

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL KOSOR, JR., A NEVADA
RESIDENT,

Appellant,

vs.

OLYMPIA COMPANIES, LLC, A NEVADA
LIMITED LIABILITY COMPANY; AND
GARRY V. GOETT, A NEVADA RESIDENT,

Respondents.

Supreme Court No. 75669

Electronically Filed
May 17, 2018 11:25 a.m.
DOCKETING STATEMENT
CIVIL APPEALS
Elizabeth Brown
Clerk of Supreme Court

GENERAL INFORMATION

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

WARNING

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

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

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

1. Judicial District: Eighth **Department:** 12

County: Clark **Judge:** The Honorable Michelle Leavitt

District Ct. Case No.: A-17-765257-C

2. Attorney filing this docketing statement:

Attorney: William H. Pruitt, Esq. **Telephone:** (702) 870-3940

Firm: Barron & Pruitt, LLP

Address: 3890 West Ann Road, North Las Vegas, Nevada 89031

Client(s): Michael Kosor, Jr.

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

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

Attorney: J. Randall Jones, Esq.

Telephone: (702) 385-6000

Firm: Kemp, Jones & Coulthard, LLP

Address: 3800 Howard Hughes Parkway, 17th Floor, Las Vegas, Nevada
89169

Client(s) Olympia Companies, LLC and Garry V. Goett

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

- | | | | |
|--------------------------|-----------------------------|--|---|
| <input type="checkbox"/> | Judgment after bench trial | <input type="checkbox"/> | Grant/Denial of NRCP 60(b) relief |
| <input type="checkbox"/> | Judgment after jury verdict | <input type="checkbox"/> | Grant/Denial of injunction |
| <input type="checkbox"/> | Summary Judgment | <input type="checkbox"/> | Grant/Denial of declaratory relief |
| <input type="checkbox"/> | Default Judgment | <input type="checkbox"/> | Review of agency determination |
| <input type="checkbox"/> | Dismissal | <input type="checkbox"/> | Divorce Decree: |
| <input type="checkbox"/> | Lack of jurisdiction | <input type="checkbox"/> | <input type="checkbox"/> original <input type="checkbox"/> modification |
| <input type="checkbox"/> | Failure to state a | <input checked="" type="checkbox"/> | Other disposition (specify): |
| claim | <input type="checkbox"/> | Denial of Defendant Michael Kosor's | |
| <input type="checkbox"/> | Failure to prosecute | Motion to Dismiss Pursuant to NRS | |
| <input type="checkbox"/> | Other (specify) | 41.660 | |

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

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

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

None

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

This action was originally filed in the Eighth Judicial District Court, Clark County, Nevada on November 29, 2017. The action is styled Olympia Companies, LLC and Garry V. Goett v. Michael Kosor, Jr., Case No, A-17-765257-C. On March 20, 2018, the District Court entered an Order denying Defendant's Motion to Dismiss Pursuant to NRS 41.660. The action remains pending before the District Court.

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

3 This action arises from statements made by the Defendant which
4 Plaintiffs have alleged were defamatory. Defendant believes the
5 allegations of defamation are without merit and were intended to silence
6 his speech. Accordingly, Defendant filed a (anti-SLAPP) Special Motion
7 to Dismiss Pursuant to NRS 41.660 on January 29, 2018. The foregoing
8 motion was denied by the District Court, and it is from the District
9 Court's Order Denying Defendant Michael Kosor's Motion to Dismiss
10 Pursuant to NRS 41.660 filed on March 20, 2018, that the instant
11 interlocutory appeal is made.

12 **9. Issues on Appeal. State concisely the principal issue(s) in this appeal:**

- 13 1. Did the District Court err in denying Defendant's Motion to Dismiss
14 Pursuant to NRS 41.660?
15 2. Did the District Court err in finding that Defendant had failed to meet
16 his burden to invoke NRS 41.660?

