ORDERED, motion GRANTED in PART, attorney's fees granted in the amount of \$339,777.00 and \$23,467.00 for a total of \$363,244.00 and DENIED in PART regarding the additional monetary relief. Mr. Langberg to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

May 23, 2022

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

May 23, 2022 3:00 AM Status Check

HEARD BY: Eller, Crystal **COURTROOM:** Chambers

COURT CLERK: Cynthia Moleres

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Remittitur not received.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

June 22, 2022

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

June 22, 2022 3:00 AM Status Check

HEARD BY: Eller, Crystal **COURTROOM:** Chambers

COURT CLERK: Cynthia Moleres

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Minute order to be issued.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

June 02, 2023

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
vs.
Daniel Omerza, Defendant(s)

June 02, 2023 9:30 AM Minute Order

HEARD BY: Eller, Crystal

COURTROOM: Chambers

COURT CLERK: Briana Barrett

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court DENIES Plaintiff s Motion to Reconsider Order Granting Attorney s Fees Post-Remand.

EDCR 2.24 states that [n]o motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties. [A] court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. NRCP 60(a). This may be done by the court sua sponte or on a timely motion from the parties, and does not require notice by the court. Id. Further, to prevail on a motion for reconsideration, the moving party must establish that there was an error of law, substantially new evidence discovered, or that the Court s decision was clearly erroneous. See *Masonry & Tile Contractors Ass n of S. Nevada v. Jolley, Urga, & Wirth, Ltd.*, 113 Nev. 737, 741 (1997). A finding is clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed. *U.S v. Gypsum*, 333 U.S. 364, 395 (1948). Finally, any [p]oints or contentions not raised in the original hearing cannot be maintained or considered on rehearing. *Achrem v. Expressway Plaza Ltd. P'ship*, 112 Nev. 737, 742 (1996).

Plaintiff has failed to establish that there was an error of law, substantially new evidence discovered,

or that the Court's decision was clearly erroneous. Rather, Plaintiff reargues various arguments, which were previously asserted in the underlying Anti-SLAPP Motion. Defendants are correct in that the Nevada Supreme Court remanded this matter to the District Court for the sole purpose of considering the Brunzell factors in granting Defendants' request for attorney's fees. Specifically, the Nevada Supreme Court Ordered, Consistent with the foregoing, we affirm the district court's order granting respondents' special motion to dismiss in Docket No. 82338, and we vacate the order awarding attorney fees in Docket 82880, and remand for the court to consider the Brunzell factors and make the necessary findings to support the fee amount awarded. This Court considered the Brunzell factors and issued its own Order on the matter, filed on September 19, 2022 [Docket #132], which articulated the factors this Court considered and necessary findings to support its decision in granting Defendants' Motion for attorney's fees.

Defendant is directed to prepare the Order; correcting for any scrivener error, and adding appropriate context and authorities. Further, Defendant shall submit the Order to DC19Inbox@clarkcountycourts.us within fourteen (14) calendar days, allowing a minimum of twenty-four (24) hours for opposing counsel to review.

CLERK'S NOTE: The above minute order has been distributed to all registered parties via Odyssey File and Serve.//bb 06/02/2023

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters**COURT MINUTES****June 02, 2023**

A-18-771224-C Fore Stars Ltd, Plaintiff(s)
 vs.
 Daniel Omerza, Defendant(s)

June 02, 2023 9:30 AM Minute Order

HEARD BY: Eller, Crystal **COURTROOM:** Chambers

COURT CLERK: Briana Barrett

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court GRANTS, in part, Defendants Supplemental Motion for Attorneys Fees and DENIES Plaintiffs Motion for Leave to File Sur-Reply to Defendants Reply, as moot.

In a case where claims have been successfully dismissed by way of an anti-SLAPP motion, NRS 41.670(1)(a) states that a court shall award reasonable cost and attorney s fees to the person against whom the action was brought. An award of additional amounts, up to \$10,000, are also permitted under NRS 41.670(1)(b). Further, where all claims are disposed of by the motion, fees incurred that are not directly related to the anti-SLAPP motion are recoverable. See Goldman v. Clark Cty. Sch. Dist., 2020 WL 5633065, *1, *5 (Nev. Sept. 18, 2020)(affirming an award of fees and costs because the facts and legal arguments in the NRCP 12(b)(5) motion were intrinsically intertwined with those in the anti-SLAPP motion).

