

Electronically Filed
Dec 19 2022 10:41 AM
Elizabeth A. Brown
Clerk of Supreme Court

NOAS (CIV)
DENNIS L. KENNEDY
Nevada Bar No. 1462
SARAH E. HARMON
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Attorneys for Defendant
HARVEST MANAGEMENT SUB LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

AARON M. MORGAN, individually,
Plaintiff,

Case No. A-15-718679-C
Dept. No. VII

vs.

NOTICE OF APPEAL

DAVID E. LUJAN, individually; HARVEST
MANAGEMENT SUB LLC; a Foreign-Limited-
Liability Company; DOES 1 through 20; ROE
BUSINESS ENTITIES 1 through 20, inclusive
jointly and severally,
Defendants.

Notice is hereby given that Defendant Harvest Management Sub LLC (“Harvest”) appeals to the Supreme Court of Nevada from the Order Granting Plaintiff’s Motion for Summary Judgment Regarding Vicarious Liability Against Harvest Management Sub LLC. Harvest also appeals all judgments, orders, rulings, and interlocutory orders made appealable by the foregoing.

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1 The Order and Notice of Entry of the Order were both filed on November 15, 2022. A copy of the
2 Notice of Entry of Order is attached as Exhibit A.

3 DATED this 13th day of December, 2022.

4 BAILEY ❖ KENNEDY

5 By: /s/ Dennis L. Kennedy

6 DENNIS L. KENNEDY

7 SARAH E. HARMON

8 TAYLER D. BINGHAM

9 *Attorneys for Defendant*

10 HARVEST MANAGEMENT SUB LLC

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 13th day of December, 2022, service of the foregoing **NOTICE OF APPEAL** was made by mandatory electronic service through the Eighth Judicial District Court’s electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

Micah S. Echols	Email: reception@claggettlaw.com
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4101 Meadows Lane, Suite 100	
Las Vegas, Nevada 89107	<i>Attorneys for Real Party in Interest</i>
	AARON M. MORGAN

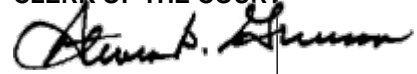
Benjamin P. Cloward	Email: Benjamin@richardharrislaw.com
Bryan A. Boyack	bryan@richardharrislaw.com
RICHARD HARRIS LAW FIRM	
801 South Fourth Street	<i>Attorneys for Real Party in Interest</i>
Las Vegas, Nevada 89101	AARON M. MORGAN

VIA U.S. MAIL:	<i>Real Party in Interest</i>
-----------------------	-------------------------------

David E. Lujan
651 McKnight Street, Apt. 16
Las Vegas, Nevada 89501

/s/ Karen Rodman
Employee of BAILEY ♦ KENNEDY

EXHIBIT A



1 **NEO**

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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

AARON M. MORGAN, individually,

Plaintiff,

v.

DAVID E. LUJAN, individually;
HARVEST MANAGEMENT SUB LLC,
a foreign limited liability company;
DOES 1 through 20; ROE BUSINESS
ENTITIES 1 through 20, inclusive
jointly and severally,

Defendants.

Case No. A-15-718679-C

Dept. No. 7

**NOTICE OF ENTRY OF
ORDER GRANTING
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT
REGARDING VICARIOUS
LIABILITY AGAINST HARVEST
MANAGEMENT SUB LLC**

1 PLEASE TAKE NOTICE that this Court entered an *Order Granting*
2 *Plaintiff's Motion for Summary Judgment Regarding Vicarious Liability Against*
3 *Harvest Management Sub LLC* in the above-entitled case on November 15, 2022,
4 attaching a true and accurate copy with this notice.

5 Dated this 15th day of November 2022.

6 CLAGGETT & SYKES LAW FIRM

7 /s/ Micah S. Echols

8 _____
Micah S. Echols
Nevada Bar No. 8437

9 RICHARD HARRIS LAW FIRM
10 Benjamin P. Cloward
11 Nevada Bar No. 11087
12 Bryan A. Boyack
13 Nevada Bar No. 9980

14 *Attorneys for Plaintiff*
15
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CERTIFICATE OF SERVICE

I hereby certify that I electronically submitted the forgoing **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT REGARDING VICARIOUS LIABILITY AGAINST HARVEST MANAGEMENT SUB LLC** for filing and/or service with the Eighth Judicial District Court on the 15th day of November 2022. I made electronic service of the foregoing document in accordance with the E-Service List as follows:

Dennis L. Kennedy, Esq.
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Attorneys for Defendant, Harvest Management Sub LLC

/s/ Anna Gresl

Anna Gresl, an employee of
CLAGGETT & SYKES LAW FIRM

Heather S. Hume

CLERK OF THE COURT

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12 *Attorneys for Plaintiff*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 **AARON M. MORGAN**, individually,

Case No. A-15-718679-C

16 Plaintiff,

Dept. No. 7

17 v.

18 **DAVID E. LUJAN**, individually;
19 **HARVEST MANAGEMENT SUB LLC**,
a foreign limited liability company;
20 **DOES 1 through 20; ROE BUSINESS**
21 **ENTITIES 1 through 20**, inclusive
jointly and severally,

22 **Defendants.**

**ORDER GRANTING
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT
REGARDING VICARIOUS
LIABILITY AGAINST HARVEST
MANAGEMENT SUB LLC**

Hearing Date: September 16, 2022

Hearing Time: Chambers

**ORDER GRANTING PLAINTIFF’S MOTION FOR SUMMARY
JUDGMENT REGARDING VICARIOUS LIABILITY AGAINST
HARVEST MANAGEMENT SUB LLC**

On August 15, 2022, Plaintiff, Aaron M. Morgan (“Plaintiff”), filed a Motion for Summary Judgment (“Motion”) regarding the sole remaining issue in this case, vicarious liability. On August 29, 2022, Defendant Harvest Management Sub LLC (“Harvest”), filed an Opposition to Plaintiff’s Motion. On September 12, 2022, Plaintiff filed his Reply to Opposition to Plaintiff’s Motion.

On September 16, 2022, this Honorable Court, Judge Linda Bell, issued a Minute Order regarding Plaintiff’s Motion.

After having duly considered the Motion, Opposition, and Reply, the Court now enters its Order GRANTING summary judgment to Plaintiff against Harvest.

I. FINDINGS OF FACTS

1. On April 1, 2014, Plaintiff was involved in collision with a shuttle bus owned by Harvest.

2. At the time of the crash, Defendant David Lujan (“Lujan”) was employed as a shuttle bus driver owned by Harvest at the time of the automobile crash that is the subject of this case.

3. At the time of the crash, Lujan was driving the shuttle bus owned by Harvest.

4. At the time of the crash, there were no passengers on Harvest’s shuttle bus.

5. At the time of the crash, Lujan was on the clock for his job as a shuttle bus driver for Harvest.

II. CONCLUSIONS OF LAW

1. Under Nevada law, a party may seek summary judgment where the non-moving party cannot recover as a matter of law, and there is no genuine dispute as to any material fact. NRCP 56(a); *Butler v. Bayer*, 123 Nev. 450, 461, 168 P.3d 1055, 1063 (2007); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). A factual dispute is genuine when the evidence is such that a rational trier of fact could not return a verdict for the nonmoving party. *Id.* at 729, 121 P.3d at 1029.

2. Although the pleadings and other proof are construed in a light most favorable to the non-moving party, the non-moving party must transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine issue of material fact that she is entitled to relief. *Torrealba v. Kesmetis*, 124 Nev. 95, 100, 178 P.3d 716, 720 (2008); *Bird v. Casa Royale W.*, 97 Nev. 67, 70, 624 P.2d 17, 19 (1981).

3. Therefore, in opposing summary judgment, the non-moving party's documentation must be admissible evidence, and the non-moving party is not entitled to build a case of any kind on the gossamer threads of whimsy, speculation, and conjecture. *Wood*, 121 Nev. at 731, 121 P.3d at 1030. Indeed, the availability of summary judgment proceedings promotes judicial economy and reduces litigation expense associated with actions clearly lacking in merit. *Elizabeth E. v. ADT Sec. Sys. W. Inc.*, 108 Nev. 889, 892, 839 P.2d 1308, 1310 (1992).

1 4. Under Nevada law, where undisputed evidence exists concerning an
2 employee's status at the time of the accident, the issue of whether he was acting
3 within the scope of his employment may be resolved as a matter of law. *Evans v.*
4 *Sw. Gas Corp.*, 108 Nev. 1002, 1005, 842 P.2d 719, 721 (1992).

5 5. In support of his Motion for Summary Judgment, Plaintiff provided
6 an affidavit from Lujan that contained the following sworn statements: (1) he was
7 not allowed to use the shuttle bus for personal errands and that while driving the
8 bus he was on the clock and working; (2) on the day of the accident, he was not
9 taking a lunch break, but rather stopped to use the restroom while waiting for a
10 resident with medical appointments.

11 6. The Court notes that this affidavit differs from Lujan's testimony in
12 the first trial of this matter where he had testified that he was on a lunch break
13 at the park.

14 7. Regardless of whether Lujan had just completed a lunch break or
15 stopped for the restroom, the only evidence before the Court was that Lujan was
16 driving the shuttle bus for work purposes at the time of the subject crash. *See,*
17 *e.g., Kornton v. Conrad, Inc.*, 119 Nev. 123, 125, 67 P.3d 316, 317 (2003).

18 8. Harvest did not support its opposition with any affidavit or other
19 admissible evidence to refute that Lujan was actually working within the course
20 and scope of his employment while driving the shuttle bus at the time of the
21 subject crash with Plaintiff.

1 **III. ORDER AND JUDGMENT**

2 1. THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND
3 DECREED that Plaintiff's Motion for Summary Judgment Regarding Vicarious
4 Liability is GRANTED.

5 2. IT IS FURTHER ORDERED that Harvest is liable under vicarious
6 liability for the actions caused by its employee Lujan. *See, e.g., Dezzani v. Kern*
7 *& Assocs., Ltd.*, 134 Nev. 61, 67, 412 P.3d 56, 61 (2018).

8 3. On December 17, 2018, the Court entered judgment upon the jury
9 verdict in favor of Plaintiff and against Lujan. *See Exhibit 1* (Judgment Upon
10 the Jury Verdict, filed on 12/17/2018). Since Harvest is vicariously liable for
11 Lujan's actions arising out of the subject crash, Harvest is liable for the entire
12 judgment entered on December 17, 2018.

13 4. JUDGMENT is hereby entered in favor of Plaintiff, Aaron M.
14 Morgan, and against Defendant, Harvest Management Sub LLC, in the total
15 amount of \$3,046,382.72 according to the terms of the judgment entered on
16 December 13, 2018. *See Exhibit 1.*

17 ///

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19 ///

5. As of November 1, 2022, \$728,920.10 in post-judgment interest has accrued on the judgment for which Harvest Management Sub LLC is liable and will continue to be liable for the accrual of post-judgment interest, at the current daily rate of \$563.37, until the judgment is satisfied. See **Exhibit 2** (Table of Accrued Post-Judgment Interest); *Waddell v. L.V.R.V. Inc.*, 122 Nev. 15, 26, 125 P.3d 1160, 1167 (2006); NRS 17.130.

Dated this 15th day of November, 2022

IT IS SO ORDERED.



04B 438 5052 1D39
Linda Marie Bell
District Court Judge

Respectfully submitted by:

Approved as to form:

CLAGGETT & SYKES LAW FIRM

BAILEY KENNEDY

/s/ Micah S. Echols

/s/ Sarah E. Harmon

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Attorneys for Defendant,

Harvest Management Sub LLC

From: [Sarah Harmon](#)
To: [Anna Gresl](#)
Cc: [Benjamin Cloward](#); [Bryan Boyack](#); [Nicole Griffin](#); [Dennis Kennedy](#); [Angie Mattox](#); [Micah Echols](#); [Tayler Bingham](#)
Subject: RE: Aaron Morgan v. Harvest Management / DRAFT Order Granting Summary Judgment
Date: Wednesday, November 9, 2022 7:42:19 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)

Hi Anna –

Thank you for forwarding this to me. You may add my e-signature.

Thanks!

Sarah

Sarah E. Harmon

Bailey❖Kennedy
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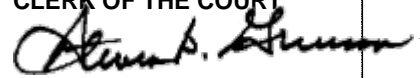
From: Anna Gresl <Anna@claggettlaw.com>
Sent: Tuesday, November 8, 2022 4:04 PM
To: Sarah Harmon <SHarmon@baileykennedy.com>
Cc: Benjamin Cloward <benjamin.cloward@gmail.com>; Bryan Boyack <bryan@boyacklawgroup.com>; Nicole Griffin <griffin@richardharrislaw.com>; Dennis Kennedy <DKennedy@baileykennedy.com>; Angie Mattox <AMattox@baileykennedy.com>; Micah Echols <Micah@claggettlaw.com>
Subject: RE: Aaron Morgan v. Harvest Management / DRAFT Order Granting Summary Judgment

Attached is the clean version for your approval to use your electronic signature. Thank you.

Anna Gresl
Paralegal, Appellate Division

EXHIBIT 1

EXHIBIT 1



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Attorneys for Plaintiff, Aaron M. Morgan

DISTRICT COURT

CLARK COUNTY, NEVADA

AARON M. MORGAN, individually,
Plaintiff,

vs.

DAVID E. LUJAN, individually; HARVEST
MANAGEMENT SUB LLC; a Foreign Limited-
Liability Company; DOES 1 through 20; ROE
BUSINESS ENTITIES 1 through 20, inclusive
jointly and severally,

Defendants.

CASE NO.: A-15-718679-C
Dept. No.: XI

JUDGMENT UPON THE JURY VERDICT

12-13-18P01:10 RCVD

JUDGMENT UPON THE JURY VERDICT

This action came on for trial before the Court and the jury, the Honorable Linda Marie Bell, District Court Judge, presiding,¹ and the issues having been duly tried and the jury having duly rendered its verdict.²

IT IS ORDERED AND ADJUDGED that PLAINTIFF, AARON M. MORGAN, have a recovery against DEFENDANT, DAVID E. LUJAN, for the following sums:

Past Medical Expenses	\$208,480.00
Future Medical Expenses	+\$1,156,500.00
Past Pain and Suffering	+\$116,000.00
Future Pain and Suffering	+\$1,500,000.00
Total Damages	\$2,980,980.00

IT IS FURTHER ORDERED AND ADJUDGED that AARON M. MORGAN's past damages of \$324,480 shall bear Pre-Judgment interest in accordance with *Lee v. Ball*, 121 Nev. 391, 116 P.3d 64 (2005) and NRS 17.130 at the rate of 5.00% per annum plus 2% from the date of service of the Summons and Complaint on May 28, 2015, through the entry of the Special Verdict on April 9, 2018:

PRE-JUDGMENT INTEREST ON PAST DAMAGES:

05/28/15 through 04/09/18 = **\$65,402.72**

[(1,051 days) at (prime rate (5.00%) plus 2 percent = 7.00%) on \$324,480 past damages]

[Pre-Judgment Interest is approximately \$62.23 per day]

PLAINTIFF'S TOTAL JUDGMENT

Plaintiff's total judgment is as follows:

Total Damages:	\$2,980,980.00
Prejudgment Interest:	\$65,402.72
TOTAL JUDGMENT	\$3,046,382.72

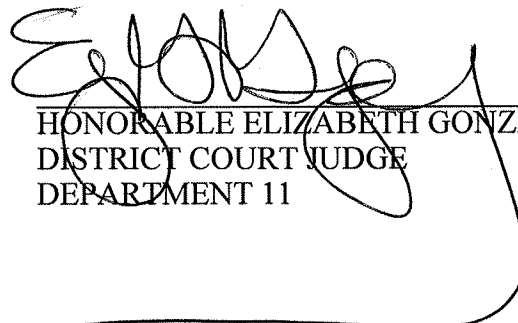
¹ This case was reassigned to the Honorable Elizabeth Gonzalez, District Court Judge, in July 2018.

² See Special Verdict filed on April 9, 2018, attached as **Exhibit 1**.

Now, THEREFORE, Judgment Upon the Jury Verdict in favor of the Plaintiff is as follows:

PLAINTIFF, AARON M. MORGAN, is hereby awarded \$3,046,382.72 against DEFENDANT, DAVID E. LUJAN, which shall bear post-judgment interest at the adjustable legal rate from the date of the entry of judgment until fully satisfied. Post-judgment interest at the current 7.00% rate accrues interest at the rate of \$584.24 per day.

Dated this 13 day of Dec., 2018.


HONORABLE ELIZABETH GONZALEZ
DISTRICT COURT JUDGE
DEPARTMENT 11

Respectfully Submitted by:

Dated this 12TH day of December, 2018.

MARQUIS AURBACH COFFING

By 

Micah S. Echols, Esq.
Nevada Bar No. 8437
Tom W. Stewart, Esq.
Nevada Bar No. 14280
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff, Aaron M. Morgan

[CASE NO. A-15-718679-C—JUDGMENT UPON THE JURY VERDICT]

Exhibit 1

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

APR - 9 2018

BY: *J. M. Brown*
J. M. BROWN, DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO: A-15-718679-C

DEPT. NO: VII

AARON MORGAN,

Plaintiff,

vs.

DAVID LUJAN,

Defendant.

SPECIAL VERDICT

We, the jury in the above-entitled action, find the following special verdict on the questions submitted to us:

QUESTION NO. 1: Was Defendant negligent?

ANSWER: Yes ☒ No ☐

If you answered no, stop here. Please sign and return this verdict.

If you answered yes, please answer question no. 2.

QUESTION NO.2: Was Plaintiff negligent?

ANSWER: Yes ☐ No ☒

If you answered yes, please answer question no. 3.

If you answered no, please skip to question no. 4.

///

A-15-718679-C
SJV
Special Jury Verdict
4738215



1 **QUESTION NO. 3:** What percentage of fault do you assign to each party?

2 Defendant: 100

3 Plaintiff: 0

4 Total: 100%

5 Please answer question 4 without regard to your answer to question 3.

6 **QUESTION NO. 4:** What amount do you assess as the total amount of Plaintiff's damages?

7 (Please do not reduce damages based on your answer to question 3, if you answered question 3.

8 The Court will perform this task.)

9	Past Medical Expenses	\$ <u>208,480.</u> <u>00</u>
10	Future Medical Expenses	\$ <u>1,156,500.</u> <u>00</u>
11	Past Pain and Suffering	\$ <u>116,000.</u> <u>00</u>
12	Future Pain and Suffering	\$ <u>1,500,000.</u> <u>00</u>
13		
14	TOTAL	\$ <u>2,980,980.</u> <u>00</u>

15

16 DATED this 9th day of April, 2018.

17

18 Arthur J. St. Laurent

19 FOREPERSON

20 ARTHUR J. ST. LAURENT

21

22

23

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EXHIBIT 2

EXHIBIT 2

JUDGMENT ENTERED ON DECEMBER 17, 2018:

1. December 18–31, 2018 = 14 days
Legal Interest Rate = 7.00%
Post-Judgment Interest for this Period = **\$8,179.33**
2. January 1, 2019 — June 30, 2019 = 181 days
Legal Interest Rate = 7.50%
Post-Judgment Interest for this Period = **\$113,300.40**
3. July 1, 2019 — December 31, 2019 = 184 days
Legal Interest Rate = 7.50%
Post-Judgment Interest for this Period = **\$115,178.31**
4. January 1, 2020 — June 30, 2020 = 182 days
Legal Interest Rate = 6.75%
Post-Judgment Interest for this Period = **\$102,533.73**
5. July 1, 2020 — December 31, 2020 = 184 days
Legal Interest Rate = 5.25%
Post-Judgment Interest for this Period = **\$80,624.81**
6. January 1, 2021 — June 30, 2021 = 181 days
Legal Interest Rate = 5.25%
Post-Judgment Interest for this Period = **\$79,310.28**
7. July 1, 2021 — December 31, 2021 = 184 days

Legal Interest Rate = 5.25%

Post-Judgment Interest for this Period = \$80,624.81

8. January 1, 2022 — June 30, 2022 = 181 days

Legal Interest Rate = 5.25%

Post-Judgment Interest for this Period = \$79,310.28

9. July 1, 2022 — November 1, 2022 = 124 days

Legal Interest Rate = 6.75%

Post-Judgment Interest for this Period = \$69,858.15

**TOTAL POST-JUDGMENT INTEREST THROUGH NOVEMBER 1, 2022 =
\$728,920.10, with \$563.37 daily interest at the current 6.75% legal interest rate.**

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Aaron Morgan, Plaintiff(s)

CASE NO: A-15-718679-C

7 vs.

DEPT. NO. Department 7

8 David Lujan, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 11/15/2022

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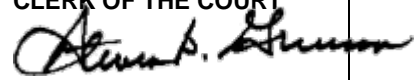
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TBingham@BaileyKennedy.com

Attorneys for Defendant

HARVEST MANAGEMENT SUB LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

AARON M. MORGAN, individually,

Plaintiff,

vs.