17 **10. Pending proceedings in this court raising the same or similar issues. If you**
18 **are aware of any proceeding presently pending before this court which**
19 **raises the same or similar issues raised in this appeal, list the case name and**
20 **docket number and identify the same or similar issues raised:**

21 None

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

26 ☒ NA ☐ Yes ☐ No

27 **If not, explain:**

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

- ☐ Reversal of well-settled Nevada precedent (identify the case(s))
☐ An issue arising under the United States and/or Nevada Constitutions
☒ A substantial issue of first-impression
☐ An issue of public policy
☐ An issue where en banc consideration is necessary to maintain uniformity
of the court's decisions
☐ A ballot question

///

///

///

///

If so, explain: Plaintiff has alleged defamation in connection with certain statements made by Defendant Kosor, some of which occurred while Defendant Kosor was a candidate for a home owners' association board election. Because the position of Mr. Kosor was adverse to the Plaintiffs, Defendant Kosor believes the defamation action filed against him was intended to silence his speech. Accordingly, the question before the court is whether Defendant Kosor may invoke the protection of NRS 41.660 in defending against the Plaintiffs' claims of defamation. Issues of public interest and public forum under the Nevada anti-SLAPP statute are at issue in the litigation and appear to be matters of first impression.

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

This interlocutory appeal is presumptively retained by the Supreme Court pursuant to NRS 41.670(4) and Rule 17(a)(1), NRAP.

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

N/A

Was it a bench or jury trial?

N/A

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

No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from:

Order Denying Defendant's Motion to Dismiss Pursuant to NRS 41.660—March 20, 2018; See **Exhibit A**.

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

N/A

17. Date written notice of entry of judgment or order was served:

Notice of Entry of Order Denying Defendant's Motion to Dismiss Pursuant to NRS 41.660—March 21, 2018; See **Exhibit B**.

Was service by: ☐ Delivery ☒ Mail/electronic/fax

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

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

N/A

Note: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal.

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

N/A

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

N/A

Was service by: ☐ Delivery ☐ Mail/electronic/fax

19. Date notice of appeal filed:

April 19, 2018

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

N/A

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

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

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

- (a)
- | | |
|---|--------------------------------------|
| <input type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 155.190 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input checked="" type="checkbox"/> Other (specify) NRS 41.670(4) | |

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

This interlocutory appeal is made from a District Court Order denying Defendant Kosor's Special Motion to Dismiss filed pursuant to NRS 41.660. NRS 41.670(4) states that in the event of such a denial, "an interlocutory appeal lies to the Supreme Court."

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

(a) Parties:

Olympia Companies, LLC and Garry V. Goett (Plaintiffs).

Michael Kosor, Jr. (Defendant).

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

N/A

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

Plaintiffs:

(a) Defamation and Defamation Per Se. The claims are still pending.

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

☐ Yes

☒ No

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

(a) Specify the claims which remain pending below:

Plaintiffs' claims of Defamation and Defamation Per Se remain pending as a result of the denial of the Defendant's Special Motion to Dismiss Pursuant to NRS 41.660.

(b) Specify the parties remaining below:

Olympia Companies, LLC and Garry V. Goett (Plaintiffs).

Michael Kosor, Jr. (Defendant).

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

☐ Yes

☒ No

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

☐ Yes

☒ No

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

The Order appealed from is subject to interlocutory appeal pursuant to NRS 41.670(4).

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

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

VERIFICATION

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

Michael Kosor

William H. Pruitt

Name of Appellant

Name of counsel of record

May 16, 2018

Date

Signature of counsel of record

Nevada, Clark County

State and county where signed

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of May, 2018, I served a copy of this completed **DOCKETING STATEMENT** upon all counsel of record:

☒ US MAIL: by mailing it by first class mail with sufficient postage prepaid to the following address(es):

☐ BY FAX: by transmitting the document(s) listed above via facsimile transmission to the fax number(s) set forth below.

☐ BY HAND-DELIVERY: by hand-delivering the document(s) listed above to the address(es) set forth below.

☐ BY EMAIL: by emailing the document(s) listed above to the email address(es) set forth below.

☐ BY ELECTRONIC SERVICE: by electronically serving the document(s) listed above with the Eighth Judicial District Court's WizNet system upon the following:

J. Randall Jones, Esq.
KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
Attorney for Respondents

Dana Jonathon Nitz
7785 West Sahara Ave. #200
Las Vegas, Nevada 89117
(702) 475-7964
Settlement Judge


An Employee of BARRON & PRUITT, LLP

EXHIBIT A

EXHIBIT A

EXHIBIT A

Steven D. Grierson

1 J. Randall Jones, Esq. (#1927)
jrj@kempjones.com
2 Nathanael R. Rulis, Esq. (#11259)
n.rulis@kempjones.com
3 Cara D. Brumfield, Esq., (#14175)
c.brumfield@kempjones.com
4 KEMP, JONES & COULTHARD, LLP
5 3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
6 Telephone: (702) 385-6000
7 *Attorneys for Plaintiffs*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 OLYMPIA COMPANIES, LLC, a Nevada
11 limited liability company; GARRY V.
GOETT, a Nevada resident

12 Plaintiffs,

13 vs.