Additionally, NRS 18.010 provides for an award of attorney s fees where: (1) authorized by a specific statute; (2) the prevailing party has not recovered more than \$20,000; or (3) notwithstanding the recovery sought, the court finds that a claim, counterclaim, cross-claim or third-party complaint or defense was maintained without reasonable ground or to harass the prevailing party. Additionally, the provisions of the statute are to be liberally construed in favor of awarding attorney s fees in all appropriate situations. Id. Further, such an award is also intended as a sanction to punish and deter frivolous and vexatious claims, pursuant to NRCP 11. Id. [A] claim is frivolous or groundless if

there is no credible evidence to support it. *Capanna v. Orth*, 134 Nev. 888, 895 (2018).

Here, an award of fees is warranted. NRS 41.670(1)(a) is abundantly clear that the Court shall award reasonable costs and fees. Further, fees incurred that are not directly related to the anti-SLAPP motion are recoverable. *Goldman v. Clark Cty. Sch. Dist.*, 2020 WL 5633065, *1, *5 (Nev. Sept. 18, 2020)(affirming an award of fees and costs because the facts and legal arguments in the NRCP 12(b)(5) motion were intrinsically intertwined with those in the anti-SLAPP motion). This Court FINDS that Defendants requested fees are reasonable and properly supported by Brunzell analysis. Defendants have sufficiently demonstrated that they incurred additional attorney s fees in having to oppose and defend all of the various motions and appeals initiated by Plaintiffs in this matter. Accordingly, the Court GRANTS Defendants request for attorneys fees in the amount of \$43,620.50. However, the Court DENIES Defendants request for referral to Bar Counsel, pursuant to Nevada Rules of Professional Conduct 3.3. Therefore, Plaintiff s Motion for Leave to File a Sur-Reply is DENIED, as moot.

Defendant is directed to prepare the Order; correcting for any scrivener error, and adding appropriate context and authorities, including a thorough Brunzell analysis for the fees granted by the Court. Further, Defendant shall submit the Order to DC19Inbox@clarkcountycourts.us within fourteen (14) calendar days, allowing a minimum of twenty-four (24) hours for opposing counsel to review.

CLERK'S NOTE: The above minute order has been distributed to all registered parties via Odyssey File and Serve.//bb 06/02/2023



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

LISA A. RASMUSSEN, ESQ.
550 E. CHARLESTON BLVD., STE. A
LAS VEGAS, NV 89104

DATE: September 26, 2023
CASE: A-18-771224-C

RE CASE: FORE STARS, LTD.; 180 LAND CO., LLC; SEVENTY ACRES, LLC vs. DANIEL OMERZA;
DARREN BRESEE; STEVE CARIA

NOTICE OF APPEAL FILED: September 22, 2023

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; NOTICE OF POSTING CASH BOND WITH THE CLERK OF THE COURT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING , IN PART, DEFENDANTS' SUPPLEMENTAL MOTION FOR ATTORNEYS' FEES; AND DENYING PLAINTIFFS' MOTION FOR LEAVE TO FILE SUR-REPLY TO DEFENDANTS' REPLY; NOTICE OF ENTRY OF ORDER GRANTING, IN PART, DEFENDANTS' SUPPLEMENTAL MOTION FOR ATTORNEYS' FEES; AND DENYING PLAINTIFFS' MOTION FOR LEAVE TO FILE SUR-REPLY TO DEFENDANTS' REPLY; ORDER DENYING PLAINTIFFS' MOTION TO RECONSIDER ORDER GRANTING ATTORNEY'S FEES POST-REMAND; NOTICE OF ENTRY OF ORDER DENYING PLAINTIFFS' MOTION TO RECONSIDER ORDER GRANTING ATTORNEY'S FEES POST-REMAND; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

FORE STARS, LTD.; 180 LAND CO., LLC;
SEVENTY ACRES, LLC,

Plaintiff(s),

vs.

DANIEL OMERZA; DARREN BRESEE;
STEVE CARIA,

Defendant(s),

Case No: A-18-771224-C

Dept No: XIX

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 26 day of September 2023.

Steven D. Grierson, Clerk of the Court

Cierra Borum, Deputy Clerk