DAVID E. LUJAN, individually; HARVEST
MANAGEMENT SUB LLC; a Foreign-Limited-
Liability Company; DOES 1 through 20; ROE
BUSINESS ENTITIES 1 through 20, inclusive
jointly and severally,

Defendants.

Case No. A-15-718679-C

Dept. No. VII

CASE APPEAL STATEMENT

1. Name of Appellant Filing This Case Appeal Statement.

Harvest Management Sub LLC.

2. Identify the Judge Issuing the Decision, Judgment, or Order Appealed From.

The Honorable Judge Linda Bell.

3. Identify Each Appellant and the Name and Address of Counsel for Each Appellant.

Appellants: Harvest Management Sub LLC

Dennis L. Kennedy
Nevada Bar No. 1462

1 Sarah E. Harmon
Nevada Bar No. 8106
2 Tayler D. Bingham
Nevada Bar No. 15870
3 BAILEY KENNEDY
8984 Spanish Ridge Avenue
4 Las Vegas, Nevada 89148

5 *Counsel for Appellant Harvest Management Sub LLC*

6 **4. Identify Each Respondent and the Name and Address of Appellate Counsel, if Known,**
7 **for Each Respondent (if the Name of a Respondent's Appellate Counsel Is Unknown,**
8 **Indicate as Much and Provide the Name and Address of that Respondent's Trial**
9 **Counsel).**

9 Respondent: Aaron M. Morgan

10 Benjamin P. Cloward, Esq.
Nevada Bar No. 11087
11 Bryan A. Boyack
Nevada Bar No. 9980
12 Richard Harris Law Firm
801 South Fourth Street
13 Las Vegas, Nevada 89101
Telephone: (702) 444-4444

14 Micah S. Echols
15 Nevada Bar No. 8437
Claggett & Sykes Law Firm
16 4101 Meadows Lane, Ste. 100
Las Vegas, Nevada 89107
17 Telephone: (702) 655-2346

18 *Counsel for Respondent Aaron M. Morgan*

19 **5. Indicate Whether any Attorney Identified Above in Response to Question 3 or 4 Is Not**
20 **Licensed to Practice Law in Nevada and, if so, Whether the District Court Granted**
21 **That Attorney Permission to Appear Under SCR 42 (Attach a Copy of Any District**
22 **Court Order Granting Such Permission):**

22 N/A

23 **6. Indicate Whether Appellant Was Represented by Appointed or Retained Counsel in the**
24 **District Court.**

25 Retained Counsel

26 **7. Indicate Whether Appellant Is Represented by Appointed or Retained Counsel on**
27 **Appeal.**

28 Retained Counsel

1 **8. Indicate Whether Appellant Was Granted Leave to Proceed in *Forma Pauperis*, and the**
2 **Date of Entry of the District Court Order Granting Such Leave.**

3 N/A

4 **9. Indicate the Date the Proceedings Commenced in the District Court (e.g., Date**
5 **Complaint, Indictment, Information, or Petition Was Filed).**

6 Mr. Morgan filed the Complaint in this action on May 20, 2015.

7 **10. Provide a Brief Description of the Nature of the Action and Result in the District Court,**
8 **Including the Type of Judgment or Order Being Appealed and the Relief Granted by**
9 **the District Court.**

10 In 2014, Mr. Lujan, a shuttlebus driver for the Montara Meadows retirement facility, exited
11 Paradise Park and crashed into Mr. Morgan. Mr. Morgan sued Mr. Lujan for the resulting injuries.
12 He also sued Harvest, *labelling* his claim against Harvest as one for vicarious liability, but
13 *substantively pleading* a claim for negligent entrustment. Leading up to trial, Mr. Morgan had not
14 pleaded vicarious liability, did not propound discovery regarding it, and did not mention vicarious
15 liability in the pretrial memorandum.

16 In 2017, the Parties tried this case before a jury (the “First Trial”). During the First Trial, Mr.
17 Lujan testified that he crashed into Mr. Morgan while *returning from his lunch break*. However,
18 before the case could be determined on its merits, the district court declared a mistrial. Thus, by the
19 end of the First Trial, Mr. Morgan had only presented evidence that *repudiated* any claim for
20 vicarious liability against Harvest.

21 The Parties then tried this case again in 2018 (the “Second Trial”). At the Second Trial, the
22 district court did not recognize Harvest as a party, and Mr. Morgan never mentioned Harvest—or
23 vicarious liability—in his Voir Dire, Opening Statement, or Closing Statement. Mr. Morgan only
24 presented two pieces of evidence concerning Harvest: (1) Mr. Lujan’s First Trial testimony (which
25 never mentioned Harvest); and (2) Harvest’s 30(b)(6)’s testimony that confirmed Mr. Lujan’s First
26 Trial testimony. Mr. Morgan did not even ask if Harvest *employed* Mr. Lujan.

27 Critically, *there were no jury instructions on vicarious liability, no jury instructions*
28 *regarding the course and scope of employment, nor even jury instructions on negligent entrustment*.
Mr. Morgan did not even propose any such instructions. Moreover, the special verdict form, which

1 Mr. Morgan had the opportunity to edit and which Mr. Morgan approved, *did not include Harvest at*
2 *all*. Even worse, Mr. Morgan, in his closing statement, explained to the jury how to fill out the
3 special verdict form; that instruction specifically instructed that 100% fault could be assigned to the
4 singular defendant: Mr. Lujan. Ultimately, the jury rendered a verdict *solely against Mr. Lujan*.

5 Months later, Mr. Morgan raised, for the first time, an alleged vicarious liability claim
6 against Harvest in a Motion for Entry of Judgment (the “Morgan MEJ”) in which he sought to apply
7 the verdict against Harvest because the verdict form lacked any apportionment of fault against
8 Harvest. Mr. Morgan claimed that vicarious liability had been tried by consent. After significant
9 motion practice, Judge Gonzalez denied the motion.

10 In December 2018, Mr. Morgan appealed from the Morgan MEJ, which this Court dismissed.
11 While the appeal was pending before the Nevada Supreme Court, Harvest filed a Motion for Entry
12 of Judgment (the “Harvest MEJ”), alleging Mr. Morgan had voluntarily abandoned his negligent
13 entrustment claim and, regardless, failed to prove either that claim or the vicarious liability claim at
14 trial. After motion practice, Judge Gonzalez transferred the Harvest MEJ back to Chief Judge Linda
15 Bell but retained jurisdiction over the case. Post-transfer, Chief Judge Bell entered a Decision and
16 Order (the “April 2019 Order”) in which she *agreed that the flawed verdict form used at trial did not*
17 *support a verdict against Harvest*, stated an intent to reconvene the long-since-discharged jury to fix
18 the verdict form, and contradictorily stated that Harvest failed to contest vicarious liability.

19 In April 2019, Harvest filed a writ petition before this Court to direct Chief Judge Bell to
20 vacate the April 2019 Order and grant the Harvest MEJ. This Court denied the writ without
21 prejudice but indicated that reconvening a jury would be improper. The district court heard oral
22 argument on the Harvest MEJ. Months later, Chief Judge Bell denied the Harvest MEJ and ordered
23 a separate trial under NRCp 42(b) on the issues of Harvest’s vicarious liability (the “January 2020
24 Order”). In that January 2020 Order, Chief Judge Bell stated that she could not enter judgment in
25 Harvest’s favor on vicarious liability *because the issue had never been addressed at trial*.
26 Specifically, she stated that Mr. Morgan never presented *any* evidence on the issue of vicarious
27 liability. In March 2020, Harvest filed a writ petition regarding the January 2020 Order. Ultimately,
28

1 this Court denied that writ in September 2021, solely on the grounds that this instant appeal would
2 be an adequate remedy.

3 Following that denial, Harvest filed a Motion to Dismiss under Rule 41(e), arguing that Mr.
4 Morgan failed to bring the unpled vicarious liability claim to trial within five years (the “41(e)
5 MTD”). After much motion practice, the district court denied this motion because vicarious liability
6 had allegedly been brought to trial twice—despite the district court’s earlier finding that it had not.

7 Shortly thereafter, Mr. Morgan filed a Motion for Summary Judgment Regarding Vicarious
8 Liability (the “MSJ”). In the MSJ, Mr. Morgan provided an affidavit from Mr. Lujan that
9 substantially contradicted the sworn testimony he gave in the First Trial and which had been
10 presented in the Second Trial. In short, following a substantial jury verdict against him individually,
11 Mr. Lujan contradicted his prior sworn testimony and claimed that he was *not* returning from a lunch
12 break when he crashed into Mr. Morgan. Based upon this contradictory affidavit, the district court
13 granted the MSJ, holding Harvest vicariously liable for Mr. Lujan’s negligence.

14 This appeal now follows.

15 **11. Indicate Whether the Case Has Previously Been the Subject of an Appeal to or Original**
16 **Writ Proceeding in the Supreme Court, and, if so, the Caption and Supreme Court**
Docket Number of the Prior Proceeding.

- 17
 - *Harvest Management Sub LLC v. Eighth Jud. Dist. Ct.*, No. 78596 (May 15, 2019) (Writ Petition);
 - *Morgan v. Lujan*, No. 77753 (Sept. 17, 2019) (Appeal);
 - *Harvest Management Sub LLC v. Eighth Jud. Dist. Ct.*, No. 81975, 80837 (Sept. 14, 2021) (Writ Petition)

20 **12. Indicate Whether This Appeal Involves Child Custody or Visitation.**

21 No

22 **13. If This Is a Civil Case, Indicate Whether this Appeal Involves the Possibility of**
23 **Settlement.**

24 Due to the nature of this case, it is unlikely that this case involves the possibility of
25 settlement. The parties’ prior efforts at mediation have failed. Harvest is being asked to pay a
26 significant sum of money on a jury verdict that was never entered against it and is certain it will
27
28

1 prevail in this case. Therefore, it is reluctant to delay that outcome of this case by going to this
2 Court's settlement program—especially given prior unsuccessful settlement efforts.

3 DATED this 13th day of December, 2022.

4 BAILEY ❖ KENNEDY

5 By: /s/ Dennis L. Kennedy

6 DENNIS L. KENNEDY

7 SARAH E. HARMON

8 TAYLER D. BINGHAM

9 *Attorneys for Defendant*

10 HARVEST MANAGEMENT SUB LLC

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 13th day of December, 2022, service of the foregoing **CASE APPEAL STATEMENT** was made by mandatory electronic service through the Eighth Judicial District Court’s electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

Micah S. Echols	Email: reception@claggettlaw.com
CLAGGETT & SYKES LAW FIRM	appeals@claggettlaw.com
4101 Meadows Lane, Suite 100	
Las Vegas, Nevada 89107	<i>Attorneys for Real Party in Interest</i>
	AARON M. MORGAN

Benjamin P. Cloward	Email: Benjamin@richardharrislaw.com
Bryan A. Boyack	bryan@richardharrislaw.com
RICHARD HARRIS LAW FIRM	
801 South Fourth Street	<i>Attorneys for Real Party in Interest</i>
Las Vegas, Nevada 89101	AARON M. MORGAN

VIA U.S. MAIL: *Real Party in Interest*

David E. Lujan
651 McKnight Street, Apt. 16
Las Vegas, Nevada 89501

/s/ Karen Rodman
Employee of BAILEY ♦ KENNEDY

CASE SUMMARY**CASE NO. A-15-718679-C**

Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

§
§
§
§
§
§

Location: **Department 7**
 Judicial Officer: **Bell, Linda Marie**
 Filed on: **05/20/2015**
 Case Number History:
 Cross-Reference Case Number: **A718679**
 Supreme Court No.: **77753**

CASE INFORMATION**Statistical Closures**

11/15/2022 Summary Judgment
 06/29/2018 Verdict Reached

Case Type: **Negligence - Auto**

Case Status: **11/15/2022 Closed**

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

Case Number A-15-718679-C
 Court Department 7
 Date Assigned 03/14/2019
 Judicial Officer Bell, Linda Marie

PARTY INFORMATION**Plaintiff Morgan, Aaron M***Lead Attorneys*

Echols, Micah S.
Retained
 702-655-2346(W)

Defendant Harvest Management Sub LLC

Kennedy, Dennis L.
Retained
 7025628820(W)

Lujan, David E

Gardner, Douglas J, ESQ
Retained
 702-940-2222(W)

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

05/20/2015



Complaint

Filed By: Plaintiff Morgan, Aaron M
 [1] Complaint

05/20/2015

Case Opened

05/28/2015



Affidavit of Service

Filed By: Plaintiff Morgan, Aaron M
 [2] Affidavit of Service - Harvest Management Sub LLC

06/01/2015



Affidavit of Service

Filed By: Plaintiff Morgan, Aaron M
 [3] Affidavit of Service - David E Lujan

06/16/2015



Initial Appearance Fee Disclosure

Filed By: Defendant Lujan, David E

CASE SUMMARY

CASE NO. A-15-718679-C

[5] Initial Appearance Fee Disclosure (NRS Chapter 19)

06/16/2015



Demand for Jury Trial

Filed By: Defendant Lujan, David E

[6] Demand for Jury Trial

06/16/2015



Answer to Complaint

Filed by: Defendant Lujan, David E

[4] Defendants' Answer to Plaintiff's Complaint

10/14/2015



Commissioners Decision on Request for Exemption - Granted

[7] Commissioner's Decision on Request for Exemption

12/04/2015



Arbitration File

[8] Arbitration File

12/11/2015



Arbitration File

[9] Arbitration File

12/21/2015



Joint Case Conference Report

Filed By: Plaintiff Morgan, Aaron M

[10] Joint case Conference Report

01/21/2016



Scheduling Order

[11] Scheduling Order

02/03/2016



Order Setting Civil Jury Trial

[12] Order Setting Civil Jury Trial

08/30/2016



Stipulation to Extend Discovery

Party: Defendant Lujan, David E

[13] Stipulation and Order to Extend Discovery and Continue Trial

09/16/2016



Order Setting Civil Jury Trial

[14] Second Order Setting Civil Jury Trial

02/22/2017



Pre-Trial Disclosure

Party: Plaintiff Morgan, Aaron M

[15] Plaintiff's Pre-Trial Disclosures and Objections Pursuant to N.R.C.P. 16.1 (a)(3)

02/23/2017



Notice

Filed By: Plaintiff Morgan, Aaron M

[16] Notice of EDCR 2.67 Conference

02/27/2017



Joint Pre-Trial Memorandum

Filed By: Plaintiff Morgan, Aaron M

[17] Plaintiff Aaron M. Morgan's and Defendants David E. Lujan and Harvest Management Sub, LLC's Joint Pre-Trial Memorandum

03/06/2017

















Stipulation and Order

Filed by: Plaintiff Morgan, Aaron M

[18] Stipulation and Order to Exclude Defendant's Biomechanical Expert John Baker, P.E., PH.D.

CASE SUMMARY

CASE NO. A-15-718679-C

03/06/2017	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Morgan, Aaron M <i>[19] Notice of Entry of Order</i>
03/07/2017	 Order Setting Civil Jury Trial <i>[21] Third Order Setting Civil Jury Trial</i>
03/07/2017	 Notice of Appearance Party: Plaintiff Morgan, Aaron M <i>[20] Notice of Appearance</i>
04/20/2017	 Notice of Association of Counsel Filed By: Defendant Lujan, David E <i>[22] Notice of Association of Counsel</i>
05/10/2017	 Motion for Partial Summary Judgment Filed By: Plaintiff Morgan, Aaron M <i>[23] Plaintiff's Motion for Partial Summary Judgment Regarding Plaintiff's Past Medical Expenses</i>
05/11/2017	 Notice of Hearing Filed By: Plaintiff Morgan, Aaron M <i>[24] Notice of Hearing</i>
06/02/2017	 Opposition Filed By: Defendant Lujan, David E; Defendant Harvest Management Sub LLC <i>[25] Defendant's Opposition to Plaintiff's Motion for Summary Judgment</i>
08/22/2017	 Reporters Transcript <i>[26] Court Reporters transcript of Proceedings - June 13, 2017</i>
08/30/2017	 Order Filed By: Plaintiff Morgan, Aaron M <i>[27] Order Granting Plaintiff's Motion for Partial Summary Judgment Regarding Plaintiff's Past Medical Treatment and Expenss</i>
08/31/2017	 Notice of Entry Filed By: Plaintiff Morgan, Aaron M <i>[28] Notice of Entry of Order</i>
09/25/2017	 Pre-trial Memorandum Filed by: Defendant Harvest Management Sub LLC <i>[29] Defendants David E. Lujan and Harvest Management Sub LLC's Individual Pre-Trial Memorandum</i>
10/31/2017	 Brief Filed By: Plaintiff Morgan, Aaron M <i>[30] Plaintiff's Bench Regarding Demonstrative Exhibits</i>
10/31/2017	 Brief <i>[31] Plaintiff's Bench Regarding the Issue of Jury Selection</i>
11/06/2017	 Jury List

CASE SUMMARY

CASE NO. A-15-718679-C

	[32]	
02/08/2018	 Reporters Transcript [33] Court Reporters transcript of Proceedings (Civil) - Jury Trial - Day 1	
02/08/2018	 Recorders Transcript of Hearing [34] Day 2 - Jury Trial - Transcript of Proceedings - 1-7-2018	
02/08/2018	 Transcript of Proceedings [35] Transcript of Proceedings - July Trial - Day 3	
03/07/2018	 Memorandum of Costs and Disbursements Filed By: Plaintiff Morgan, Aaron M [36] Plaintiff's Memorandum of Costs and Disbursements	
03/07/2018	 Motion for Attorney Fees and Costs Filed By: Plaintiff Morgan, Aaron M [37] (4/11/2018 Withdrawn) Plaintiff's Motion for Attorney Fees and Costs of Mistrial	
03/08/2018	 Pre-Trial Disclosure Party: Plaintiff Morgan, Aaron M [38] Plaintiff's Supplement to Pre-Trial Disclosures and Objections Pursuant to N.R.C.P. 16.1 (a)(3)	
03/08/2018	 Notice of Hearing Filed By: Plaintiff Morgan, Aaron M [39] Notice of Hearing	
03/26/2018	 Opposition Filed By: Defendant Lujan, David E; Defendant Harvest Management Sub LLC [40] Defendant's Opposition to Plaintiff's Motion for Attorney Fees and Costs of Mistrial	
03/27/2018	 Motion Filed By: Plaintiff Morgan, Aaron M [41] Plaintiff's Motion to Present a Jury Questionnaire Prior to Voir Dire or In the Alternative for More Liberal Jury Selection on Order Shortening Time	
03/27/2018	 Receipt of Copy Filed by: Plaintiff Morgan, Aaron M [42] Receipt of Copy - Plaintiff's Motion to Present a Jury Questionnaire Prior to Voir Dire or In the Alternative for More Liberal Jury Selection on Order Shortening Time	
03/30/2018	 Trial Brief Filed By: Plaintiff Morgan, Aaron M [43] Plaintiff's Trial Brief	
04/03/2018	 Jury List [46]	
04/04/2018	 Reporters Transcript [44] Court Reporters transcript of Proceedings (Civil) - Defense Opening - 4-3-2018	
04/09/2018	 Amended Jury List [47]	

CASE SUMMARY

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04/09/2018	 Special Jury Verdict [48]
04/09/2018	 Jury Instructions [49]
04/11/2018	 Notice Filed By: Plaintiff Morgan, Aaron M [45] Notice of Plaintiff's Withdrawal of Motion
04/26/2018	 Substitution of Attorney Filed by: Defendant Harvest Management Sub LLC [50] Substitution of Attorneys
04/26/2018	 Errata Filed By: Defendant Harvest Management Sub LLC [51] Errata to Substitution of Attorneys
05/09/2018	 Reporters Transcript [52] Court Reporters transcript of Proceedings (Civil) 4-2-2018 - Jury Trial
05/09/2018	 Recorders Transcript of Hearing [53] Recorder's Transcript of Jury Trial - 4-3-2018
05/09/2018	 Recorders Transcript of Hearing [54] Recorder's Transcript of Jury Trial - 4-4-2018
05/09/2018	 Reporters Transcript [55] Recorder's Transcript of Jury Trial -4-5-2018
05/09/2018	 Recorders Transcript of Hearing [56] Recorder's Transcript of Jury Trial - 4-6-2018
05/09/2018	 Recorders Transcript of Hearing [57] Recorder's Transcript of Jury Trial - 4-9-2018
06/06/2018	 Stipulation and Order Filed by: Plaintiff Morgan, Aaron M [58] Stipulation and Order To Vacate Hearing on Plaintiff's Motion for Attorney Fees and Cost of Mistrial Filed on March 7, 2018
06/06/2018	 Notice of Entry of Order Filed By: Plaintiff Morgan, Aaron M [59] Notice of Entry of Order
06/29/2018	 Order to Statistically Close Case [60] Civil Order to Statistically Close Case
07/02/2018	Case Reassigned to Department 11 Reassigned From Judge Bell - Dept 7
07/30/2018	 Notice of Appearance