14 MICHAEL KOSOR, JR., a Nevada resident;
15 and DOES I through X, inclusive

16 Defendants.

Case No.: A-17-765257-C

Dept. No.: XII

**ORDER DENYING DEFENDANT
MICHAEL KOSOR'S MOTION TO
DISMISS PURSUANT TO NRS 41.660**

Hearing Date: March 5, 2018

Hearing Time: 9:30 a.m.

17
18
19 THIS MATTER having come before the Court on March 5, 2018, with J. Randall Jones, Esq.
20 and Cara D. Brumfield, Esq. of Kemp, Jones & Coulthard, LLP appearing on behalf of Plaintiffs and
21 Robert B. Smith, Esq. of Lauria, Tokunaga, Gates & Linn, LLP appearing on behalf of Defendant on
22 Defendant Michael Kosor's Motion to Dismiss Pursuant to NRS 41.660. The Court having reviewed
23 and considered the Motion and the related opposition and reply; and having heard the arguments of
24 counsel, with good cause appearing, enters the following Findings, Conclusions, and Order:
25
26
27
28

RECEIVED

MAR 16 2018


DEPT. 12

KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
Tel. (702) 385-6000 • Fax: (702) 385-6001
kjc@kempjones.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Michael Kosor's Motion to Dismiss Pursuant to NRS 41.660 is DENIED because the Court finds that Defendant has failed to meet its burden to invoke NRS 41.660.

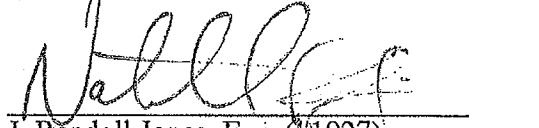
DATED: March 19, 2018.


Judge Michelle Leavitt

Submitted by:

KEMP, JONES & COULTHARD

LAURIA TOKUNAGA GATES & LINN, LLP


J. Randall Jones, Esq. (#1927)
Nathanael R. Rulis, Esq. (#11259)
Cara D. Brumfield, Esq. (#14175)
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
Attorneys for Plaintiffs

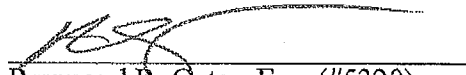

Raymond R. Gates, Esq. (#5320)
Robert B. Smith, Esq. (#9396)
601 South Seventh Street
Las Vegas, Nevada 89101
Attorneys for Defendant

EXHIBIT B

EXHIBIT B

EXHIBIT B



1 J. Randall Jones, Esq. (#1927)
jrj@kempjones.com
2 Nathanael R. Rulis, Esq. (#11259)
n.rulis@kempjones.com
3 Cara D. Brumfield, Esq., (#14175)
c.brumfield@kempjones.com
4 KEMP, JONES & COULTHARD, LLP
5 3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
6 Telephone: (702) 385-6000
7 *Attorneys for Plaintiffs*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 OLYMPIA COMPANIES, LLC, a Nevada
11 limited liability company; GARRY V.
GOETT, a Nevada resident

12 Plaintiffs,

13 vs.

14 MICHAEL KOSOR, JR., a Nevada resident;
15 and DOES I through X, inclusive

16 Defendants.

Case No.: A-17-765257-C

Dept. No.: XII

**NOTICE OF ENTRY OF ORDER
DENYING DEFENDANT MICHAEL
KOSOR'S MOTION TO DISMISS
PURSUANT TO NRS 41.660**

17 TO: Defendants; and,
18

19 TO: Their respective counsel:

20 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that on March 20, 2018, an
21 Order Denying Defendant Michael Kosor's Motion to Dismiss Pursuant to NRS 41.660 was entered in

22 ///

23 ///

24 ///

25 ///

26 ///

27

28

KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
Tel. (702) 385-6000 • Fax: (702) 385-6001
kje@kempjones.com

1 the above case. A copy of said Order is attached hereto.