CASE SUMMARY


CASE NO. A-15-718679-C

Party: Plaintiff Morgan, Aaron M
[61] Notice of Appearance


07/30/2018

 Motion for Entry of Judgment
Filed By: Plaintiff Morgan, Aaron M
[62] Plaintiff's Motion for Entry of Judgment


08/06/2018

 Notice of Change of Hearing
[63] Notice of Change of Hearing


08/16/2018

 Appendix
Filed By: Defendant Harvest Management Sub LLC
[64] Appendix of Exhibits to Defendant Harvest Management Sub LLC's Opposition to Plaintiff's Motion for Entry of Judgment - Volume 1 of 4


08/16/2018

 Appendix
Filed By: Defendant Harvest Management Sub LLC
[65] Appendix of Exhibits to Defendant Harvest Management Sub LLC's Opposition to Plaintiff's Motion for Entry of Judgment - Volume 2 of 4


08/16/2018

 Appendix
Filed By: Defendant Harvest Management Sub LLC
[66] Appendix of Exhibits to Defendant Harvest Management Sub LLC's Opposition to Plaintiff's Motion for Entry of Judgment - Volume 3 of 4


08/16/2018

 Appendix
Filed By: Defendant Harvest Management Sub LLC
[67] Appendix of Exhibits to Defendant Harvest Management Sub LLC's Opposition to Plaintiff's Motion for Entry of Judgment - Volume 4 of 4


08/16/2018

 Opposition
Filed By: Defendant Harvest Management Sub LLC
[68] Defendant Harvest Management Sub LLC's Opposition to Plaintiff's Motion for Entry of Judgment


09/07/2018

 Reply in Support
Filed By: Plaintiff Morgan, Aaron M
[69] Plaintiff's Reply in Support of Motion for Entry of Judgment


11/28/2018

 Order
Filed By: Defendant Harvest Management Sub LLC
[70] Order on Plaintiffs' motion for Entry of Judgment


11/28/2018

 Notice of Entry of Order
Filed By: Defendant Harvest Management Sub LLC
[71] Notice of Entry of Order on Plaintiff's Motion for Entry of Judgment

12/17/2018













 Judgment on Jury Verdict
Filed By: Plaintiff Morgan, Aaron M
[72] Judgment Upon the Jury Verdict

12/18/2018

 Memorandum of Costs and Disbursements
Filed By: Plaintiff Morgan, Aaron M
[73] Plaintiff's Verified Memorandum of Costs

CASE SUMMARY












CASE NO. A-15-718679-C

12/18/2018	 Notice of Appeal Filed By: Plaintiff Morgan, Aaron M <i>[74] Notice of Appeal</i>
12/18/2018	 Case Appeal Statement Filed By: Plaintiff Morgan, Aaron M <i>[75] Case Appeal Statement</i>
12/20/2018	 Objection Filed By: Defendant Harvest Management Sub LLC <i>[76] Defendant Harvest Management Sub LLC's Limited Objection to Plaintiff's Verified Memorandum of Costs</i>
12/21/2018	 Motion for Entry of Judgment Filed By: Defendant Harvest Management Sub LLC <i>[77] Defendant Harvest Management Sub LLC's Motion for Entry of Judgment</i>
12/21/2018	 Appendix Filed By: Defendant Harvest Management Sub LLC <i>[78] Appendix of Exhibits to Defendant Harvest Management Sub LLC's Motion for Entry of Judgment - Volume 1 of 4</i>
12/21/2018	 Appendix Filed By: Defendant Harvest Management Sub LLC <i>[79] Appendix of Exhibits to Defendant Harvest Management Sub LLC's Motion for Entry of Judgment - Volume 2 of 4</i>
12/21/2018	 Appendix Filed By: Defendant Harvest Management Sub LLC <i>[80] Appendix of Exhibits to Defendant Harvest Management Sub LLC's Motion for Entry of Judgment - Volume 3 of 4</i>
12/21/2018	 Appendix Filed By: Defendant Harvest Management Sub LLC <i>[81] Appendix of Exhibits to Defendant Harvest Management Sub LLC's Motion for Entry of Judgment - Volume 4 of 4</i>
01/02/2019	 Notice of Entry of Judgment Filed By: Plaintiff Morgan, Aaron M <i>[82] Notice of Entry of Judgment</i>
01/09/2019	 Stipulation and Order Filed by: Plaintiff Morgan, Aaron M <i>[83] Stipulation and Order to Extend Deadlines for Opposition and Reply to Motion for Entry of Judgment</i>
01/10/2019	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Morgan, Aaron M <i>[84] Notice of Entry of Stipulation and Order to Extend Deadlines for Opposition and Reply to Motion for Entry of Judgment</i>
01/15/2019	 Opposition and Countermotion Filed By: Plaintiff Morgan, Aaron M <i>[85] Opposition to Defendant Harvest Management Sub LLC's Motion for Entry of Judgment and Counter-Motion to Transfer Case Back to Chief Judge Bell for Resolution of Post-Verdict</i>

CASE SUMMARY














CASE NO. A-15-718679-C

Issues

01/18/2019	 Transcript of Proceedings <i>[86] Transcript of Proceedings: Hearing on Plaintiff's Motion for Entry of Judgment</i>
01/22/2019	 Motion for Attorney Fees and Costs Filed By: Plaintiff Morgan, Aaron M <i>[88] Plaintiff's Motion for Attorney's Fees and Costs</i>
01/23/2019	 Reply in Support Filed By: Defendant Harvest Management Sub LLC <i>[87] Reply in Support of Defendant Harvest Management Sub LLC's Motion for Entry of Judgment; and Opposition to Plaintiff's Counter-Motion to Transfer Case Back to Chief Judge Bell for Resolution of Post-Verdict Issues</i>
02/06/2019	 Stipulation and Order Filed by: Defendant Harvest Management Sub LLC <i>[90] Stipulation and Order to Extend Briefing Schedule for Plaintiff's Motion for Attorney's Fees and Costs and to Continue Hearing on the Motion</i>
02/07/2019	 Order Filed By: Plaintiff Morgan, Aaron M <i>[89] Order Regarding Plaintiff's Counter-Motion to Transfer Case Back to Chief Judge Bell for Resolution of Post-Verdict Issues</i>
02/07/2019	 Notice of Entry of Stipulation and Order Filed By: Defendant Harvest Management Sub LLC <i>[91] Notice of Entry of Stipulation and Order to Extend Briefing Schedule for Plaintiff's Motion for Attorney's Fees and Costs and to Continue Hearing on the Motion</i>
02/07/2019	 Notice Filed By: Defendant Harvest Management Sub LLC <i>[92] Defendant Harvest Management Sub LLC's Notice of Objection and Reservation of Rights to Order Regarding Plaintiff's Counter-Motion to Transfer Case Back to Chief Judge Bell for Resolution of Post-Verdict Issues</i>
02/07/2019	 Notice of Entry of Order Filed By: Plaintiff Morgan, Aaron M <i>[93] Notice of Entry of Order Regarding Plaintiff's Counter-Motion to Transfer Case Back to Chief Judge Bell for Resolution of Post-Verdict Issues</i>
02/07/2019	 Stipulation and Order Filed by: Defendant Harvest Management Sub LLC <i>[94] Stipulation and Order to Continue Hearing on Defendant Harvest Management Sub LLC's Motion for Entry of Judgment</i>
02/08/2019	 Notice of Entry of Stipulation and Order Filed By: Defendant Harvest Management Sub LLC <i>[95] Notice of Entry of Stipulation and Order to Continue Hearing on Defendant Harvest Management Sub LLC's Motion for Entry of Judgment</i>
02/14/2019	 Stipulation and Order Filed by: Defendant Harvest Management Sub LLC <i>[96] Stipulation and Order to Extend Briefing Schedule For Plaintiff's Motion For Attorney's Fees and Costs and to Continue Hearing on the Motion (Second Request)</i>

CASE SUMMARY

CASE NO. A-15-718679-C

02/15/2019	 Notice of Entry of Stipulation and Order Filed By: Defendant Harvest Management Sub LLC <i>[97] Notice of Entry of Stipulation and Order to Extend Briefing Schedule For Plaintiff's Motion For Attorney's Fees and Costs and to Continue Hearing on the Motion (Second Request)</i>
02/19/2019	 Stipulation and Order Filed by: Plaintiff Morgan, Aaron M <i>[98] Stipulation and Order to Reschedule February 19, 2019 Hearing to March 5, 2019</i>
02/21/2019	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Morgan, Aaron M <i>[99] Notice of Entry of Stipulation and Order to Reschedule February 19, 2019 Hearing to March 5, 2019</i>
02/22/2019	 Opposition Filed By: Defendant Harvest Management Sub LLC <i>[100] Defendant Harvest Management Sub LLC's Opposition to Plaintiff's Motion for Attorney's Fees and Costs</i>
02/22/2019	 Opposition Filed By: Defendant Lujan, David E <i>[101] Defendant's Opposition to Motion for Attorneys Fees</i>
03/05/2019	 Supplement Filed by: Defendant Harvest Management Sub LLC <i>[102] Supplement to Harvest Management Sub LLC's Motion for Entry of Judgment</i>
03/06/2019	 Objection Filed By: Plaintiff Morgan, Aaron M <i>[103] Plaintiff's Objection to Supplement to Harvest Management Sub LLC's Motion for Entry of Judgment</i>
03/06/2019	 Response Filed by: Defendant Harvest Management Sub LLC <i>[104] Defendant Harvest Management Sub LLC's Response to Plaintiff's Objection to Supplement to Harvest Management Sub LLC's Motion for Entry of Judgment</i>
03/08/2019	 Reply Filed by: Plaintiff Morgan, Aaron M <i>[105] Plaintiff's Reply in Support of Motion for Attorney's Fees and Costs</i>
03/13/2019	 Motion to Strike Filed By: Defendant Harvest Management Sub LLC <i>[106] Defendant Harvest Management Sub LLC's Motion to Strike Portions of Plaintiff Aaron M. Morgan's Reply in Support of Motion for Attorney's Fees and Costs; or, in the Alternative, Motion for Leave to File Sur-Reply on Order Shortening Time</i>
03/14/2019	 Notice of Department Reassignment <i>[107] Notice of Department Reassignment</i>
03/28/2019	 Reporters Transcript <i>[108] Court Recorder's transcript of Proceedings (Civil) - 3-5-19 - Bell</i>
04/05/2019	 Decision and Order

CASE SUMMARY

CASE NO. A-15-718679-C

[110] Decision and Order

04/18/2019



Notice

Filed By: Defendant Harvest Management Sub LLC
[111] Notice of Filing Petition for Extraordinary Writ Relief

05/31/2019



Motion for Withdrawal

[112] Motion for Leave to Withdraw as Counsel

06/17/2019



Motion to Compel

Filed By: Plaintiff Morgan, Aaron M
[113] Plaintiff's Motion to Compel Response to Post-Judgment Request for Production of Documents

06/17/2019



Clerk's Notice of Hearing

[114] Notice of Hearing

08/12/2019



Order Granting Motion

Filed By: Plaintiff Morgan, Aaron M
[115] Order Granting Plaintiff's Motion to Compel Response to Post-Judgment Request for Production of Documents

08/13/2019



Notice of Entry of Order

Filed By: Plaintiff Morgan, Aaron M
[116] Notice of Entry of Order Granting Plaintiff's Motion to Compel Response to Post-Judgment Request for Production of Documents

08/26/2019



Motion for Attorney Fees

Filed By: Plaintiff Morgan, Aaron M
[117] Motion for Attorney Fees Pursuant to NRCP 37(a)(5)

08/26/2019



Clerk's Notice of Hearing

[118] Notice of Hearing

09/23/2019



Opposition to Motion

Filed By: Defendant Lujan, David E
[119] Limited Opposition to Motion for Attorney's Fees

09/24/2019



Notice

Filed By: Plaintiff Morgan, Aaron M
[120] Notice of Defendant's Failure to Oppose Plaintiff's Motion for Attorney Fees Pursuant to NRCP 37(a)(5) and Non-Compliance with Order Dated August 12, 2019

09/26/2019



Order

Filed By: Defendant Harvest Management Sub LLC
[121] Order Setting Hearing

09/26/2019



Notice of Entry of Order

[122] Notice of Entry of Order Setting Hearing

09/26/2019


















Errata

Filed By: Defendant Harvest Management Sub LLC
[123] Errata to Notice of Entry of Order Setting Hearing














CASE SUMMARY

CASE NO. A-15-718679-C

10/03/2019	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Morgan, Aaron M <i>[124] Notice of Entry of Stipulation and Order to Continue October 1, 2019 Hearing</i>
10/03/2019	 Stipulation and Order Filed by: Plaintiff Morgan, Aaron M <i>[125] Stipulation and Order to Continue October 1, 2019 Hearing</i>
10/18/2019	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>[126] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>
10/24/2019	 Order Granting Motion Filed By: Plaintiff Morgan, Aaron M <i>[127] Order Granting Plaintiff's Motion for Attorney's Fees Pursuant to NRCP 37</i>
10/24/2019	 Notice of Entry of Order Filed By: Plaintiff Morgan, Aaron M <i>[128] Notice of Entry of Order Granting Plaintiff's Motion for Attorney's Fees Pursuant to NRCP 37</i>
11/07/2019	 Order to Withdraw as Attorney of Record Filed by: Defendant Lujan, David E <i>[129] Order Granting Motion for Leave to Withdraw as Counsel</i>
11/13/2019	 Notice of Entry Filed By: Defendant Lujan, David E <i>[130] Notice of Entry of Order</i>
01/03/2020	 Decision and Order <i>[131] Decision and Order</i>
02/12/2020	 Reporters Transcript <i>[132] Court Reporters transcript of Proceedings (Civil) 3/19/2019</i>
02/12/2020	 Reporters Transcript <i>[133] Recorder's Transcript of Paintiff's Motion for Attorney Fees Pursuant to NRCP 37(a) (5)- 10-1-19</i>
02/12/2020	 Recorders Transcript of Hearing <i>[134] Recorder's Transcript of Hearing - 4-2-19 - Bell</i>
02/12/2020	 Reporters Transcript <i>[135] Recorder's Transcript of Hearing - 1-14-20 - Bell</i>
02/19/2020	 Reporters Transcript <i>[136] Reporters Transcript of Defendant Harvest Management Sub LLC's Motion For Entry of Judgment 10/29/2019</i>
02/26/2020	 Notice of Change Filed By: Plaintiff Morgan, Aaron M <i>[137] Notice of Change of Firm Affiliation</i>
03/20/2020	 Notice












CASE SUMMARY

CASE NO. A-15-718679-C

	<p>Filed By: Defendant Harvest Management Sub LLC <i>[138] Notice of Filing Petition for Extraordinary Writ Relief</i></p>
03/23/2020	<p> Motion to Withdraw As Counsel Filed By: Plaintiff Morgan, Aaron M <i>[139] Motion to Withdraw as Counsel of Record</i></p>
03/23/2020	<p> Clerk's Notice of Hearing <i>[140] Clerk's Notice of Hearing</i></p>
05/04/2020	<p> Stipulation and Order <i>[141] Stipulation and Order To Vacate Pre-Trial Deadlines and Continue Trail</i></p>
05/05/2020	<p> Notice of Entry of Stipulation and Order Filed By: Defendant Harvest Management Sub LLC <i>[142] Notice of Entry of Stipulation and Order to Vacate Pre-Trial Deadlines and Continue Trial</i></p>
05/05/2020	<p> Order to Withdraw as Attorney of Record <i>[143] Order Granting Motion to Withdraw as Attorney of Record</i></p>
05/05/2020	<p> Notice of Entry of Order Filed By: Defendant Harvest Management Sub LLC <i>[144] Notice of Entry of Order</i></p>
09/30/2020	<p> Stipulation and Order Filed by: Plaintiff Morgan, Aaron M <i>[145] Stipulation and Order to Continue October 1, 2020 Status Check: Trial Setting</i></p>
10/02/2020	<p> Notice of Entry of Stipulation and Order Filed By: Plaintiff Morgan, Aaron M <i>[146] Notice of Entry of Stipulation and Order to Continue October 1, 2020 Status Check: Trial Setting</i></p>
02/15/2022	<p> Motion to Dismiss Filed By: Defendant Harvest Management Sub LLC <i>[147] Defendant Harvest Mananagement Sub LLC's Motion to Dismiss Pursuant to NRCP 41 (e)</i></p>
02/15/2022	<p> Clerk's Notice of Hearing <i>[148] Notice of Hearing</i></p>
03/01/2022	<p> Opposition to Motion to Dismiss Filed By: Plaintiff Morgan, Aaron M <i>[149] Plaintiff's Opposition to Defendant Harvest Management Sub LLC's Motion to Dismiss Pursuant to NRCP 41(e)</i></p>
03/17/2022	<p> Reply in Support Filed By: Defendant Harvest Management Sub LLC <i>[150] Reply in Support of Defendant Harvest Management Sub LLC's Motion to Dismiss Pursuant to NRCP 41(e)</i></p>
04/07/2022	<p> Recorders Transcript of Hearing <i>[151] Recorders Transcript of Motion to Dismiss 3/31/22</i></p>

CASE SUMMARY

CASE NO. A-15-718679-C

05/20/2022	 Supplemental Brief Filed By: Defendant Harvest Management Sub LLC <i>[152] Supplemental Brief in Support of Defendant Harvest Management Sub LLC's Motion to Dismiss Pursuant to NRCP 41(e)</i>
05/20/2022	 Appendix Filed By: Defendant Harvest Management Sub LLC <i>[153] Appendix of Exhibits to Supplemental Brief in Support of Defendant Harvest Management Sub LLC's Motion to Dismiss Pursuant to NRCP 41(e) Volume 1 of 2 [part 1 of 2]</i>
05/20/2022	 Appendix Filed By: Defendant Harvest Management Sub LLC <i>[154] Appendix of Exhibits to Supplemental Brief in Support of Defendant Harvest Management Sub LLC's Motion to Dismiss Pursuant to NRCP 41(e) Volume 1 of 2 [part 2 of 2]</i>
05/20/2022	 Appendix Filed By: Defendant Harvest Management Sub LLC <i>[155] Appendix of Exhibits to Supplemental Brief in Support of Defendant Harvest Management Sub LLC's Motion to Dismiss Pursuant to NRCP 41(e) Volume 2 of 2</i>
05/20/2022	 Brief Filed By: Plaintiff Morgan, Aaron M <i>[156] Plaintiff's Supplemental Brief Regarding the November 2017 Trial as it Relates to the Pending Motion to Dismiss</i>
05/26/2022	 Order Shortening Time Filed By: Defendant Harvest Management Sub LLC <i>[157] Defendant Harvest Management Sub LLC's Motion to Strike Portions of Plaintiff's Supplemental Brief Regarding the November 2017 Trial as it Relates to the Pending Motion to Dismiss, or in the Alternative, Motion for Leave to File Response, on Order Shortening Time</i>
05/27/2022	 Opposition Filed By: Plaintiff Morgan, Aaron M <i>[158] Plaintiff's Opposition to Defendant's Motion to Strike on Order Shortening Time</i>
05/31/2022	 Reply in Support Filed By: Defendant Harvest Management Sub LLC <i>[159] Reply in Support of Defendant Harvest Management Sub LLC's Motion to Strike Portions of Plaintiff's Supplemental Brief Regarding the November 2017 Trial as It Relates to the Pending Motion to Dismiss, or, in the Alternative, Motion for Leave to File Response</i>
06/02/2022	 Response Filed by: Defendant Harvest Management Sub LLC <i>[160] Response to Plaintiff's Supplemental Brief Regarding the November 2017 Trial as it Relates to the Pending Motion to Dismiss</i>
06/08/2022	 Order Filed By: Defendant Harvest Management Sub LLC <i>[161] Order Granting in Part, Harvest Management Sub LLC's Motion to Strike Portions of Plaintiff's Supplemental Brief Regarding the November 2017 Trial as it Relates to the Pending Motion to Dismiss, or in the Alternative, Motion for Leave to File Response</i>
06/08/2022	 Notice of Entry of Order

CASE SUMMARY

CASE NO. A-15-718679-C

Filed By: Defendant Harvest Management Sub LLC

[162] Notice of Entry of Order Granting, in Part, Harvest Management Sub LLCs Motion to Strike Portions of Plaintiffs Supplemental Brief Regarding the November 2017 Trial as it Relates to the Pending Motion to Dismiss, or in the Alternative, Motion for Leave to File Response

08/11/2022



Order Denying Motion

[163] Decision and Order

08/13/2022



Notice of Entry of Decision and Order

Filed By: Plaintiff Morgan, Aaron M

[164] Notice of Entry of Decision and Order

08/15/2022



Motion for Summary Judgment

Filed By: Plaintiff Morgan, Aaron M

[165] Plaintiff's Motion for Summary Judgment Regarding Vicarious Liability

08/15/2022



Clerk's Notice of Hearing

Party: Plaintiff Morgan, Aaron M

[166] Notice of Hearing

08/29/2022



Opposition to Motion For Summary Judgment

Filed By: Defendant Harvest Management Sub LLC

[167] Opposition to Plaintiff's Motion For Summary Judgment Regarding Vicarious Liability