2 Dated this 21st day of March 2018.

3
4 KEMP, JONES & COULTHARD, LLP

5 /s/ Nathanael Rulis

6 J. RANDALL JONES, ESQ. (#1927)

7 NATHANAEL R. RULIS, ESQ. (#11259)

8 CARA D. BRUMFIELD, ESQ. (#14175)

9 3800 Howard Hughes Parkway, 17th Floor

10 Las Vegas, Nevada 89169

11 *Attorneys for Plaintiff*

12 **CERTIFICATE OF SERVICE**

13 I hereby certify that on the 20th day of March, 2018, I served a true and correct copy of the
14 foregoing **NOTICE OF ENTRY OF ORDER DENYING DEFENDANT MICHAEL KOSOR'S**
15 **MOTION TO DISMISS PURSUANT TO NRS 41.660** via the Court's electronic filing system only,
16 pursuant to the Nevada Electronic Filing and Conversion Rules, Administrative Order 14-2, to all parties
17 currently on the electronic service list.

18
19 /s/ Alison Augustine

20 An Employee of KEMP, JONES & COULTHARD, LLP

Steven D. Grierson

1 J. Randall Jones, Esq. (#1927)
jrj@kempjones.com
2 Nathanael R. Rulis, Esq. (#11259)
n.rulis@kempjones.com
3 Cara D. Brumfield, Esq., (#14175)
c.brumfield@kempjones.com
4 KEMP, JONES & COULTHARD, LLP
5 3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
6 Telephone: (702) 385-6000
7 *Attorneys for Plaintiffs*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 OLYMPIA COMPANIES, LLC, a Nevada
11 limited liability company; GARRY V.
GOETT, a Nevada resident

12 Plaintiffs,

13 vs.

14 MICHAEL KOSOR, JR., a Nevada resident;
15 and DOES I through X, inclusive

16 Defendants.

Case No.: A-17-765257-C

Dept. No.: XII

**ORDER DENYING DEFENDANT
MICHAEL KOSOR'S MOTION TO
DISMISS PURSUANT TO NRS 41.660**

Hearing Date: March 5, 2018

Hearing Time: 9:30 a.m.

17
18
19 THIS MATTER having come before the Court on March 5, 2018, with J. Randall Jones, Esq.
20 and Cara D. Brumfield, Esq. of Kemp, Jones & Coulthard, LLP appearing on behalf of Plaintiffs and
21 Robert B. Smith, Esq. of Lauria, Tokunaga, Gates & Linn, LLP appearing on behalf of Defendant on
22 Defendant Michael Kosor's Motion to Dismiss Pursuant to NRS 41.660. The Court having reviewed
23 and considered the Motion and the related opposition and reply; and having heard the arguments of
24 counsel, with good cause appearing, enters the following Findings, Conclusions, and Order:
25
26
27
28

RECEIVED


MAR 16 2018

DEPT. 12

KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
Tel. (702) 385-6000 • Fax: (702) 385-6001
kje@kempjones.com

1 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant Michael Kosor's
2 Motion to Dismiss Pursuant to NRS 41.660 is DENIED because the Court finds that Defendant has
3 failed to meet its burden to invoke NRS 41.660.

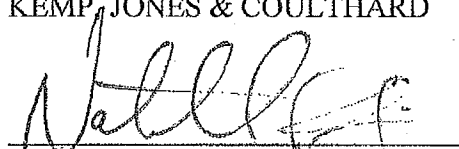
4 DATED: March 19, 2018.

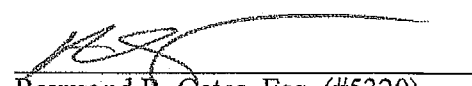
5
6
7 
8 Judge Michelle Leavitt

9 Submitted by:

10 KEMP, JONES & COULTHARD

LAURIA TOKUNAGA GATES & LINN, LLP

11 
12 J. Randall Jones, Esq. (#1927)
13 Nathanael R. Rulis, Esq. (#11259)
14 Cara D. Brumfield, Esq. (#14175)
15 3800 Howard Hughes Parkway, 17th Floor
16 Las Vegas, Nevada 89169
17 Attorneys for Plaintiffs