09/12/2022



Reply to Opposition

Filed by: Plaintiff Morgan, Aaron M

[168] Plaintiff's Reply to Defendants' Opposition to Plaintiff's Motion for Summary Judgment Regarding Vicarious Liability

11/15/2022



Order Granting Summary Judgment

[169] 2022-11-09 Order Granting Pl's Motion for Summary Judgment Regarding Vicarious Liability Against Def Harvest

11/15/2022



Notice of Entry of Order

Filed By: Plaintiff Morgan, Aaron M

[171] Notice of Entry of Order Granting Plaintiff's Motion for Summary Judgment Regarding Vicarious Liability Against Harvest Management Sub LLC

11/16/2022



Notice of Entry of Order

Filed By: Plaintiff Morgan, Aaron M

[170] Notice of Entry of Order Granting Plaintiff's Motion for Summary Judgment Regarding Vicarious Liability Against Harvest Management Sub LLC

11/18/2022



Memorandum of Costs and Disbursements

Filed By: Plaintiff Morgan, Aaron M

[172] Plaintiff's Verified Memorandum of Costs

11/21/2022



Motion to Retax

Filed By: Defendant Harvest Management Sub LLC

[173] Defendant Harvest Mananagement Sub LLC's Motion to Retax Costs

11/28/2022










Clerk's Notice of Hearing

Party: Defendant Lujan, David E

[174] Notice of Hearing

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CASE NO. A-15-718679-C

12/07/2022	 Opposition to Motion <i>[175] Plaintiff's Opposition to Defendant Harvest Management Sub LLC's Motion to Retax Costs</i>
12/07/2022	 Motion for Attorney Fees and Costs Filed By: Plaintiff Morgan, Aaron M <i>[176] Plaintiff's Motion for Attorney Fees, Costs, and Interest Against Defendant Harvest Management Sub LLC</i>
12/07/2022	 Motion Filed By: Plaintiff Morgan, Aaron M <i>[177] Plaintiff's Motion for an Order Adopting the Filing Deadlines for (1) Plaintiff's Opposition to Harvest's Motion to Retax Costs; and (2) Plaintiff's Motion for Attorney Fees, Costs, and Interest</i>
12/08/2022	 Clerk's Notice of Hearing Party: Plaintiff Morgan, Aaron M <i>[178] Notice of Hearing</i>
12/09/2022	 Clerk's Notice of Hearing <i>[179] Notice of Hearing</i>
12/13/2022	 Notice of Appeal Filed By: Defendant Harvest Management Sub LLC <i>[180] Notice of Appeal</i>
12/13/2022	 Case Appeal Statement Filed By: Defendant Harvest Management Sub LLC <i>[181] Case Appeal Statement</i>

DISPOSITIONS

08/30/2017	Partial Summary Judgment (Judicial Officer: Bell, Linda Marie) Debtors: David E Lujan (Defendant), Harvest Management Sub LLC (Defendant) Creditors: Aaron M Morgan (Plaintiff) Judgment: 08/30/2017, Docketed: 08/31/2017
04/09/2018	Verdict (Judicial Officer: Gonzalez, Elizabeth) Debtors: David E Lujan (Defendant) Creditors: Aaron M Morgan (Plaintiff) Judgment: 04/09/2018, Docketed: 12/17/2018 Total Judgment: 2,980,980.00
12/17/2018	Judgment Upon the Verdict (Judicial Officer: Gonzalez, Elizabeth) Debtors: David E Lujan (Defendant) Creditors: Aaron M Morgan (Plaintiff) Judgment: 12/17/2018, Docketed: 12/17/2018 Total Judgment: 3,046,382.72
10/18/2019	Clerk's Certificate (Judicial Officer: Bell, Linda Marie) Debtors: Aaron M Morgan (Plaintiff) Creditors: David E Lujan (Defendant), Harvest Management Sub LLC (Defendant) Judgment: 10/18/2019, Docketed: 10/21/2019 Comment: Supreme Court No. 77753 " Appeal Dismissed"
10/24/2019	Order (Judicial Officer: Bell, Linda Marie) Debtors: David E Lujan (Defendant)

CASE SUMMARY


CASE NO. A-15-718679-C

Creditors: Aaron M Morgan (Plaintiff)
Judgment: 10/24/2019, Docketed: 10/28/2019
Total Judgment: 4,981.50

11/15/2022 **Summary Judgment** (Judicial Officer: Bell, Linda Marie)
Debtors: Harvest Management Sub LLC (Defendant)
Creditors: Aaron M Morgan (Plaintiff)
Judgment: 11/15/2022, Docketed: 11/16/2022
Total Judgment: 3,775,302.82


HEARINGS

11/29/2016 **CANCELED Status Conference** (9:00 AM) (Judicial Officer: Bell, Linda Marie)
Vacated - per Stipulation and Order

12/29/2016  **Status Conference** (9:00 AM) (Judicial Officer: Bell, Linda Marie)
Status Conference: Status of Case Re: Trial Setting
Matter Heard;
Journal Entry Details:
Counsel advised discovery was completed and they had no discovery issues; the dispositive motion cut-off date is due within three weeks. COURT reviewed the trial handout and ORDERED, trial date STANDS.;

01/31/2017 **CANCELED Calendar Call** (9:00 AM) (Judicial Officer: Bell, Linda Marie)
Vacated - per Stipulation and Order

02/06/2017 **CANCELED Jury Trial** (9:00 AM) (Judicial Officer: Bell, Linda Marie)
Vacated - per Stipulation and Order

03/07/2017  **Calendar Call** (9:00 AM) (Judicial Officer: Bell, Linda Marie)

MINUTES


Matter Heard;
Journal Entry Details:
Calendar Call Mr. Gardner advised he is ready to move forward with trial. Colloquy regarding scheduling. COURT ORDERED, trial VACATED and RESET. 4/4/17 9:00 AM CALENDAR CALL 4/24/17 9:00 AM JURY TRIAL;


SCHEDULED HEARINGS

 **Calendar Call** (04/04/2017 at 9:00 AM) (Judicial Officer: Bell, Linda Marie)

03/13/2017 **CANCELED Jury Trial** (9:00 AM) (Judicial Officer: Bell, Linda Marie)
Vacated - per Judge

04/04/2017 **CANCELED Calendar Call** (9:00 AM) (Judicial Officer: Bell, Linda Marie)
Vacated

04/04/2017  **Calendar Call** (9:00 AM) (Judicial Officer: Bell, Linda Marie)
Trial Date Set;
Journal Entry Details:
Parties announced ready for trial 4 - 5 DAYS; will have exhibits and jury instructions prepared and submit to the court soon. COURT ORDERED, TRIAL DATE STANDS. 4-24-17 9:00 AM JURY TRIAL (DEPT. VII);

04/24/2017  **Jury Trial - FIRM** (9:00 AM) (Judicial Officer: Bell, Linda Marie)
Vacated and Reset -sdp
Off Calendar;
Journal Entry Details:
Jury Trial OUTSIDE THE PERSPECTIVE JURY Mr. Rands advised the defendant, Mr. Lujan, has been hospitalized and requested to continue the jury trial. No opposition by Mr. Cloward,

CASE SUMMARY

CASE NO. A-15-718679-C

requesting a status check be set. COURT ORDERED, jury trial CONTINUED and Mr. Rands to provide medical documentation as to Mr. Lujan's hospital stay by the upcoming court date. COURT FURTHER ORDERED, exhibits returned to Counsel and trial OFF CALENDAR . 5/16/17 9:00 AM STATUS CHECK: STATUS OF THE CASE;

05/16/2017



Status Check (9:00 AM) (Judicial Officer: Bell, Linda Marie)

Status Check: Status of the Case

Matter Heard;

Journal Entry Details:

Status Check: Status of the Case Mr. Gardner advised his client is making a disability claim and his daughter who is assisting him has his records. Mr. Lujan is prepared to make a record under oath. Court advised it needs the discharge paperwork from the hospital. Mr. Gardner so noted. Mr. Boyack advised a motion for partial summary judgment has been filed and would like to reset the trial after. Colloquy regarding scheduling. COURT ORDERED, trial date SET. Mr. Gardner made an oral request for the Court to review the discharge summary of Mr. Lujan in camera as he does not want to file it. COURT SO NOTED. 8/29/17 9:00 AM CALENDAR CALL 9/5/17 9:00 AM JURY TRIAL;

06/13/2017



Motion for Partial Summary Judgment (9:00 AM) (Judicial Officer: Bell, Linda Marie)

Plaintiff's Motion for Partial Summary Judgment Regarding Plaintiff's Past Medical Expenses Granted;

Journal Entry Details:

Bryan Boyack, Esq., appeared on behalf of Pltf Douglas Gardner, Esq., appeared on behalf of Deft Mr. Gardner provided the Court with medical records. Mr. Boyack argued Deft s expert should not be allowed to make any further opinions that were not disclosed in his reports. Court noted having Mr. Lujan s discharge summary. Mr. Gardner argued Defts are prepared to respond to the affidavit, and requested more time to do so. However, if Defts are not allowed to respond to the affidavit it should be stricken. After hearing from both sides, COURT ORDERED, Motion for Partial Summary Judgment GRANTED. Mr. Boyack indicated he would submit the proposed order. ;

08/29/2017



Calendar Call (9:00 AM) (Judicial Officer: Bell, Linda Marie)

Trial Date Set;

Journal Entry Details:

Calendar Call Mr. Boyack advised Mr. Cloward is currently in trial in DC 27 and will be starting another trial 9/18/17 and an issue with an expert the week of 9/25/17. Upon the Court's inquiry, the trial will remain five days. Colloquy regarding scheduling. COURT ORDERED, trial VACATED and RESET. 10/3/17 9:00 AM CALENDAR CALL 10/9/17 9:00 AM JURY TRIAL;

09/05/2017

CANCELED Jury Trial (9:00 AM) (Judicial Officer: Bell, Linda Marie)

Vacated

10/03/2017



Calendar Call (9:00 AM) (Judicial Officer: Bell, Linda Marie)

Matter Heard;

Journal Entry Details:

Upon the Court's inquiry, parties ready to go forward with trial which will consist of 5-6 witnesses; requesting the end of November. Colloquy regarding scheduling. COURT ORDERED, trial SET TO PROCEED. Additionally, Mr. Garner inquired about a witness appearing by video, Court so noted. 11/6/17 9:00 AM JURY TRIAL;

10/09/2017

CANCELED Jury Trial (9:00 AM) (Judicial Officer: Bell, Linda Marie)

Vacated

11/06/2017



Jury Trial (9:00 AM) (Judicial Officer: Bell, Linda Marie)

11/06/2017-11/08/2017

Trial Continues; Jury Trial

Trial Continues; Jury Trial

Mistrial;

Journal Entry Details:

INSIDE THE PRESENCE OF THE JURY: Testimony and exhibits presented (See worksheets).

CASE SUMMARY

CASE NO. A-15-718679-C

OUTSIDE THE PRESENCE OF THE JURY: Arguments by Mr. Gardner advising reference to the auto citation is not relevant and prejudicial as not relevant. Opposition by Mr. Cloward stating it would be used for impeachment purposes. Further arguments by Counsel. COURT ORDERED, traffic citation inadmissible. INSIDE THE PRESENCE OF THE JURY: Testimony and exhibits continued. OUTSIDE THE PRESENCE OF THE JURY: Mr. Cloward move for a mistrial as Mr. Garner referred to a pending accident Plaintiff was involved in. Mr. Gardner advised it was brought up for impeachment purposes. COURT ORDERED, matter TRAILED. MATTER RECALLED, Court stated findings and ORDERED, mistrial GRANTED. INSIDE THE PRESENCE OF THE JURY: Court thanked and excused the Jury. OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding scheduling. COURT ORDERED, status check SET. 11/9/18 9:00 AM STATUS CHECK: TRIAL SETTING;

Trial Continues; Jury Trial

Trial Continues; Jury Trial

Mistrial;

Journal Entry Details:

Jury Trial Continued INSIDE THE PRESENCE OF THE JURY: Opening statements by Plaintiff's Counsel. OUTSIDE THE PRESENCE OF THE JURY: Mr. Cloward waived his opening statement until the Plaintiff's rest. COURT SO ORDERED. EXCLUSIONARY RULE INVOKED. INSIDE THE PRESENCE OF THE JURY: Testimony and exhibits presented. (See worksheets). COURT ORDERED, trial in recess and CONTINUED. OUTSIDE THE PRESENCE OF THE JURY: Mr. Gardner made a record as to the motion in limine that granted the Plaintiff summary judgment; further stating opposition and there has not been adequate foundation laid for it. Court advised the issue was there was no expert by the Defense providing any opinion about the issues related to wrist from the defense side. Jury instructions settled. CONTINUED TO 11/8/17 10:00 AM;

Trial Continues; Jury Trial


Trial Continues; Jury Trial


Mistrial;

Journal Entry Details:

Jury Trial Begins OUTSIDE THE PRESENCE OF THE PERSPECTIVE JURY: Colloquy regarding counsel's proposed jury instructions, trial procedures and voir dire. Mr. Cloward made an oral request to be able to move around the courtroom during voir dire citing Salazar v. State an Whitlock v. Salmon. COURT ORDERED, Mr. Cloward's request DENIED. Counsel may address the jury at the podium but may not move about the courtroom. Further colloquy regarding wage abandonment. Court advised any discussion regarding Plaintiff's employment can be done outside the presence of the jury. Parties so noted. INSIDE THE PRESENCE OF THE PERSPECTIVE JURY: Introductions by the Court and Counsel. Voir Dire conducted. OUTSIDE THE PRESENCE OF THE PERSPECTIVE JURY: Mr. Cloward made a record as to discussions during a side bar regarding secondary gain. INSIDE THE PRESENCE OF THE PERSPECTIVE JURY: Voir dire continued. OUTSIDE THE PRESENCE OF THE PERSPECTIVE JURY: Mr. Cloward stated additional concerns as to having to remain at the podium during voir dire. Court so noted. INSIDE THE PRESENCE OF THE PERSPECTIVE JURY: Voir dire continued. Peremptory challenges exercised. Court read jury instructions. Jury sworn. COURT ORDERED, trial CONTINUED and in recess for the evening. CONTINUED TO 11/7/17 10:00 AM ;

11/07/2017 **CANCELED Status Check (9:00 AM)** (Judicial Officer: Bell, Linda Marie)
Vacated - On in Error
Status Check: Settlement Documents

11/09/2017  **Status Check (10:30 AM)** (Judicial Officer: Bell, Linda Marie)
Status Check: Trial Setting
Matter Heard; Status Check: Trial Setting
Journal Entry Details:
Upon the Court's inquiry, Mr. Cloward advised he is unable to begin trial this upcoming Monday as two of the three Drs are unavailable. Colloquy regarding scheduling. COURT ORDERED, trial date SET. 3/6/18 9:00 AM CALENDAR CALL 4/2/18 9:00 AM JURY TRIAL (FIRM);

03/06/2018  **Calendar Call (9:00 AM)** (Judicial Officer: Bell, Linda Marie)
Matter Heard;
Journal Entry Details:
Mr. Cloward announced ready for trial. COURT ORDERED, TRIAL DATE STANDS. 4-02-18 9:00 AM JURY TRIAL (FIRM);

CASE SUMMARY

CASE NO. A-15-718679-C

03/19/2018

CANCELED Motion to Strike (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Vacated - On in Error

Defendant Harvest Management Sub LLC's Motion to Strike Portions of Plaintiff Aaron M. Morgan's Reply in Support of Motion for Attorney's Fees and Costs; Or in the Alternative, Motion for Leave to File Sur-Reply on Order of Shortening Time

04/02/2018



Jury Trial - FIRM (9:00 AM) (Judicial Officer: Bell, Linda Marie)

04/02/2018-04/06/2018, 04/09/2018

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

JURY PRESENT. Testimony and exhibits presented (see worksheets). CONFERENCE AT BENCH. Defense rests. Court instructed the Jury. Closing statements by Mr. Cloward and Mr. Rands. Rebuttal by Mr. Cloward. At the hour of 3:33 p.m., Jury retired to deliberate. JURY PRESENT. At the hour of 5:29 p.m., the Jury reached a verdict in accordance with the verdict which was filed in OPEN COURT; Plaintiff awarded damages in the amount of \$2,980,980.00. Court thanked and excused the jurors.;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

JURY PRESENT. Testimony presented (see worksheet). Plaintiff rests. OUTSIDE THE PRESENCE OF THE JURY. Jury instructions settled on record. COURT ORDERED, matter CONTINUED. CONTINUED TO: 4/9/18 9:00 AM;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

JURY PRESENT. Testimony and exhibits presented (see worksheets). COURT ORDERED, matter CONTINUED. CONTINUED TO: 4/6/18 9:00 AM;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding instructions to the Jury with respect to the previous trial. JURY PRESENT. Testimony and exhibits presented (see worksheets). COURT ORDERED, matter CONTINUED. CONTINUED TO: 4/5/18 10:30 AM;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

PROSPECTIVE JURY PANEL PRESENT. CONFERENCE AT BENCH. Peremptory challenges exercised. Court instructed Jury. Eight Jurors and two alternates selected and sworn. Opening statements by Mr. Cloward and Mr. Gardner. COURT ORDERED, matter CONTINUED. CONTINUED TO: 4/4/18 9:00 AM;

Trial Continues;

CASE SUMMARY

CASE NO. A-15-718679-C

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict for Plaintiff;

Journal Entry Details:

JURY TRIAL FIRM....PLAINTIFF'S MOTION TO PRESENT A JURY QUESTIONNAIRE PRIOR TO VOIR DIRE OR IN THE ALTERNATIVE FOR MORE LIBERAL JURY SELECTION ON ORDER SHORTENING TIME OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL. Colloquy regarding Plaintiff's Motion. COURT ORDERED, Motion DENIED as it was filed untimely. PROSPECTIVE JURY PANEL PRESENT. Voir dire of panel. CONFERENCE AT BENCH. COURT ORDERED, matter CONTINUED. CONTINUED TO: 4/3/18 10:00 AM;

04/02/2018

Motion (9:00 AM) (Judicial Officer: Bell, Linda Marie)

Plaintiff's Motion to Present a Jury Questionnaire Prior to Voir Dire or In the Alternative for More Liberal Jury Selection on Order Shortening Time
Denied;

04/10/2018



Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer: Bell, Linda Marie)

04/10/2018, 05/24/2018

Plaintiff's Motion for Attorney Fees and Costs of Mistrial

Matter Continued;

Off Calendar;

Journal Entry Details:

Court advised the Motion has been withdrawn as of 04/11/18, and should have been taken off calendar.;

Matter Continued;

Off Calendar;

Journal Entry Details:

Matter called, no parties present. COURT ORDERED, matter CONTINUED. CONTINUED TO: 5/24/18 9:00 AM;

11/06/2018



Motion for Judgment (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Plaintiff's Motion for Entry of Judgment

Motion Denied; Plaintiff's Motion for Entry of Judgment

Journal Entry Details:

Mr. Stewart argued the actions of defense counsel were pretty clear throughout the trial he was representing individual Pltf. and Harvest Management. During counsels opening statement he introduced Harvest as his 36(b) client, no dispute Mr. Lujan was in the course and scope of his employment, driving the bus at the time of the accident. Further, Due to an inadvertent error on the verdict form, left off Harvest Management and when counsel noticed this, consulted the NRCP governing special verdicts and 49(a) allows for the Court to make a finding about something not submitted to the jury. Mr. Kennedy argued motion should be denied since and essentially it stems from two premises. The first, whatever the claim was, negligent entrustment or vicarious liability was apparently abandoned at some point early on and was never presented to the jury. Further, you go through the first trial, every step of the way where a lawyer would of said, this is my client, this is the claim that I am defending and it does not happen. It did not happen if voir dire, does not happen when naming witnesses for the jury and in the first trial does not happen in the opening statement and that ends in a mistrial. Then you go to the second trial, nothing in voir dire, nothing in opening statement about the claim, nothing in the jury instructions, nothing in closing arguments and most importantly, there is nothing on the verdict form. Court inquired why on the jury instructions the caption includes the corporate Deft. and on the special verdict form, it does not. Mr. Kennedy stated he does not know and as to the jury instructions, they are printed off the regular caption that had that Deft. on it. When you look at the jury instructions, there are no jury instructions as to the theories asserted against Harvest Management and if you look at the verdict form, Deft. is singular. Additionally, with respect to that inconsistency, when you look at what counsel says in closing arguments to the jury, counsel argued there is no question counsel understands it is a sole Deft., showing the form on the apparently on the ELMO, this is what the form will look like and this is what you should do. You should find Mr. Lujan is 100% negligent and Pltf. 0% and you should make a finding against Mr. Lujan, the Pltf. and that is what the jury does. Further, Mr. Kennedy argued procedurally they never tried the case against that Deft. As to