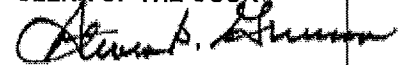
18 
19 Raymond R. Gates, Esq. (#5320)
20 Robert B. Smith, Esq. (#9396)
21 601 South Seventh Street
22 Las Vegas, Nevada 89101

23 Attorneys for Defendant
24
25
26
27
28

EXHIBIT C

EXHIBIT C

EXHIBIT C



1 J. Randall Jones, Esq. (#1927)
jrj@kempjones.com
2 Nathanael R. Rulis, Esq. (#11259)
n.rulis@kempjones.com
3 Cara D. Brumfield, Esq., (#14175)
c.brumfield@kempjones.com
4 KEMP, JONES & COULTHARD, LLP
5 3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
6 Telephone: (702) 385-6000
7 Attorneys for Plaintiffs

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 OLYMPIA COMPANIES, LLC, a Nevada
11 limited liability company; GARRY V.
GOETT, a Nevada resident

12 Plaintiffs,

13 vs.

14 MICHAEL KOSOR, JR., a Nevada resident;
15 and DOES I through X, inclusive

16 Defendants.

Case No.: A-17-765257-C
Dept. No.: Department 12

COMPLAINT

Arbitration Exemption Claimed:

Action Seeking Damages in Excess of
\$50,000.00

18 COME NOW Plaintiffs Olympia Companies, LLC ("Olympia") and Garry V. Goett, ("Mr.
19 Goett") (collectively "Plaintiffs"), by and through counsel, J. Randall Jones, Esq., Nathanael R. Rulis,
20 Esq., and Cara D. Brumfield, Esq. of KEMP, JONES & COULTHARD, LLP, and for their claims for
21 relief against the Defendant herein, assert and allege as follows:

22 PARTIES, JURISDICTION AND VENUE

- 23
- 24 1. Olympia is a Nevada limited liability company licensed to do business in the State of Nevada.
 - 25 2. Mr. Goett is, and at all times relevant hereto has been, a resident of Clark County, State of
26 Nevada.
 - 27 3. Defendant Michael Kosor, Jr. ("Kosor") is, and at all times relevant hereto has been, a resident
28 of Clark County, State of Nevada.

4. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendant herein designated as DOES I through V, and ROES VI through X, are Defendant individuals, corporations, partnerships and other business entities unknown to Plaintiffs at this time, who therefore sue said Defendant by such fictitious names. Plaintiffs are informed and believe and thereon allege that each Defendant is responsible in some manner for the events and happenings and proximately caused the injuries and damages herein alleged. Plaintiffs will seek leave to amend this Complaint to allege their true names and capacities when ascertained, and will further ask leave to join said Defendants in these proceedings.

5. The Eighth Judicial District Court is the proper venue for this matter in that this action involves a dispute in which all events took place in Clark County, Nevada.

FACTUAL ALLEGATIONS

5. Since 1996, Mr. Goett, Olympia Companies, and related/subsidiary entities have been in the business of developing and thereafter managing the Southern Highlands community in Clark County, Nevada.

6. Going as far back as December of 2015, Kosor has made various, specious defamatory statements against Olympia and Mr. Goett. At that time, Kosor made comments that Olympia and Mr. Goett spoke with Clark County Commissioners in a "dark room" and coerced them to act or vote in a certain manner; and that Olympia is "lining its pockets" to the detriment of the Southern Highlands homeowners.

7. In response to those comments made by Kosor, Olympia sent him a cease and desist letter, requesting that he immediately stop from any further defamatory conduct toward Olympia, its subsidiaries, Mr. Goett and his employees.

8. Kosor's conduct directed toward Olympia and Mr. Goett has not ceased. He has continued to speak at the meetings of the Southern Highlands Community Association and has stated that Olympia

1 and its employees have violated the law and breached their fiduciary duty to the owners of the
2 community.

3 9. On or around September 11, 2017, Mr. Kosor posted a statement on a social media accusing
4 Olympia of obtaining a "lucrative agreement" with Clark County by cost-shifting expenses for the
5 maintenance of public parks to the Southern Highlands owners.

6 10. On or about November 16, 2017, Mr. Kosor launched a website under his own name, accusing
7 Olympia and its employees of, among other things, acting like a foreign government that deprives people
8 of essential rights. In other parts of his website, Mr. Kosor continues to reference sweetheart deals,
9 statutory violations, breaches of fiduciary duty, and improper cost shifting of "millions of dollars", even
10 though such statements are untrue and defamatory.

11 11. On or about November 17, 2017, homeowners throughout the Southern Highlands community
12 received a written pamphlet from Kosor. Within Kosor's written pamphlet was the statement that
13 Olympia/Developer breached its fiduciary duties to the Southern Highlands community and Developer's
14 actions have "already cost the homeowners millions." In addition, he grossly overstates the Southern
15 Highlands Community Association's 2016 legal expenses.

16 12. All of the above statements by Kosor were made as statements of fact, without qualification, and
17 not as expressions of his opinion.

18 13. That Kosor made his false and defamatory statements with malice, and the intent to convince
19 other homeowners throughout the Southern Highlands community of the bad character of the Plaintiffs,

20 14. Kosor's false and defamatory statements were made with reckless disregard of the accuracy and
21 truth of the statements made in an attempt to harm the reputation of Mr. Goett and Olympia throughout
22 the southern Nevada community.

23 15. In addition to the publications set forth above, Plaintiffs reasonably believe that Kosor may have
24 engaged in additional and other publications of defamatory and libelous information about them, of
25
26
27
28

1 which they are not yet aware but which may as well be injurious and harmful, or constitute *defamation*
2 *per se*, and which will be the subject of discovery in this action.

3
4 **FIRST CLAIM FOR RELIEF**
(Defamation)

5 16. Plaintiff re-alleges and incorporates herein by reference each and every allegation contained
6 within the paragraphs above.

7 17. Kosor knowingly made false and defamatory statements about Plaintiffs.

8 18. The publications by Kosor were not privileged. Alternatively, if any privilege attached to any of
9 the communications by the Kosor, Kosor exceeded the privilege by his wrongful actions.

10 19. Kosor's statements were published, at a minimum, to other homeowners throughout the Southern
11 Highlands community.

12 20. The aforementioned accusations and statements made by Kosor would normally tend to lower
13 the reputation of Plaintiffs in the community, and in the profession and business or industry in which
14 Plaintiffs worked, and would excite derogatory opinions about Plaintiffs.

15 21. Kosor was at least negligent in making the statements.

16 22. As a direct and proximate cause of Kosor's conduct, as described above, Plaintiffs have been
17 damaged in an amount in excess of Fifteen Thousand Dollars (\$15,000).

18 23. Kosor's false and defamatory statements were made in reckless disregard of the rights of
19 Plaintiffs, and in reckless disregard of the truth of the matter, and constitute actual or implied malice
20 giving rise of a claim for punitive and exemplary damages in excess of Fifteen Thousand Dollars
21 (\$15,000).

22
23
24 **SECOND CLAIM FOR RELIEF**
(Defamation Per Se)

25 24. Plaintiffs re-alleges and incorporates herein by reference each and every allegation contained
26 within the paragraphs above.
27
28

25. Kosor's statements constitute defamation or slander per se in that they impute to the Plaintiffs the commission of a crime (racketeering), and tend to injure Plaintiffs in its trade, business and profession.

26. As a direct and proximate cause of Kosor's conduct, as described above, Plaintiffs suffered general damages in an amount in excess of Fifteen Thousand Dollars (\$15,000).

27. Kosor's false and defamatory statements were made in reckless disregard of the rights of Plaintiffs, and in reckless disregard of the truth of the matter, and constitute actual or implied malice giving rise of a claim for punitive and exemplary damages in excess of Fifteen Thousand Dollars (\$15,000).

DEMAND FOR JURY TRIAL


Plaintiffs hereby requests a jury trial for all issues so triable.

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

1. General and special damages in an amount in excess of \$15,000.00;
2. Punitive and exemplary damages in excess of \$15,000.00;
3. Attorney's fees and costs; and
4. For such other relief that the Court deems just and proper.

DATED this 27 day of November, 2017

KEMP, JONES & COULTHARD, LLP



J. Randall Jones, Esq. (#1927)

Nathanael R. Rulis, Esq. (#11259)

Cara D. Brumfield, Esq. (#14175)

3800 Howard Hughes Parkway, 17th Floor

Las Vegas, NV 89169

Attorneys for Plaintiffs