CASE SUMMARY**CASE No. A-15-718679-C**

the master servant theory, Mr. Kennedy stated that is not actual plead, it is mentioned and nothing in there that pleads that theory. In fact, the evidence is, Mr. Lujan was having lunch and returning from lunch when the accident happened. Also, Rule 49 does not get them there, Rule 49 allows the Court to add implicit findings, does not allow the Court to allow add a party Deft. and a claim to a jury verdict form where the jury form does not include them to start with. As to negligent entrustment, Mr. Kenney argued they asked that the individual Deft. Mr. Lujan be found 100% negligent and that was the finding. Mr. Steward further argued inadvertent error on instructions. Mr. Boyack advised the Judge had prepared the special verdict form and along with that what does Harvest Management want the special verdict to look like if there is no comparative negligence on the corporate Deft. There was no evidence presented in any of the trial that he was not within the course and scope. The corporate representative who was put on the stand during the trial discusses he was an employee, discusses the facts of the accident and never does she bring up on direct or cross examination that he was on a break and we are not on the hook here or any assertion of that. Colloquy. COURT ORDERED, motion DENIED. While there is an inconsistency in the caption of the jury instructions and special verdict form, it does not appear to be any additional instructions that would lend credence to the fact that the claims against Harvest Management Sub, LLC, were submitted to the jury. Judgement to be submitted to the Court.;

01/25/2019

**Motion for Judgment** (3:00 AM) (Judicial Officer: Bell, Linda Marie)**01/25/2019, 02/19/2019, 03/05/2019**

Defendant Harvest Management Sub LLC's Motion for Entry of Judgment Referred; to Judge Bell (Dept VII) for decision

Continued;

Under Advisement;

Journal Entry Details:

Upon Court's inquiry, Mr. Cloward advised he would request the case be reassigned back to Department 7 and Mr. Kennedy advised he has filed a motion in opposition to having the case be reassigned. Upon Court's further inquiry, Mr. Kennedy advised he does not believe the matter at hand does not need to wait pending the decision of the Nevada Supreme Court decision and the transcript of the settling of the jury instructions was not included as part of the appendix. Following extensive argument by counsel, COURT ADVISED it would like to review the transcripts prior to making a decision and ORDERED, DECISION TO ISSUE; matter SET for Status Check. 03/19/19 STATUS CHECK: DECISION;

Referred; to Judge Bell (Dept VII) for decision

Continued;

Under Advisement;

Journal Entry Details:

No parties present. COURT ORDERED, matter CONTINUED. CONTINUED TO: 03/05/19 9:00 AM ;

Referred; to Judge Bell (Dept VII) for decision

Continued;

Under Advisement;

01/25/2019

Opposition and Countermotion (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Opposition to Defendant Harvest Management Sub LLC's Motion for Entry of Judgment and Counter-Motion to Transfer Case Back to Chief Judge Bell for Resolution of Post-Verdict Issues

Granted;

01/25/2019

**All Pending Motions** (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Minute Order - No Hearing Held;

Journal Entry Details:

DEFENDANT HARVEST MANAGEMENT SUB LLC'S MOTION FOR ENTRY OF JUDGMENT...OPPOSITION TO DEFENDANT HARVEST MANAGEMENT SUB LLC'S MOTION FOR ENTRY OF JUDGMENT AND COUNTER-MOTION TO TRANSFER CASE BACK TO CHIEF JUDGE BELL FOR RESOLUTION OF POST-VERDICT ISSUES The Court having reviewed the motion for judgment and the related briefing and being fully informed, GRANTS the COUNTERMOTION. The MOTION is REFERRED to Judge Bell for decision. Counsel for Plaintiff is directed to submit a proposed order consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing and argument. This Decision sets forth the Court's intended disposition on the subject

CASE SUMMARY

CASE NO. A-15-718679-C

but anticipates further order of the Court to make such disposition effective as an order or judgment. 2-12-19 9:00 AM DEFENDANT HARVEST MANAGEMENT SUB LLC'S MOTION FOR ENTRY OF JUDGMENT (DEPT VII - Bell; Courtroom 17A) 3-1-19 CHAMBERS PLAINTIFF'S MOTION FOR ATTORNEY'S FEES AND COSTS (DEPT XI - Gonzalez) CLERK'S NOTE: Minute order forwarded to Department VII, the Hon. Linda Bell, as to the Motion for Entry of Judgment, and distributed to the parties via the E-Service List. / dr 1-28-19 CLERK'S NOTE: Minute order updated with a court date in Department VII as reflected above and entered in Odyssey. Parties notified via electronic mail. / dr 1-29-19;

03/14/2019



Minute Order (2:00 PM) (Judicial Officer: Bell, Linda Marie)

Minute Order - No Hearing Held;

Journal Entry Details:

For convenience, case A-15-718679-C shall be transferred to Department 7 effective immediately pursuant to EDCR 1.30(b)(15). CLERK'S NOTE: A copy of this Minute Order was electronically served to all registered for Odyssey File and Serve. //ke 03/14/19;

03/19/2019

Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer: Bell, Linda Marie)

Plaintiff's Motion for Attorney's Fees and Costs

Minute Order Re: EDCR 1.30(b)(15) Dated 03-14-19

Stayed;

03/19/2019

Status Check (9:00 AM) (Judicial Officer: Bell, Linda Marie)

Status Check: Decision

Matter Heard;

03/19/2019

Motion to Strike (9:00 AM) (Judicial Officer: Bell, Linda Marie)

Defendant Harvest Management Sub LLC's Motion to Strike Portions of Plaintiff Aaron M. Morgan's Reply in Support of Motion for Attorney's Fees and Costs; or, in the Alternative, Motion for Leave to File Sur-Reply on Order Shortening Time

Stayed;

03/19/2019



All Pending Motions (9:00 AM) (Judicial Officer: Bell, Linda Marie)

Matter Heard;

Journal Entry Details:

STATUS CHECK: DECISION...PLAINTIFF'S MOTION FOR ATTORNEY'S FEES AND COSTS...DEFENDANT HARVEST MANAGEMENT SUB LLC'S MOTION TO STRIKE PORTIONS OF PLAINTIFF AARON MORGAN'S REPLY IN SUPPORT OF MOTION FOR ATTORNEY'S FEES AND COSTS; OR, IN THE ALTERNATIVE, MOTION FOR LEAVE TO FILE SUR-REPLY ON ORDER SHORTENING TIME. Following extensive argument by counsel, COURT ORDERED, matter TAKEN UNDER ADVISEMENT. Matter SET for status check. 04/02/19 9:00 AM STATUS CHECK: DECISION ;

04/02/2019



Status Check (9:00 AM) (Judicial Officer: Bell, Linda Marie)

STATUS CHECK: DECISION

Matter Heard;

Journal Entry Details:

Court advised decision will be issued today.;

04/05/2019



Minute Order (4:30 PM) (Judicial Officer: Bell, Linda Marie)

Minute Order - No Hearing Held;

Journal Entry Details:

Morgan v Lujan A-15-718679-C The Decision and Order from C-18-322990-2 regarding Nevada v Dogaru was erroneously filed in this case. This Decision and Order shall be stricken.;

07/23/2019



Motion to Compel (9:00 AM) (Judicial Officer: Bell, Linda Marie)

Plaintiff's Motion to Compel Response to Post-Judgment Request for Production of Documents

Granted;

Journal Entry Details:


GIVEN Ms. Wilde advised Mr. Rands advised he was unsure if he was going to appear today.

CASE SUMMARY

CASE NO. A-15-718679-C

COURT FINDS, given there was proper notice of the motion and there has been no challenge of the motion and no one is present to oppose today, ORDERED motion GRANTED. Ms. Wilde to prepare an order. Colloquy regarding ongoing litigation of the case.;

10/01/2019 **Motion for Attorney Fees (9:00 AM)** (Judicial Officer: Bell, Linda Marie)
Plaintiff's Motion for Attorney Fees Pursuant to NRCP 37(a)(5)
Granted;

10/01/2019  **Motion for Judgment (9:00 AM)** (Judicial Officer: Bell, Linda Marie)
10/01/2019, 10/29/2019
Defendant Harvest Management Sub LLC's Motion for Entry of Judgement

MINUTES

Continued;

Denied;

Journal Entry Details:


Following arguments by Counsel, COURT ORDERED, matter UNDER ADVISEMENT.


11/12/19 9:00 AM STATUS CHECK: DECISION;


Continued;

Denied;

SCHEDULED HEARINGS

 **Status Check (11/12/2019 at 9:00 AM)** (Judicial Officer: Bell, Linda Marie)
11/12/2019, 11/26/2019, 12/10/2019, 12/17/2019, 12/24/2019, 12/31/2019, 01/14/2020
STATUS CHECK: DECISION

10/01/2019  **All Pending Motions (9:00 AM)** (Judicial Officer: Bell, Linda Marie)
Matter Heard;
Journal Entry Details:
Douglas Rands, Esq. present on behalf of Defendant appearing via Courtcall. Court noted it has a limited opposition from Mr. Rands. Ms. Wilde advised she has not received the opposition. Argument by Ms. Wilde for attorney's fees and costs. Upon Court's inquiry, Ms. Wilde advised fees would be imposed against Mr. Lujan and his counsel as there has not been a withdraw of counsel. Mr. Rands advised he has filed a notice to withdraw however due to an error the motion was not served upon all parties, the motion has now been served as of a month ago. Argument by Mr. Rands to withdraw as counsel and fees not be assessed upon him. Upon Court's further inquiry, Ms. Wilde advised there is no objection to Mr. Rands withdrawal as counsel. COURT ORDERED, motion for withdrawal GRANTED. COURT FURTHER ORDERED, motion for fees GRANTED with respect to law firm Rands, South and Gardner, Mr. Gardner, and Mr. Lujan however not against Mr. Rands personally.;

11/12/2019  **Status Check (9:00 AM)** (Judicial Officer: Bell, Linda Marie)
11/12/2019, 11/26/2019, 12/10/2019, 12/17/2019, 12/24/2019, 12/31/2019, 01/14/2020
STATUS CHECK: DECISION

Continued;

Continued;

Continued;

Continued;

Continued;

Continued;

Matter Heard;

Journal Entry Details:

Court advised in reviewing the case it finds it cannot made a decision as their is not enough information therefore the only option is to proceed with trial on this issue. Upon Court's inquiry, parties do not need additional discovery, would request a jury trial, and trial would last approximately 3 days. COURT ORDERED, trial date SET. 06/16/20 9:00 AM CALENDAR CALL 06/22/20 11:00 AM JURY TRIAL;

Continued;

Continued;

Continued;

Continued;

Continued;


Continued;

CASE SUMMARY

CASE NO. A-15-718679-C

Continued;
Matter Heard;
Journal Entry Details:
Court noted a trial will be held on the outstanding issue and ORDERED, matter SET for status check to set a trail. 01/14/20 9:00 AM STATUS CHECK: TRIAL SETTING;
Continued;
Continued;
Continued;
Continued;
Continued;
Continued;
Continued;
Matter Heard;
Journal Entry Details:
COURT ORDERED, matter CONTINUED. CONTINUED TO: 12/31/19 9:00 AM;
Continued;
Continued;
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Continued;
Continued;
Continued;
Continued;
Matter Heard;
Journal Entry Details:
No parties present. COURT ORDERED, matter CONTINUED for decision. CONTINUED TO: 12/24/19 9:00 AM;
Continued;
Continued;
Continued;
Continued;
Continued;
Continued;
Continued;
Matter Heard;
Journal Entry Details:
No parties present. COURT ORDERED, matter CONTINUED. CONTINUED TO: 12/17/19 9:00 AM;
Continued;
Continued;
Continued;
Continued;
Continued;
Continued;
Continued;
Matter Heard;
Journal Entry Details:
No parties present. COURT ORDERED, matter CONTINUED two weeks. CONTINUED TO: 12/10/19 9:00 AM;
Continued;
Continued;
Continued;
Continued;
Continued;
Continued;
Continued;
Matter Heard;
Journal Entry Details:
No parties present. COURT ORDERED, matter CONTINUED one week. CONTINUED TO: 11/26/19 9:00 AM;




01/14/2020 **Status Check: Trial Setting (9:00 AM)** (Judicial Officer: Bell, Linda Marie)
Trial Date Set;

01/14/2020  **All Pending Motions (9:00 AM)** (Judicial Officer: Bell, Linda Marie)
Matter Heard;
Journal Entry Details:

STATUS CHECK: TRIAL SETTING...STATUS CHECK: DECISION... Court advised in

CASE SUMMARY

CASE NO. A-15-718679-C

	<p><i>reviewing the case it finds it cannot made a decision as their is not enough information therefore the only option is to proceed with trial on this issue. Upon Court's inquiry, parties do not need additional discovery, would request a jury trial, and trial would last approximately 3 days. COURT ORDERED, trial date SET. 06/16/20 9:00 AM CALENDAR CALL 06/22/20 11:00 AM JURY TRIAL;</i></p>
05/05/2020	<p> Motion to Withdraw as Counsel (10:30 AM) (Judicial Officer: Bell, Linda Marie)</p> <p><i>Motion to Withdraw as Counsel of Record</i></p> <p>Granted;</p> <p>Journal Entry Details:</p> <p><i>No parties present. COURT ORDERED, motion GRANTED as unopposed.;</i></p>
06/16/2020	<p>CANCELED Calendar Call (9:00 AM) (Judicial Officer: Bell, Linda Marie)</p> <p><i>Vacated - per Stipulation and Order</i></p>
06/22/2020	<p>CANCELED Jury Trial - FIRM (11:00 AM) (Judicial Officer: Bell, Linda Marie)</p> <p><i>Vacated</i></p>
10/01/2020	<p>CANCELED Status Check: Trial Setting (10:30 AM) (Judicial Officer: Bell, Linda Marie)</p> <p><i>Vacated - per Stipulation and Order</i></p>
01/07/2021	<p> Status Check: Trial Setting (10:30 AM) (Judicial Officer: Bell, Linda Marie)</p> <p>01/07/2021, 03/25/2021, 08/12/2021, 12/16/2021</p> <p>Minute Order - No Hearing Held;</p> <p>Continued;</p> <p>Matter Continued;</p> <p>Trial Date Set;</p> <p>Journal Entry Details:</p> <p><i>All parties present via Bluejeans. Discussions regarding availability of Parties for Jury Trial date selection. COURT ORDERED, matter SET for Jury Trial; Calendar Call will be set subsequent to the hearing. Court to prepare the Scheduling Order. JURY TRIAL: 05.09.22 9:00 AM;</i></p> <p>Minute Order - No Hearing Held;</p> <p>Continued;</p> <p>Matter Continued;</p> <p>Trial Date Set;</p> <p>Journal Entry Details:</p> <p><i>All parties present via Bluejeans. Upon Court's inquiry, Mr. Boyack informed the Court that an Answer from the Supreme Court was still pending. COURT ORDERED, CONTINUED CONTINUED TO: 12/09/21 10:30 AM;</i></p> <p>Minute Order - No Hearing Held;</p> <p>Continued;</p> <p>Matter Continued;</p> <p>Trial Date Set;</p> <p>Journal Entry Details:</p> <p><i>No parties present. Court noted there was argument set at the Supreme Court; therefore, COURT ORDERED, matter CONTINUED. If Writ is still pending, parties do not need to appear. CONTINUED TO 6/24/21 10:30 AM;</i></p> <p>Minute Order - No Hearing Held;</p> <p>Continued;</p> <p>Matter Continued;</p> <p>Trial Date Set;</p> <p>Journal Entry Details:</p> <p><i>Due to the ongoing Covid-19 pandemic and limitations on jury trials, the court will set a status check in 60 days for trial setting. 03/11/21 10:30 AM STATUS CHECK: TRIAL SETTING;</i></p>
06/22/2021	<p> Minute Order (3:00 AM) (Judicial Officer: Bell, Linda Marie)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>This case is still pending a decision from the Nevada Supreme Court. Accordingly, the status</i></p>

CASE SUMMARY

CASE NO. A-15-718679-C

check hearing set for June 24, 2021, is continued to July 29 at 10:30 AM and no appearances will be necessary. CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. // yo 06/22/21;

12/08/2021



Minute Order (3:00 AM) (Judicial Officer: Bell, Linda Marie)

Minute Order - No Hearing Held;

Journal Entry Details:

This case is set for Status Check: Trial Setting on December 9, 2021. Due to an unmovable scheduling conflict, the matter is being moved one week, to December 16, 2021 at 10:30 a.m. Appearance by BlueJeans is permitted: <https://bluejeans.com/336240553> Or dial in: 1-408-419-1715 CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. // yo 12.08.21;

03/23/2022



Minute Order (3:00 AM) (Judicial Officer: Bell, Linda Marie)

Minute Order - No Hearing Held;

Journal Entry Details:

Due to trial schedule and judicial availability, the hearing on calendar for March 24, 2022 at 10:30 a.m. is RESET to March 31, 2022 at 10:30 a.m. Appearance by BlueJeans is permitted: <https://bluejeans.com/336240553> or dial in: 408-419-1715. CLERK'S NOTE: The above minute order has been distributed to counsel by the Court Clerk via electronic service. sm// 03-23-22 ;

03/31/2022



Motion to Dismiss (10:30 AM) (Judicial Officer: Bell, Linda Marie)

Defendant Harvest Mananagement Sub LLC's Motion to Dismiss Pursuant to NRCP 41(e)

Decision Pending;

Journal Entry Details:

Ms. Harmon argued that the plaintiff has not moved all claims against the Defendant within the 5 year rule and requested that the claim be dismissed without prejudice. Following additional argument by Ms. Harmon COURT ADVISED that It DOES NOT FIND it appropriate to administer an Administrative Order to resolve issues in an individual case. Mr. Echols argued that Defense Counsel is changing the language of the 41e rule and is now trying to divide the action and the claims. Further colloquy regarding whether or not all of the claims have been tried. COURT WILL ISSUE A WRITTEN ORDER.;

04/21/2022



Minute Order (3:00 AM) (Judicial Officer: Bell, Linda Marie)

Minute Order - No Hearing Held;

Journal Entry Details:

Regarding the Motion to Dismiss pending before this Court, argued on March 31, 2022, the Court requests additional briefing as to the November 2017 trial, which resulted in a mistrial. Transcripts from the trial were filed into this case on February 8, 2018. The Court requests blind briefs with regard to the November 2017 trial as it relates to the pending Motion to Dismiss before this Court. Those briefs shall be filed no later than 30 days from the date of this minute order, or by Friday, May 20, 2022. As a result of this supplemental briefing, the current trial date will be VACATED and reset pending the outcome of the Motion to Dismiss. CLERK'S NOTE: The above minute order has been distributed to counsel by the Court Clerk via electronic service. sm// 04-21-22;

05/09/2022

CANCELED Jury Trial (9:00 AM) (Judicial Officer: Bell, Linda Marie)

Vacated

06/02/2022



Minute Order (3:00 AM) (Judicial Officer: Bell, Linda Marie)

Minute Order - No Hearing Held;




Journal Entry Details:

On May 26, 2022, Defendant submitted a Motion to Strike on an Order Shortening Time. Defendant requests portions of Plaintiff's May 20 blind brief to be stricken, or in the alternative, leave to respond to the blind brief. Based on review of the papers, and pursuant to EDCR 2.23(c), the Court DENIES Defendant's request to strike portions of Plaintiff's brief, and GRANTS Defendant's request for leave to respond. The hearing on calendar for June 2, 2022 is therefore VACATED. CLERK'S NOTE: The above minute order has been distributed to counsel by the Court Clerk via electronic service. sm// 06-02-22;

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-15-718679-C

06/02/2022	<p>CANCELED Motion to Strike (10:30 AM) (Judicial Officer: Bell, Linda Marie)</p> <p><i>Vacated</i></p> <p><i>Motion to Strike Portions of Plaintiff's Supplemental Brief Regarding the November 2017 Trial as It Relates to the Pending Motion to Dismiss, or, in the Alternative, Motion for Leave to File Response</i></p>
08/10/2022	<p> Status Check (9:00 AM) (Judicial Officer: Bell, Linda Marie)</p> <p><i>Status Check: Written Decision</i></p> <p>Matter Continued; Status Check: Written Decision</p> <p>Journal Entry Details:</p> <p><i>There being no appearances for the hearing, COURT ORDERED, matter CONTINUED. CONTINUED TO: 08/24/2022 9:00 AM Status Check: Written Decision CLERK'S NOTE: A copy of this Minute Order was electronically served by Courtroom Clerk, Kimberly Gutierrez, to all registered parties for Odyssey File & Serve. /kg 8/11/2022;</i></p>
08/19/2022	<p> Minute Order (3:00 AM) (Judicial Officer: Bell, Linda Marie)</p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>The August 24, 2022 hearing is VACATED. The August 31, 2022 date to reset the trial is rescheduled to September 21, 2022 to be heard on the same date at the pending motion for summary judgment. CLERK'S NOTE: The above minute order has been distributed to all registered parties via Odyssey File and Serve. /ks 8-19-22;</i></p>
09/16/2022	<p> Minute Order (3:00 AM) (Judicial Officer: Bell, Linda Marie)</p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>Plaintiff Aaron Morgan files a Motion for Summary Judgment regarding the sole remaining issue in this case, vicarious liability. Defendant David Lujan was employed as a shuttle bus driver owned by Harvest Management at the time of the automobile crash that was the subject of the case. During the crash he was driving the shuttle bus with no passengers. The question is whether Mr. Lujan was in the course and scope of his employment at the time of the accident. In support of the motion for summary judgment, Mr. Lujan provided an affidavit indicating that he was not allowed to use the shuttle bus for personal errands and that while driving the bus he was on the clock and working. In the affidavit, Mr. Lujan indicates that on the day of the accident he was not taking a lunch break, but had rather stopped to use the restroom while waiting for a resident with medical appointments. This differs from Mr. Lujan's testimony in the first trial of this matter where he testified he was on a lunch break at the park. Regardless of whether Mr. Lujan had just completed a lunch break or stopped for the restroom, the only evidence before the court was that Mr. Lujan was driving the shuttle bus for work purposes at the time of the accident. Harvest Management did not support their opposition with any affidavit or other admissible evidence to refute that Mr. Lujan was working while driving the shuttle bus. On that basis and based on the arguments presented in the Motion for Summary Judgment, Mr. Morgan's motion is granted. Counsel for Mr. Morgan to submit an order to the Court. As this resolves the remaining issue in the case, both the hearing on the motion and the status check on trial setting are VACATED. CLERK'S NOTE: A copy of this Minute Order was electronically served by Courtroom Clerk, Kimberly Gutierrez, to all registered parties for Odyssey File & Serve. /kg (9/16/2022);</i></p>
09/21/2022	<p>CANCELED Status Check: Trial Setting (9:00 AM) (Judicial Officer: Bell, Linda Marie)</p> <p><i>Vacated</i></p>
09/21/2022	<p>CANCELED Motion for Summary Judgment (9:00 AM) (Judicial Officer: Bell, Linda Marie)</p> <p><i>Vacated</i></p> <p><i>Plaintiff's Motion for Summary Judgment Regarding Vicarious Liability</i></p>
01/04/2023	<p>Motion to Retax (9:00 AM) (Judicial Officer: Bell, Linda Marie)</p> <p><i>Defendant Harvest Management Sub LLC's Motion to Retax Costs</i></p>
01/11/2023	<p>Motion for Order (9:00 AM) (Judicial Officer: Bell, Linda Marie)</p> <p>Events: 12/07/2022 Motion</p> <p><i>Plaintiff's Motion for an Order Adopting the Filing Deadlines for (1) Plaintiff's Opposition to Harvest's Motion to Retax Costs; and (2) Plaintiff's Motion for Attorney Fees, Costs, and</i></p>

CASE SUMMARY**CASE NO. A-15-718679-C**

01/11/2023	<i>Interest</i> Motion (9:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Plaintiff's Motion for Attorney Fees, Costs, and Interest Against Defendant Harvest Management Sub LLC</i>	
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DATE	FINANCIAL INFORMATION	
	Defendant Harvest Management Sub LLC Total Charges Total Payments and Credits Balance Due as of 12/15/2022 Defendant Lujan, David E Total Charges Total Payments and Credits Balance Due as of 12/15/2022 Plaintiff Morgan, Aaron M Total Charges Total Payments and Credits Balance Due as of 12/15/2022 Plaintiff Morgan, Aaron M Appeal Bond Balance as of 12/15/2022	 54.00 54.00 0.00 223.00 223.00 0.00 1,164.50 1,164.50 0.00 500.00

DISTRICT COURT CIVIL COVER SHEET

A-15-718679-C

County, Nevada

Case No.

VII

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone):

Aaron M. Morgan

Defendant(s) (name/address/phone):

David E. Lujan; Harvest Management Sub LLC.

Attorney (name/address/phone):

Adam W. Williams

Attorney (name/address/phone):

Richard Harris Law Firm

801 S. 4th Street

Las Vegas, Nevada 89101

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 checked="" 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 (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

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

5/20/15

Date

Signature of initiating party or representative

See other side for family-related case filings.

Heather S. Hume

CLERK OF THE COURT

OGSJ

Benjamin P. Cloward
Nevada Bar No. 11087
Bryan A. Boyack
Nevada Bar No. 9980
RICHARD HARRIS LAW FIRM
801 South Fourth Street
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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

AARON M. MORGAN, individually,

Plaintiff,

Case No. A-15-718679-C

Dept. No. 7

v.

DAVID E. LUJAN, individually;
HARVEST MANAGEMENT SUB LLC,
a foreign limited liability company;
DOES 1 through 20; ROE BUSINESS
ENTITIES 1 through 20, inclusive
jointly and severally,

**ORDER GRANTING
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT
REGARDING VICARIOUS
LIABILITY AGAINST HARVEST
MANAGEMENT SUB LLC**

Hearing Date: September 16, 2022
Hearing Time: Chambers

Defendants.

**ORDER GRANTING PLAINTIFF’S MOTION FOR SUMMARY
JUDGMENT REGARDING VICARIOUS LIABILITY AGAINST
HARVEST MANAGEMENT SUB LLC**

On August 15, 2022, Plaintiff, Aaron M. Morgan (“Plaintiff”), filed a Motion for Summary Judgment (“Motion”) regarding the sole remaining issue in this case, vicarious liability. On August 29, 2022, Defendant Harvest Management Sub LLC (“Harvest”), filed an Opposition to Plaintiff’s Motion. On September 12, 2022, Plaintiff filed his Reply to Opposition to Plaintiff’s Motion.

On September 16, 2022, this Honorable Court, Judge Linda Bell, issued a Minute Order regarding Plaintiff’s Motion.

After having duly considered the Motion, Opposition, and Reply, the Court now enters its Order GRANTING summary judgment to Plaintiff against Harvest.

I. FINDINGS OF FACTS

1. On April 1, 2014, Plaintiff was involved in collision with a shuttle bus owned by Harvest.

2. At the time of the crash, Defendant David Lujan (“Lujan”) was employed as a shuttle bus driver owned by Harvest at the time of the automobile crash that is the subject of this case.

3. At the time of the crash, Lujan was driving the shuttle bus owned by Harvest.

4. At the time of the crash, there were no passengers on Harvest’s shuttle bus.

5. At the time of the crash, Lujan was on the clock for his job as a shuttle bus driver for Harvest.

1 **II. CONCLUSIONS OF LAW**

2 1. Under Nevada law, a party may seek summary judgment where the
3 non-moving party cannot recover as a matter of law, and there is no genuine
4 dispute as to any material fact. NRCP 56(a); *Butler v. Bayer*, 123 Nev. 450, 461,
5 168 P.3d 1055, 1063 (2007); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d
6 1026, 1031 (2005). A factual dispute is genuine when the evidence is such that a
7 rational trier of fact could not return a verdict for the nonmoving party. *Id.* at
8 729, 121 P.3d at 1029.

9 2. Although the pleadings and other proof are construed in a light most
10 favorable to the non-moving party, the non-moving party must transcend the
11 pleadings and, by affidavit or other admissible evidence, introduce specific facts
12 that show a genuine issue of material fact that she is entitled to relief. *Torrealba*
13 *v. Kesmetis*, 124 Nev. 95, 100, 178 P.3d 716, 720 (2008); *Bird v. Casa Royale W.*,
14 97 Nev. 67, 70, 624 P.2d 17, 19 (1981).

15 3. Therefore, in opposing summary judgment, the non-moving party's
16 documentation must be admissible evidence, and the non-moving party is not
17 entitled to build a case of any kind on the gossamer threads of whimsy,
18 speculation, and conjecture. *Wood*, 121 Nev. at 731, 121 P.3d at 1030. Indeed,
19 the availability of summary judgment proceedings promotes judicial economy and
20 reduces litigation expense associated with actions clearly lacking in merit.
21 *Elizabeth E. v. ADT Sec. Sys. W. Inc.*, 108 Nev. 889, 892, 839 P.2d 1308, 1310
22 (1992).

1 4. Under Nevada law, where undisputed evidence exists concerning an
2 employee's status at the time of the accident, the issue of whether he was acting
3 within the scope of his employment may be resolved as a matter of law. *Evans v.*
4 *Sw. Gas Corp.*, 108 Nev. 1002, 1005, 842 P.2d 719, 721 (1992).

5 5. In support of his Motion for Summary Judgment, Plaintiff provided
6 an affidavit from Lujan that contained the following sworn statements: (1) he was
7 not allowed to use the shuttle bus for personal errands and that while driving the
8 bus he was on the clock and working; (2) on the day of the accident, he was not
9 taking a lunch break, but rather stopped to use the restroom while waiting for a
10 resident with medical appointments.

11 6. The Court notes that this affidavit differs from Lujan's testimony in
12 the first trial of this matter where he had testified that he was on a lunch break
13 at the park.

14 7. Regardless of whether Lujan had just completed a lunch break or
15 stopped for the restroom, the only evidence before the Court was that Lujan was
16 driving the shuttle bus for work purposes at the time of the subject crash. *See,*
17 *e.g., Kornton v. Conrad, Inc.*, 119 Nev. 123, 125, 67 P.3d 316, 317 (2003).

18 8. Harvest did not support its opposition with any affidavit or other
19 admissible evidence to refute that Lujan was actually working within the course
20 and scope of his employment while driving the shuttle bus at the time of the
21 subject crash with Plaintiff.

1 **III. ORDER AND JUDGMENT**

2 1. THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND
3 DECREED that Plaintiff's Motion for Summary Judgment Regarding Vicarious
4 Liability is GRANTED.

5 2. IT IS FURTHER ORDERED that Harvest is liable under vicarious
6 liability for the actions caused by its employee Lujan. *See, e.g., Dezzani v. Kern*
7 *& Assocs., Ltd.*, 134 Nev. 61, 67, 412 P.3d 56, 61 (2018).

8 3. On December 17, 2018, the Court entered judgment upon the jury
9 verdict in favor of Plaintiff and against Lujan. *See Exhibit 1* (Judgment Upon
10 the Jury Verdict, filed on 12/17/2018). Since Harvest is vicariously liable for
11 Lujan's actions arising out of the subject crash, Harvest is liable for the entire
12 judgment entered on December 17, 2018.

13 4. JUDGMENT is hereby entered in favor of Plaintiff, Aaron M.
14 Morgan, and against Defendant, Harvest Management Sub LLC, in the total
15 amount of \$3,046,382.72 according to the terms of the judgment entered on
16 December 13, 2018. *See Exhibit 1.*

17 ///

18 ///

19 ///

5. As of November 1, 2022, \$728,920.10 in post-judgment interest has accrued on the judgment for which Harvest Management Sub LLC is liable and will continue to be liable for the accrual of post-judgment interest, at the current daily rate of \$563.37, until the judgment is satisfied. See **Exhibit 2** (Table of Accrued Post-Judgment Interest); *Waddell v. L.V.R.V. Inc.*, 122 Nev. 15, 26, 125 P.3d 1160, 1167 (2006); NRS 17.130.

Dated this 15th day of November, 2022

IT IS SO ORDERED.



04B 438 5052 1D39
Linda Marie Bell
District Court Judge

Respectfully submitted by:

Approved as to form:

CLAGGETT & SYKES LAW FIRM

BAILEY KENNEDY

/s/ Micah S. Echols

/s/ Sarah E. Harmon

Micah S. Echols
Nevada Bar No. 8437

Dennis L. Kennedy, Esq.
Nevada Bar No. 1462
Sarah E. Harmon, Esq.

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Attorneys for Defendant,

Harvest Management Sub LLC

From: [Sarah Harmon](#)
To: [Anna Gresl](#)
Cc: [Benjamin Cloward](#); [Bryan Boyack](#); [Nicole Griffin](#); [Dennis Kennedy](#); [Angie Mattox](#); [Micah Echols](#); [Tayler Bingham](#)
Subject: RE: Aaron Morgan v. Harvest Management / DRAFT Order Granting Summary Judgment
Date: Wednesday, November 9, 2022 7:42:19 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)

Hi Anna –

Thank you for forwarding this to me. You may add my e-signature.

Thanks!

Sarah

Sarah E. Harmon

Bailey❖Kennedy
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Las Vegas, NV 89148-1302
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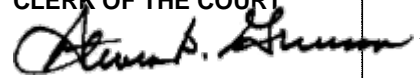
From: Anna Gresl <Anna@claggettlaw.com>
Sent: Tuesday, November 8, 2022 4:04 PM
To: Sarah Harmon <SHarmon@baileykennedy.com>
Cc: Benjamin Cloward <benjamin.cloward@gmail.com>; Bryan Boyack <bryan@boyacklawgroup.com>; Nicole Griffin <griffin@richardharrislaw.com>; Dennis Kennedy <DKennedy@baileykennedy.com>; Angie Mattox <AMattox@baileykennedy.com>; Micah Echols <Micah@claggettlaw.com>
Subject: RE: Aaron Morgan v. Harvest Management / DRAFT Order Granting Summary Judgment

Attached is the clean version for your approval to use your electronic signature. Thank you.

Anna Gresl
Paralegal, Appellate Division

EXHIBIT 1

EXHIBIT 1



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Attorneys for Plaintiff, Aaron M. Morgan

DISTRICT COURT

CLARK COUNTY, NEVADA

AARON M. MORGAN, individually,
Plaintiff,

vs.

DAVID E. LUJAN, individually; HARVEST
MANAGEMENT SUB LLC; a Foreign Limited-
Liability Company; DOES 1 through 20; ROE
BUSINESS ENTITIES 1 through 20, inclusive
jointly and severally,

Defendants.

CASE NO.: A-15-718679-C
Dept. No.: XI

JUDGMENT UPON THE JURY VERDICT

JUDGMENT UPON THE JURY VERDICT

This action came on for trial before the Court and the jury, the Honorable Linda Marie Bell, District Court Judge, presiding,¹ and the issues having been duly tried and the jury having duly rendered its verdict.²

IT IS ORDERED AND ADJUDGED that PLAINTIFF, AARON M. MORGAN, have a recovery against DEFENDANT, DAVID E. LUJAN, for the following sums:

Past Medical Expenses	\$208,480.00
Future Medical Expenses	+\$1,156,500.00
Past Pain and Suffering	+\$116,000.00
Future Pain and Suffering	+\$1,500,000.00
Total Damages	\$2,980,980.00

IT IS FURTHER ORDERED AND ADJUDGED that AARON M. MORGAN's past damages of \$324,480 shall bear Pre-Judgment interest in accordance with *Lee v. Ball*, 121 Nev. 391, 116 P.3d 64 (2005) and NRS 17.130 at the rate of 5.00% per annum plus 2% from the date of service of the Summons and Complaint on May 28, 2015, through the entry of the Special Verdict on April 9, 2018:

PRE-JUDGMENT INTEREST ON PAST DAMAGES:

05/28/15 through 04/09/18 = **\$65,402.72**

[(1,051 days) at (prime rate (5.00%) plus 2 percent = 7.00%) on \$324,480 past damages]

[Pre-Judgment Interest is approximately \$62.23 per day]

PLAINTIFF'S TOTAL JUDGMENT

Plaintiff's total judgment is as follows:

Total Damages:	\$2,980,980.00
Prejudgment Interest:	\$65,402.72
TOTAL JUDGMENT	\$3,046,382.72

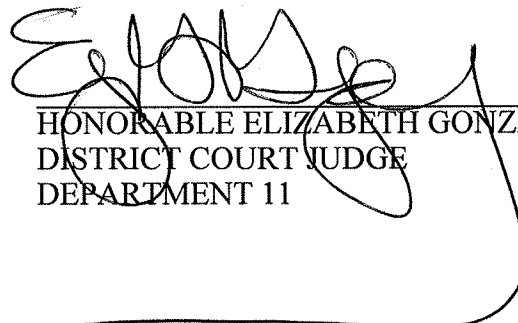
¹ This case was reassigned to the Honorable Elizabeth Gonzalez, District Court Judge, in July 2018.

² See Special Verdict filed on April 9, 2018, attached as **Exhibit 1**.

Now, THEREFORE, Judgment Upon the Jury Verdict in favor of the Plaintiff is as follows:

PLAINTIFF, AARON M. MORGAN, is hereby awarded \$3,046,382.72 against DEFENDANT, DAVID E. LUJAN, which shall bear post-judgment interest at the adjustable legal rate from the date of the entry of judgment until fully satisfied. Post-judgment interest at the current 7.00% rate accrues interest at the rate of \$584.24 per day.

Dated this 13 day of Dec., 2018.


HONORABLE ELIZABETH GONZALEZ
DISTRICT COURT JUDGE
DEPARTMENT 11

Respectfully Submitted by:

Dated this 12TH day of December, 2018.

MARQUIS AURBACH COFFING

By 

Micah S. Echols, Esq.
Nevada Bar No. 8437
Tom W. Stewart, Esq.
Nevada Bar No. 14280
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff, Aaron M. Morgan

[CASE NO. A-15-718679-C—JUDGMENT UPON THE JURY VERDICT]

Exhibit 1

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

APR - 9 2018

BY: *J. M. Brown*
J. M. BROWN, DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO: A-15-718679-C

DEPT. NO: VII

AARON MORGAN,

Plaintiff,

vs.

DAVID LUJAN,

Defendant.

SPECIAL VERDICT

We, the jury in the above-entitled action, find the following special verdict on the questions submitted to us:

QUESTION NO. 1: Was Defendant negligent?

ANSWER: Yes ☒ No ☐

If you answered no, stop here. Please sign and return this verdict.

If you answered yes, please answer question no. 2.

QUESTION NO.2: Was Plaintiff negligent?

ANSWER: Yes ☐ No ☒

If you answered yes, please answer question no. 3.

If you answered no, please skip to question no. 4.

///

A-15-718679-C
SJV
Special Jury Verdict
4738215



1 **QUESTION NO. 3:** What percentage of fault do you assign to each party?

2 Defendant: 100

3 Plaintiff: 0

4 Total: 100%

5 Please answer question 4 without regard to you answer to question 3.

6 **QUESTION NO. 4:** What amount do you assess as the total amount of Plaintiff's damages?

7 (Please do not reduce damages based on your answer to question 3, if you answered question 3.

8 The Court will perform this task.)

9	Past Medical Expenses	\$ <u>208,480.</u> <u>00</u>
10	Future Medical Expenses	\$ <u>1,156,500.</u> <u>00</u>
11	Past Pain and Suffering	\$ <u>116,000.</u> <u>00</u>
12	Future Pain and Suffering	\$ <u>1,500,000.</u> <u>00</u>
13		
14	TOTAL	\$ <u>2,980,980.</u> <u>00</u>

15

16 DATED this 9th day of April, 2018.

17

18 Arthur J. St. Laurent

19 FOREPERSON

20 ARTHUR J. ST. LAURENT

21

22

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EXHIBIT 2

EXHIBIT 2

JUDGMENT ENTERED ON DECEMBER 17, 2018:

1. December 18–31, 2018 = 14 days
Legal Interest Rate = 7.00%
Post-Judgment Interest for this Period = **\$8,179.33**
2. January 1, 2019 — June 30, 2019 = 181 days
Legal Interest Rate = 7.50%
Post-Judgment Interest for this Period = **\$113,300.40**
3. July 1, 2019 — December 31, 2019 = 184 days
Legal Interest Rate = 7.50%
Post-Judgment Interest for this Period = **\$115,178.31**
4. January 1, 2020 — June 30, 2020 = 182 days
Legal Interest Rate = 6.75%
Post-Judgment Interest for this Period = **\$102,533.73**
5. July 1, 2020 — December 31, 2020 = 184 days
Legal Interest Rate = 5.25%
Post-Judgment Interest for this Period = **\$80,624.81**
6. January 1, 2021 — June 30, 2021 = 181 days
Legal Interest Rate = 5.25%
Post-Judgment Interest for this Period = **\$79,310.28**
7. July 1, 2021 — December 31, 2021 = 184 days

Legal Interest Rate = 5.25%

Post-Judgment Interest for this Period = \$80,624.81

8. January 1, 2022 — June 30, 2022 = 181 days

Legal Interest Rate = 5.25%

Post-Judgment Interest for this Period = \$79,310.28

9. July 1, 2022 — November 1, 2022 = 124 days

Legal Interest Rate = 6.75%

Post-Judgment Interest for this Period = \$69,858.15

**TOTAL POST-JUDGMENT INTEREST THROUGH NOVEMBER 1, 2022 =
\$728,920.10, with \$563.37 daily interest at the current 6.75% legal interest rate.**

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Aaron Morgan, Plaintiff(s)

CASE NO: A-15-718679-C

7 vs.

DEPT. NO. Department 7

8 David Lujan, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 11/15/2022

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24 Reception E-File

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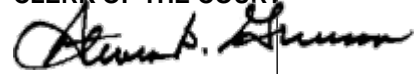
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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

AARON M. MORGAN, individually,

Plaintiff,

v.

DAVID E. LUJAN, individually;
HARVEST MANAGEMENT SUB LLC,
a foreign limited liability company;
DOES 1 through 20; ROE BUSINESS
ENTITIES 1 through 20, inclusive
jointly and severally,

Defendants.

Case No. A-15-718679-C

Dept. No. 7

**NOTICE OF ENTRY OF
ORDER GRANTING
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT
REGARDING VICARIOUS
LIABILITY AGAINST HARVEST
MANAGEMENT SUB LLC**

1 PLEASE TAKE NOTICE that this Court entered an *Order Granting*
2 *Plaintiff's Motion for Summary Judgment Regarding Vicarious Liability Against*
3 *Harvest Management Sub LLC* in the above-entitled case on November 15, 2022,
4 attaching a true and accurate copy with this notice.

5 Dated this 15th day of November 2022.

6 CLAGGETT & SYKES LAW FIRM

7 /s/ Micah S. Echols

8 _____
Micah S. Echols
Nevada Bar No. 8437

9 RICHARD HARRIS LAW FIRM
10 Benjamin P. Cloward
11 Nevada Bar No. 11087
12 Bryan A. Boyack
13 Nevada Bar No. 9980

14 *Attorneys for Plaintiff*
15
16
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24

CERTIFICATE OF SERVICE

I hereby certify that I electronically submitted the forgoing **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT REGARDING VICARIOUS LIABILITY AGAINST HARVEST MANAGEMENT SUB LLC** for filing and/or service with the Eighth Judicial District Court on the 15th day of November 2022. I made electronic service of the foregoing document in accordance with the E-Service List as follows:

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Sarah E. Harmon, Esq.
SHarmon@BaileyKennedy.com

BAILEY KENNEDY
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(702) 562-8820 – Telephone
Attorneys for Defendant, Harvest Management Sub LLC

/s/ Anna Gresl

Anna Gresl, an employee of
CLAGGETT & SYKES LAW FIRM

Heather S. Smith

CLERK OF THE COURT

1 **OGSJ**

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2 Nevada Bar No. 11087

Bryan A. Boyack

3 Nevada Bar No. 9980

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12 *Attorneys for Plaintiff*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 **AARON M. MORGAN**, individually,

Case No. A-15-718679-C

16 Plaintiff,

Dept. No. 7

17 v.

18 **DAVID E. LUJAN**, individually;
19 **HARVEST MANAGEMENT SUB LLC**,
a foreign limited liability company;
20 **DOES 1 through 20; ROE BUSINESS**
ENTITIES 1 through 20, inclusive
jointly and severally,

**ORDER GRANTING
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT
REGARDING VICARIOUS
LIABILITY AGAINST HARVEST
MANAGEMENT SUB LLC**

Hearing Date: September 16, 2022

Hearing Time: Chambers

21 Defendants.

**ORDER GRANTING PLAINTIFF’S MOTION FOR SUMMARY
JUDGMENT REGARDING VICARIOUS LIABILITY AGAINST
HARVEST MANAGEMENT SUB LLC**

On August 15, 2022, Plaintiff, Aaron M. Morgan (“Plaintiff”), filed a Motion for Summary Judgment (“Motion”) regarding the sole remaining issue in this case, vicarious liability. On August 29, 2022, Defendant Harvest Management Sub LLC (“Harvest”), filed an Opposition to Plaintiff’s Motion. On September 12, 2022, Plaintiff filed his Reply to Opposition to Plaintiff’s Motion.

On September 16, 2022, this Honorable Court, Judge Linda Bell, issued a Minute Order regarding Plaintiff’s Motion.

After having duly considered the Motion, Opposition, and Reply, the Court now enters its Order GRANTING summary judgment to Plaintiff against Harvest.

I. FINDINGS OF FACTS

1. On April 1, 2014, Plaintiff was involved in collision with a shuttle bus owned by Harvest.

2. At the time of the crash, Defendant David Lujan (“Lujan”) was employed as a shuttle bus driver owned by Harvest at the time of the automobile crash that is the subject of this case.

3. At the time of the crash, Lujan was driving the shuttle bus owned by Harvest.

4. At the time of the crash, there were no passengers on Harvest’s shuttle bus.

5. At the time of the crash, Lujan was on the clock for his job as a shuttle bus driver for Harvest.

II. CONCLUSIONS OF LAW

1. Under Nevada law, a party may seek summary judgment where the non-moving party cannot recover as a matter of law, and there is no genuine dispute as to any material fact. NRCP 56(a); *Butler v. Bayer*, 123 Nev. 450, 461, 168 P.3d 1055, 1063 (2007); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). A factual dispute is genuine when the evidence is such that a rational trier of fact could not return a verdict for the nonmoving party. *Id.* at 729, 121 P.3d at 1029.

2. Although the pleadings and other proof are construed in a light most favorable to the non-moving party, the non-moving party must transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine issue of material fact that she is entitled to relief. *Torrealba v. Kesmetis*, 124 Nev. 95, 100, 178 P.3d 716, 720 (2008); *Bird v. Casa Royale W.*, 97 Nev. 67, 70, 624 P.2d 17, 19 (1981).

3. Therefore, in opposing summary judgment, the non-moving party's documentation must be admissible evidence, and the non-moving party is not entitled to build a case of any kind on the gossamer threads of whimsy, speculation, and conjecture. *Wood*, 121 Nev. at 731, 121 P.3d at 1030. Indeed, the availability of summary judgment proceedings promotes judicial economy and reduces litigation expense associated with actions clearly lacking in merit. *Elizabeth E. v. ADT Sec. Sys. W. Inc.*, 108 Nev. 889, 892, 839 P.2d 1308, 1310 (1992).

1 4. Under Nevada law, where undisputed evidence exists concerning an
2 employee's status at the time of the accident, the issue of whether he was acting
3 within the scope of his employment may be resolved as a matter of law. *Evans v.*
4 *Sw. Gas Corp.*, 108 Nev. 1002, 1005, 842 P.2d 719, 721 (1992).

5 5. In support of his Motion for Summary Judgment, Plaintiff provided
6 an affidavit from Lujan that contained the following sworn statements: (1) he was
7 not allowed to use the shuttle bus for personal errands and that while driving the
8 bus he was on the clock and working; (2) on the day of the accident, he was not
9 taking a lunch break, but rather stopped to use the restroom while waiting for a
10 resident with medical appointments.

11 6. The Court notes that this affidavit differs from Lujan's testimony in
12 the first trial of this matter where he had testified that he was on a lunch break
13 at the park.

14 7. Regardless of whether Lujan had just completed a lunch break or
15 stopped for the restroom, the only evidence before the Court was that Lujan was
16 driving the shuttle bus for work purposes at the time of the subject crash. *See,*
17 *e.g., Kornton v. Conrad, Inc.*, 119 Nev. 123, 125, 67 P.3d 316, 317 (2003).

18 8. Harvest did not support its opposition with any affidavit or other
19 admissible evidence to refute that Lujan was actually working within the course
20 and scope of his employment while driving the shuttle bus at the time of the
21 subject crash with Plaintiff.

1 **III. ORDER AND JUDGMENT**

2 1. THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND
3 DECREED that Plaintiff's Motion for Summary Judgment Regarding Vicarious
4 Liability is GRANTED.

5 2. IT IS FURTHER ORDERED that Harvest is liable under vicarious
6 liability for the actions caused by its employee Lujan. *See, e.g., Dezzani v. Kern*
7 *& Assocs., Ltd.*, 134 Nev. 61, 67, 412 P.3d 56, 61 (2018).

8 3. On December 17, 2018, the Court entered judgment upon the jury
9 verdict in favor of Plaintiff and against Lujan. *See Exhibit 1* (Judgment Upon
10 the Jury Verdict, filed on 12/17/2018). Since Harvest is vicariously liable for
11 Lujan's actions arising out of the subject crash, Harvest is liable for the entire
12 judgment entered on December 17, 2018.

13 4. JUDGMENT is hereby entered in favor of Plaintiff, Aaron M.
14 Morgan, and against Defendant, Harvest Management Sub LLC, in the total
15 amount of \$3,046,382.72 according to the terms of the judgment entered on
16 December 13, 2018. *See Exhibit 1.*

17 ///

18 ///

19 ///

5. As of November 1, 2022, \$728,920.10 in post-judgment interest has accrued on the judgment for which Harvest Management Sub LLC is liable and will continue to be liable for the accrual of post-judgment interest, at the current daily rate of \$563.37, until the judgment is satisfied. See **Exhibit 2** (Table of Accrued Post-Judgment Interest); *Waddell v. L.V.R.V. Inc.*, 122 Nev. 15, 26, 125 P.3d 1160, 1167 (2006); NRS 17.130.

Dated this 15th day of November, 2022

IT IS SO ORDERED.



04B 438 5052 1D39
Linda Marie Bell
District Court Judge

Respectfully submitted by:

Approved as to form:

CLAGGETT & SYKES LAW FIRM

BAILEY KENNEDY

/s/ Micah S. Echols

/s/ Sarah E. Harmon

Micah S. Echols
Nevada Bar No. 8437

Dennis L. Kennedy, Esq.
Nevada Bar No. 1462
Sarah E. Harmon, Esq.

RICHARD HARRIS LAW FIRM

Nevada Bar No. 8106

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SHarmon@BaileyKennedy.com

TBingham@BaileyKennedy.com

Attorneys for Defendant,

Harvest Management Sub LLC

From: [Sarah Harmon](#)
To: [Anna Gresl](#)
Cc: [Benjamin Cloward](#); [Bryan Boyack](#); [Nicole Griffin](#); [Dennis Kennedy](#); [Angie Mattox](#); [Micah Echols](#); [Tayler Bingham](#)
Subject: RE: Aaron Morgan v. Harvest Management / DRAFT Order Granting Summary Judgment
Date: Wednesday, November 9, 2022 7:42:19 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)

Hi Anna –

Thank you for forwarding this to me. You may add my e-signature.

Thanks!

Sarah

Sarah E. Harmon

Bailey❖Kennedy
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
(702) 562-8820 (Main)
(702) 562-8821 (Fax)
(702) 853-0757 (Direct)
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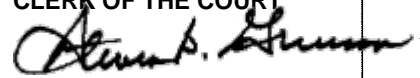
From: Anna Gresl <Anna@claggettlaw.com>
Sent: Tuesday, November 8, 2022 4:04 PM
To: Sarah Harmon <SHarmon@baileykennedy.com>
Cc: Benjamin Cloward <benjamin.cloward@gmail.com>; Bryan Boyack <bryan@boyacklawgroup.com>; Nicole Griffin <griffin@richardharrislaw.com>; Dennis Kennedy <DKennedy@baileykennedy.com>; Angie Mattox <AMattox@baileykennedy.com>; Micah Echols <Micah@claggettlaw.com>
Subject: RE: Aaron Morgan v. Harvest Management / DRAFT Order Granting Summary Judgment

Attached is the clean version for your approval to use your electronic signature. Thank you.

Anna Gresl
Paralegal, Appellate Division

EXHIBIT 1

EXHIBIT 1



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mechols@maclaw.com
tstewart@maclaw.com

Attorneys for Plaintiff, Aaron M. Morgan

DISTRICT COURT

CLARK COUNTY, NEVADA

AARON M. MORGAN, individually,
Plaintiff,

vs.

DAVID E. LUJAN, individually; HARVEST
MANAGEMENT SUB LLC; a Foreign Limited-
Liability Company; DOES 1 through 20; ROE
BUSINESS ENTITIES 1 through 20, inclusive
jointly and severally,

Defendants.

CASE NO.: A-15-718679-C
Dept. No.: XI

JUDGMENT UPON THE JURY VERDICT

12-13-18P01:10 RCVD

JUDGMENT UPON THE JURY VERDICT

This action came on for trial before the Court and the jury, the Honorable Linda Marie Bell, District Court Judge, presiding,¹ and the issues having been duly tried and the jury having duly rendered its verdict.²

IT IS ORDERED AND ADJUDGED that PLAINTIFF, AARON M. MORGAN, have a recovery against DEFENDANT, DAVID E. LUJAN, for the following sums:

Past Medical Expenses	\$208,480.00
Future Medical Expenses	+\$1,156,500.00
Past Pain and Suffering	+\$116,000.00
Future Pain and Suffering	+\$1,500,000.00
Total Damages	\$2,980,980.00

IT IS FURTHER ORDERED AND ADJUDGED that AARON M. MORGAN's past damages of \$324,480 shall bear Pre-Judgment interest in accordance with *Lee v. Ball*, 121 Nev. 391, 116 P.3d 64 (2005) and NRS 17.130 at the rate of 5.00% per annum plus 2% from the date of service of the Summons and Complaint on May 28, 2015, through the entry of the Special Verdict on April 9, 2018:

PRE-JUDGMENT INTEREST ON PAST DAMAGES:

05/28/15 through 04/09/18 = **\$65,402.72**

[(1,051 days) at (prime rate (5.00%) plus 2 percent = 7.00%) on \$324,480 past damages]

[Pre-Judgment Interest is approximately \$62.23 per day]

PLAINTIFF'S TOTAL JUDGMENT

Plaintiff's total judgment is as follows:

Total Damages:	\$2,980,980.00
Prejudgment Interest:	\$65,402.72
TOTAL JUDGMENT	\$3,046,382.72

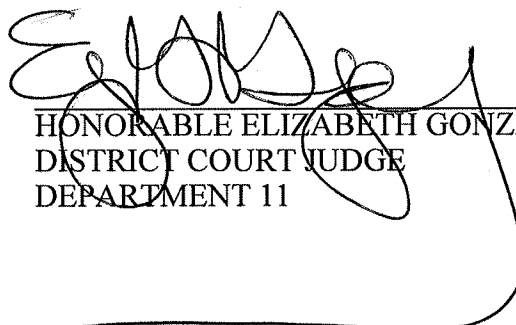
¹ This case was reassigned to the Honorable Elizabeth Gonzalez, District Court Judge, in July 2018.

² See Special Verdict filed on April 9, 2018, attached as **Exhibit 1**.

Now, THEREFORE, Judgment Upon the Jury Verdict in favor of the Plaintiff is as follows:

PLAINTIFF, AARON M. MORGAN, is hereby awarded \$3,046,382.72 against DEFENDANT, DAVID E. LUJAN, which shall bear post-judgment interest at the adjustable legal rate from the date of the entry of judgment until fully satisfied. Post-judgment interest at the current 7.00% rate accrues interest at the rate of \$584.24 per day.

Dated this 13 day of Dec., 2018.


HONORABLE ELIZABETH GONZALEZ
DISTRICT COURT JUDGE
DEPARTMENT 11

Respectfully Submitted by:

Dated this 12TH day of December, 2018.

MARQUIS AURBACH COFFING

By 

Micah S. Echols, Esq.
Nevada Bar No. 8437
Tom W. Stewart, Esq.
Nevada Bar No. 14280
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff, Aaron M. Morgan

[CASE NO. A-15-718679-C—JUDGMENT UPON THE JURY VERDICT]

Exhibit 1

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

APR - 9 2018

BY: *J. M. Brown*
J. M. BROWN, DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO: A-15-718679-C

DEPT. NO: VII

AARON MORGAN,

Plaintiff,

vs.

DAVID LUJAN,

Defendant.

SPECIAL VERDICT

We, the jury in the above-entitled action, find the following special verdict on the questions submitted to us:

QUESTION NO. 1: Was Defendant negligent?

ANSWER: Yes ☒ No ☐

If you answered no, stop here. Please sign and return this verdict.

If you answered yes, please answer question no. 2.

QUESTION NO.2: Was Plaintiff negligent?

ANSWER: Yes ☐ No ☒

If you answered yes, please answer question no. 3.

If you answered no, please skip to question no. 4.

///

A-15-718679-C
SJV
Special Jury Verdict
4738215



1 **QUESTION NO. 3:** What percentage of fault do you assign to each party?

2 Defendant: 100

3 Plaintiff: 0

4 Total: 100%

5 Please answer question 4 without regard to you answer to question 3.

6 **QUESTION NO. 4:** What amount do you assess as the total amount of Plaintiff's damages?

7 (Please do not reduce damages based on your answer to question 3, if you answered question 3.

8 The Court will perform this task.)

9	Past Medical Expenses	\$ <u>208,480.</u> <u>00</u>
10	Future Medical Expenses	\$ <u>1,156,500.</u> <u>00</u>
11	Past Pain and Suffering	\$ <u>116,000.</u> <u>00</u>
12	Future Pain and Suffering	\$ <u>1,500,000.</u> <u>00</u>
13		
14	TOTAL	\$ <u>2,980,980.</u> <u>00</u>

15

16 DATED this 9th day of April, 2018.

17

18 Arthur J. St. Laurent

19 FOREPERSON

20 ARTHUR J. ST. LAURENT

21

22

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28

EXHIBIT 2

EXHIBIT 2

JUDGMENT ENTERED ON DECEMBER 17, 2018:

1. December 18–31, 2018 = 14 days
Legal Interest Rate = 7.00%
Post-Judgment Interest for this Period = **\$8,179.33**
2. January 1, 2019 — June 30, 2019 = 181 days
Legal Interest Rate = 7.50%
Post-Judgment Interest for this Period = **\$113,300.40**
3. July 1, 2019 — December 31, 2019 = 184 days
Legal Interest Rate = 7.50%
Post-Judgment Interest for this Period = **\$115,178.31**
4. January 1, 2020 — June 30, 2020 = 182 days
Legal Interest Rate = 6.75%
Post-Judgment Interest for this Period = **\$102,533.73**
5. July 1, 2020 — December 31, 2020 = 184 days
Legal Interest Rate = 5.25%
Post-Judgment Interest for this Period = **\$80,624.81**
6. January 1, 2021 — June 30, 2021 = 181 days
Legal Interest Rate = 5.25%
Post-Judgment Interest for this Period = **\$79,310.28**
7. July 1, 2021 — December 31, 2021 = 184 days

Legal Interest Rate = 5.25%

Post-Judgment Interest for this Period = \$80,624.81

8. January 1, 2022 — June 30, 2022 = 181 days

Legal Interest Rate = 5.25%

Post-Judgment Interest for this Period = \$79,310.28

9. July 1, 2022 — November 1, 2022 = 124 days

Legal Interest Rate = 6.75%

Post-Judgment Interest for this Period = \$69,858.15

**TOTAL POST-JUDGMENT INTEREST THROUGH NOVEMBER 1, 2022 =
\$728,920.10, with \$563.37 daily interest at the current 6.75% legal interest rate.**

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Aaron Morgan, Plaintiff(s)

CASE NO: A-15-718679-C

7 vs.

DEPT. NO. Department 7

8 David Lujan, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 11/15/2022

15 "Bryan A. Boyack, Esq." .

bryan@richardharrislaw.com

16 "Doug Gardner, Esq." .

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17 Benjamin Cloward .

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18 Douglas R. Rands .

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19 Melanie Lewis .

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20 Olivia Bivens .

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21 Shannon Truscello .

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22 Tina Jarchow .

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23 Pauline Batts .

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24 Reception E-File

reception@claggettlaw.com

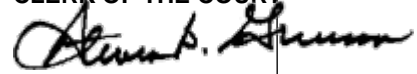
25 Leah Dell

ldell@maclaw.com

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1 **NEOJ**

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2 Nevada Bar No. 11087

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3 Nevada Bar No. 9980

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8 Nevada Bar No. 8437

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Las Vegas, Nevada 89107

10 (702) 655-2346 – Telephone

(702) 655-3763 – Facsimile

11 micah@claggettlaw.com

12 *Attorneys for Plaintiff*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 **AARON M. MORGAN, individually,**

Case No. A-15-718679-C

16 **Plaintiff,**

Dept. No. 7

17 **v.**

18 **DAVID E. LUJAN, individually;**
19 **HARVEST MANAGEMENT SUB LLC,**
20 **a foreign limited liability company;**
DOES 1 through 20; ROE BUSINESS
21 **ENTITIES 1 through 20, inclusive**
22 **jointly and severally,**

Defendants.

**NOTICE OF ENTRY OF
ORDER GRANTING
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT
REGARDING VICARIOUS
LIABILITY AGAINST HARVEST
MANAGEMENT SUB LLC**

1 PLEASE TAKE NOTICE that this Court entered an *Order Granting*
2 *Plaintiff's Motion for Summary Judgment Regarding Vicarious Liability Against*
3 *Harvest Management Sub LLC* in the above-entitled case on November 15, 2022,
4 attaching a true and accurate copy with this notice.

5 Dated this 16th day of November 2022.

6 CLAGGETT & SYKES LAW FIRM

7 /s/ Micah S. Echols

8 _____
Micah S. Echols
Nevada Bar No. 8437

9 RICHARD HARRIS LAW FIRM
10 Benjamin P. Cloward
11 Nevada Bar No. 11087
12 Bryan A. Boyack
Nevada Bar No. 9980

13 *Attorneys for Plaintiff*
14
15
16
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24

CERTIFICATE OF SERVICE

I hereby certify that I electronically submitted the forgoing **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT REGARDING VICARIOUS LIABILITY AGAINST HARVEST MANAGEMENT SUB LLC** for filing and/or service with the Eighth Judicial District Court on the 16th day of November 2022. I made electronic service of the foregoing document in accordance with the E-Service List as follows:

Dennis L. Kennedy, Esq.
DKennedy@BaileyKennedy.com

Sarah E. Harmon, Esq.
SHarmon@BaileyKennedy.com

BAILEY KENNEDY
8984 Spanish Ridge Avenue, Las Vegas, Nevada 89148
(702) 562-8820 – Telephone
Attorneys for Defendant, Harvest Management Sub LLC

/s/ Anna Gresl

Anna Gresl, an employee of
CLAGGETT & SYKES LAW FIRM

Heather S. Smith

CLERK OF THE COURT

1 **OGSJ**

Benjamin P. Cloward

2 Nevada Bar No. 11087

Bryan A. Boyack

3 Nevada Bar No. 9980

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micah@claggettlaw.com

12 *Attorneys for Plaintiff*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 **AARON M. MORGAN**, individually,

Case No. A-15-718679-C

16 Plaintiff,

Dept. No. 7

17 v.

18 **DAVID E. LUJAN**, individually;
19 **HARVEST MANAGEMENT SUB LLC**,
a foreign limited liability company;
20 **DOES 1 through 20; ROE BUSINESS**
ENTITIES 1 through 20, inclusive
jointly and severally,

**ORDER GRANTING
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT
REGARDING VICARIOUS
LIABILITY AGAINST HARVEST
MANAGEMENT SUB LLC**

Hearing Date: September 16, 2022

Hearing Time: Chambers

21 Defendants.

**ORDER GRANTING PLAINTIFF’S MOTION FOR SUMMARY
JUDGMENT REGARDING VICARIOUS LIABILITY AGAINST
HARVEST MANAGEMENT SUB LLC**

On August 15, 2022, Plaintiff, Aaron M. Morgan (“Plaintiff”), filed a Motion for Summary Judgment (“Motion”) regarding the sole remaining issue in this case, vicarious liability. On August 29, 2022, Defendant Harvest Management Sub LLC (“Harvest”), filed an Opposition to Plaintiff’s Motion. On September 12, 2022, Plaintiff filed his Reply to Opposition to Plaintiff’s Motion.

On September 16, 2022, this Honorable Court, Judge Linda Bell, issued a Minute Order regarding Plaintiff’s Motion.

After having duly considered the Motion, Opposition, and Reply, the Court now enters its Order GRANTING summary judgment to Plaintiff against Harvest.

I. FINDINGS OF FACTS

1. On April 1, 2014, Plaintiff was involved in collision with a shuttle bus owned by Harvest.

2. At the time of the crash, Defendant David Lujan (“Lujan”) was employed as a shuttle bus driver owned by Harvest at the time of the automobile crash that is the subject of this case.

3. At the time of the crash, Lujan was driving the shuttle bus owned by Harvest.

4. At the time of the crash, there were no passengers on Harvest’s shuttle bus.

5. At the time of the crash, Lujan was on the clock for his job as a shuttle bus driver for Harvest.

II. CONCLUSIONS OF LAW

1. Under Nevada law, a party may seek summary judgment where the non-moving party cannot recover as a matter of law, and there is no genuine dispute as to any material fact. NRCP 56(a); *Butler v. Bayer*, 123 Nev. 450, 461, 168 P.3d 1055, 1063 (2007); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). A factual dispute is genuine when the evidence is such that a rational trier of fact could not return a verdict for the nonmoving party. *Id.* at 729, 121 P.3d at 1029.

2. Although the pleadings and other proof are construed in a light most favorable to the non-moving party, the non-moving party must transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine issue of material fact that she is entitled to relief. *Torrealba v. Kesmetis*, 124 Nev. 95, 100, 178 P.3d 716, 720 (2008); *Bird v. Casa Royale W.*, 97 Nev. 67, 70, 624 P.2d 17, 19 (1981).

3. Therefore, in opposing summary judgment, the non-moving party's documentation must be admissible evidence, and the non-moving party is not entitled to build a case of any kind on the gossamer threads of whimsy, speculation, and conjecture. *Wood*, 121 Nev. at 731, 121 P.3d at 1030. Indeed, the availability of summary judgment proceedings promotes judicial economy and reduces litigation expense associated with actions clearly lacking in merit. *Elizabeth E. v. ADT Sec. Sys. W. Inc.*, 108 Nev. 889, 892, 839 P.2d 1308, 1310 (1992).

1 4. Under Nevada law, where undisputed evidence exists concerning an
2 employee's status at the time of the accident, the issue of whether he was acting
3 within the scope of his employment may be resolved as a matter of law. *Evans v.*
4 *Sw. Gas Corp.*, 108 Nev. 1002, 1005, 842 P.2d 719, 721 (1992).

5 5. In support of his Motion for Summary Judgment, Plaintiff provided
6 an affidavit from Lujan that contained the following sworn statements: (1) he was
7 not allowed to use the shuttle bus for personal errands and that while driving the
8 bus he was on the clock and working; (2) on the day of the accident, he was not
9 taking a lunch break, but rather stopped to use the restroom while waiting for a
10 resident with medical appointments.

11 6. The Court notes that this affidavit differs from Lujan's testimony in
12 the first trial of this matter where he had testified that he was on a lunch break
13 at the park.

14 7. Regardless of whether Lujan had just completed a lunch break or
15 stopped for the restroom, the only evidence before the Court was that Lujan was
16 driving the shuttle bus for work purposes at the time of the subject crash. *See,*
17 *e.g., Kornton v. Conrad, Inc.*, 119 Nev. 123, 125, 67 P.3d 316, 317 (2003).

18 8. Harvest did not support its opposition with any affidavit or other
19 admissible evidence to refute that Lujan was actually working within the course
20 and scope of his employment while driving the shuttle bus at the time of the
21 subject crash with Plaintiff.

1 **III. ORDER AND JUDGMENT**

2 1. THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND
3 DECREED that Plaintiff's Motion for Summary Judgment Regarding Vicarious
4 Liability is GRANTED.

5 2. IT IS FURTHER ORDERED that Harvest is liable under vicarious
6 liability for the actions caused by its employee Lujan. *See, e.g., Dezzani v. Kern*
7 *& Assocs., Ltd.*, 134 Nev. 61, 67, 412 P.3d 56, 61 (2018).

8 3. On December 17, 2018, the Court entered judgment upon the jury
9 verdict in favor of Plaintiff and against Lujan. *See Exhibit 1* (Judgment Upon
10 the Jury Verdict, filed on 12/17/2018). Since Harvest is vicariously liable for
11 Lujan's actions arising out of the subject crash, Harvest is liable for the entire
12 judgment entered on December 17, 2018.

13 4. JUDGMENT is hereby entered in favor of Plaintiff, Aaron M.
14 Morgan, and against Defendant, Harvest Management Sub LLC, in the total
15 amount of \$3,046,382.72 according to the terms of the judgment entered on
16 December 13, 2018. *See Exhibit 1.*

17 ///

18 ///

19 ///

5. As of November 1, 2022, \$728,920.10 in post-judgment interest has accrued on the judgment for which Harvest Management Sub LLC is liable and will continue to be liable for the accrual of post-judgment interest, at the current daily rate of \$563.37, until the judgment is satisfied. See **Exhibit 2** (Table of Accrued Post-Judgment Interest); *Waddell v. L.V.R.V. Inc.*, 122 Nev. 15, 26, 125 P.3d 1160, 1167 (2006); NRS 17.130.

Dated this 15th day of November, 2022

IT IS SO ORDERED.



04B 438 5052 1D39
Linda Marie Bell
District Court Judge

Respectfully submitted by:

Approved as to form:

CLAGGETT & SYKES LAW FIRM

BAILEY KENNEDY

/s/ Micah S. Echols

/s/ Sarah E. Harmon

Micah S. Echols
Nevada Bar No. 8437

Dennis L. Kennedy, Esq.
Nevada Bar No. 1462
Sarah E. Harmon, Esq.

RICHARD HARRIS LAW FIRM

Nevada Bar No. 8106

Benjamin P. Cloward
Nevada Bar No. 11087

Tayler D. Bingham, Esq.
Nevada Bar No. 15870

Bryan A. Boyack
Nevada Bar No. 9980

8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Telephone: 702.562.8820

Attorneys for Plaintiff

Facsimile: 702.562.8821
DKennedy@BaileyKennedy.com

SHarmon@BaileyKennedy.com

TBingham@BaileyKennedy.com

Attorneys for Defendant,

Harvest Management Sub LLC

From: [Sarah Harmon](#)
To: [Anna Gresl](#)
Cc: [Benjamin Cloward](#); [Bryan Boyack](#); [Nicole Griffin](#); [Dennis Kennedy](#); [Angie Mattox](#); [Micah Echols](#); [Tayler Bingham](#)
Subject: RE: Aaron Morgan v. Harvest Management / DRAFT Order Granting Summary Judgment
Date: Wednesday, November 9, 2022 7:42:19 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)

Hi Anna –

Thank you for forwarding this to me. You may add my e-signature.

Thanks!

Sarah

Sarah E. Harmon

Bailey❖Kennedy
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
(702) 562-8820 (Main)
(702) 562-8821 (Fax)
(702) 853-0757 (Direct)
Sharmon@baileykennedy.com

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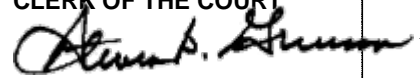
From: Anna Gresl <Anna@claggettlaw.com>
Sent: Tuesday, November 8, 2022 4:04 PM
To: Sarah Harmon <SHarmon@baileykennedy.com>
Cc: Benjamin Cloward <benjamin.cloward@gmail.com>; Bryan Boyack <bryan@boyacklawgroup.com>; Nicole Griffin <griffin@richardharrislaw.com>; Dennis Kennedy <DKennedy@baileykennedy.com>; Angie Mattox <AMattox@baileykennedy.com>; Micah Echols <Micah@claggettlaw.com>
Subject: RE: Aaron Morgan v. Harvest Management / DRAFT Order Granting Summary Judgment

Attached is the clean version for your approval to use your electronic signature. Thank you.

Anna Gresl
Paralegal, Appellate Division

EXHIBIT 1

EXHIBIT 1



JGJV
Richard Harris Law Firm
Benjamin P. Cloward, Esq.
Nevada Bar No. 11087
Bryan A. Boyack, Esq.
Nevada Bar No. 9980
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Las Vegas, Nevada 89101
Telephone: (702) 444-4444
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Marquis Aurbach Coffing
Micah S. Echols, Esq.
Nevada Bar No. 8437
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10001 Park Run Drive
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Telephone: (702) 382-0711
Facsimile: (702) 382-5816
mechols@maclaw.com
tstewart@maclaw.com

Attorneys for Plaintiff, Aaron M. Morgan

DISTRICT COURT

CLARK COUNTY, NEVADA

AARON M. MORGAN, individually,
Plaintiff,

vs.

DAVID E. LUJAN, individually; HARVEST
MANAGEMENT SUB LLC; a Foreign Limited-
Liability Company; DOES 1 through 20; ROE
BUSINESS ENTITIES 1 through 20, inclusive
jointly and severally,

Defendants.

CASE NO.: A-15-718679-C
Dept. No.: XI

JUDGMENT UPON THE JURY VERDICT

JUDGMENT UPON THE JURY VERDICT

This action came on for trial before the Court and the jury, the Honorable Linda Marie Bell, District Court Judge, presiding,¹ and the issues having been duly tried and the jury having duly rendered its verdict.²

IT IS ORDERED AND ADJUDGED that PLAINTIFF, AARON M. MORGAN, have a recovery against DEFENDANT, DAVID E. LUJAN, for the following sums:

Past Medical Expenses	\$208,480.00
Future Medical Expenses	+\$1,156,500.00
Past Pain and Suffering	+\$116,000.00
Future Pain and Suffering	+\$1,500,000.00
Total Damages	\$2,980,980.00

IT IS FURTHER ORDERED AND ADJUDGED that AARON M. MORGAN's past damages of \$324,480 shall bear Pre-Judgment interest in accordance with *Lee v. Ball*, 121 Nev. 391, 116 P.3d 64 (2005) and NRS 17.130 at the rate of 5.00% per annum plus 2% from the date of service of the Summons and Complaint on May 28, 2015, through the entry of the Special Verdict on April 9, 2018:

PRE-JUDGMENT INTEREST ON PAST DAMAGES:

05/28/15 through 04/09/18 = **\$65,402.72**

[(1,051 days) at (prime rate (5.00%) plus 2 percent = 7.00%) on \$324,480 past damages]

[Pre-Judgment Interest is approximately \$62.23 per day]

PLAINTIFF'S TOTAL JUDGMENT

Plaintiff's total judgment is as follows:

Total Damages:	\$2,980,980.00
Prejudgment Interest:	\$65,402.72
TOTAL JUDGMENT	\$3,046,382.72

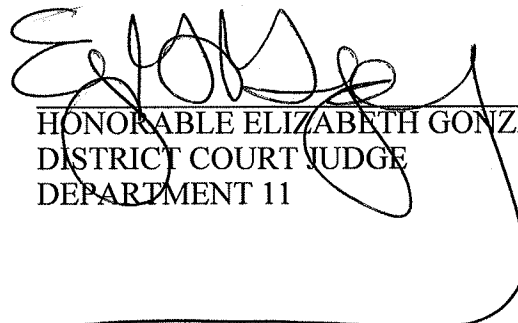
¹ This case was reassigned to the Honorable Elizabeth Gonzalez, District Court Judge, in July 2018.

² See Special Verdict filed on April 9, 2018, attached as **Exhibit 1**.

Now, THEREFORE, Judgment Upon the Jury Verdict in favor of the Plaintiff is as follows:

PLAINTIFF, AARON M. MORGAN, is hereby awarded \$3,046,382.72 against DEFENDANT, DAVID E. LUJAN, which shall bear post-judgment interest at the adjustable legal rate from the date of the entry of judgment until fully satisfied. Post-judgment interest at the current 7.00% rate accrues interest at the rate of \$584.24 per day.

Dated this 13 day of Dec., 2018.


HONORABLE ELIZABETH GONZALEZ
DISTRICT COURT JUDGE
DEPARTMENT 11

Respectfully Submitted by:

Dated this 12TH day of December, 2018.

MARQUIS AURBACH COFFING

By 

Micah S. Echols, Esq.
Nevada Bar No. 8437
Tom W. Stewart, Esq.
Nevada Bar No. 14280
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff, Aaron M. Morgan

[CASE NO. A-15-718679-C—JUDGMENT UPON THE JURY VERDICT]

Exhibit 1

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

APR - 9 2018

BY: *J. M. Brown*
J. M. BROWN, DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO: A-15-718679-C

DEPT. NO: VII

AARON MORGAN,

Plaintiff,

vs.

DAVID LUJAN,

Defendant.

SPECIAL VERDICT

We, the jury in the above-entitled action, find the following special verdict on the questions submitted to us:

QUESTION NO. 1: Was Defendant negligent?

ANSWER: Yes ☒ No ☐

If you answered no, stop here. Please sign and return this verdict.

If you answered yes, please answer question no. 2.

QUESTION NO.2: Was Plaintiff negligent?

ANSWER: Yes ☐ No ☒

If you answered yes, please answer question no. 3.

If you answered no, please skip to question no. 4.

///

A-15-718679-C
SJV
Special Jury Verdict
4738215



1 **QUESTION NO. 3:** What percentage of fault do you assign to each party?

2 Defendant: 100

3 Plaintiff: 0

4 Total: 100%

5 Please answer question 4 without regard to you answer to question 3.

6 **QUESTION NO. 4:** What amount do you assess as the total amount of Plaintiff's damages?

7 (Please do not reduce damages based on your answer to question 3, if you answered question 3.

8 The Court will perform this task.)

9	Past Medical Expenses	\$ <u>208,480.</u> <u>00</u>
10	Future Medical Expenses	\$ <u>1,156,500.</u> <u>00</u>
11	Past Pain and Suffering	\$ <u>116,000.</u> <u>00</u>
12	Future Pain and Suffering	\$ <u>1,500,000.</u> <u>00</u>
13		
14	TOTAL	\$ <u>2,980,980.</u> <u>00</u>

15

16 DATED this 9th day of April, 2018.

17

18 Arthur J. St. Laurent

19 FOREPERSON

20 ARTHUR J. ST. LAURENT

21

22

23

24

25

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27

28

EXHIBIT 2

EXHIBIT 2

JUDGMENT ENTERED ON DECEMBER 17, 2018:

1. December 18–31, 2018 = 14 days
Legal Interest Rate = 7.00%
Post-Judgment Interest for this Period = **\$8,179.33**
2. January 1, 2019 — June 30, 2019 = 181 days
Legal Interest Rate = 7.50%
Post-Judgment Interest for this Period = **\$113,300.40**
3. July 1, 2019 — December 31, 2019 = 184 days
Legal Interest Rate = 7.50%
Post-Judgment Interest for this Period = **\$115,178.31**
4. January 1, 2020 — June 30, 2020 = 182 days
Legal Interest Rate = 6.75%
Post-Judgment Interest for this Period = **\$102,533.73**
5. July 1, 2020 — December 31, 2020 = 184 days
Legal Interest Rate = 5.25%
Post-Judgment Interest for this Period = **\$80,624.81**
6. January 1, 2021 — June 30, 2021 = 181 days
Legal Interest Rate = 5.25%
Post-Judgment Interest for this Period = **\$79,310.28**
7. July 1, 2021 — December 31, 2021 = 184 days

Legal Interest Rate = 5.25%

Post-Judgment Interest for this Period = \$80,624.81

8. January 1, 2022 — June 30, 2022 = 181 days

Legal Interest Rate = 5.25%

Post-Judgment Interest for this Period = \$79,310.28

9. July 1, 2022 — November 1, 2022 = 124 days

Legal Interest Rate = 6.75%

Post-Judgment Interest for this Period = \$69,858.15

**TOTAL POST-JUDGMENT INTEREST THROUGH NOVEMBER 1, 2022 =
\$728,920.10, with \$563.37 daily interest at the current 6.75% legal interest rate.**

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Aaron Morgan, Plaintiff(s)

CASE NO: A-15-718679-C

7 vs.

DEPT. NO. Department 7

8 David Lujan, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 11/15/2022

15 "Bryan A. Boyack, Esq." .

bryan@richardharrislaw.com

16 "Doug Gardner, Esq." .

dgardner@rsglawfirm.com

17 Benjamin Cloward .

Benjamin@richardharrislaw.com

18 Douglas R. Rands .

drands@rsgnlaw.com

19 Melanie Lewis .

mlewis@rsglawfirm.com

20 Olivia Bivens .

olivia@richardharrislaw.com

21 Shannon Truscello .

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22 Tina Jarchow .

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23 Pauline Batts .

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24 Reception E-File

reception@claggettlaw.com

25 Leah Dell

ldell@maclaw.com

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Appeals Team	appeals@claggettlaw.com
Tayler Bingham	tbingham@baileykennedy.com

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 29, 2016

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

December 29, 2016 9:00 AM Status Conference

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Louisa Garcia

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
Gardner, Douglas J, ESQ Attorney

JOURNAL ENTRIES

- Counsel advised discovery was completed and they had no discovery issues; the dispositive motion cut-off date is due within three weeks. COURT reviewed the trial handout and ORDERED, trial date STANDS.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 07, 2017

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

March 07, 2017 9:00 AM Calendar Call

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Sylvia Perry

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Gardner, Douglas J, ESQ Attorney

JOURNAL ENTRIES

- Calendar Call

Mr. Gardner advised he is ready to move forward with trial. Colloquy regarding scheduling.
COURT ORDERED, trial VACATED and RESET.

4/4/17 9:00 AM CALENDAR CALL

4/24/17 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 04, 2017

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

April 04, 2017 9:00 AM Calendar Call

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Phyllis Irby

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
 Cloward, Benjamin P. Attorney
 Gardner, Douglas J, ESQ Attorney

JOURNAL ENTRIES

- Parties announced ready for trial 4 - 5 DAYS; will have exhibits and jury instructions prepared and submit to the court soon. COURT ORDERED, TRIAL DATE STANDS.

4-24-17 9:00 AM JURY TRIAL (DEPT. VII)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 24, 2017

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

April 24, 2017 9:00 AM Jury Trial - FIRM

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15A

COURT CLERK: Sylvia Perry

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
 Cloward, Benjamin P. Attorney
 Rands, Douglas R Attorney

JOURNAL ENTRIES

- Jury Trial

OUTSIDE THE PERSPECTIVE JURY

Mr. Rands advised the defendant, Mr. Lujan, has been hospitalized and requested to continue the jury trial. No opposition by Mr. Cloward, requesting a status check be set. COURT ORDERED, jury trial CONTINUED and Mr. Rands to provide medical documentation as to Mr. Lujan's hospital stay by the upcoming court date. COURT FURTHER ORDERED, exhibits returned to Counsel and trial OFF CALENDAR .

5/16/17 9:00 AM STATUS CHECK: STATUS OF THE CASE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 16, 2017

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

May 16, 2017 9:00 AM Status Check

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Sylvia Perry

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
 Cloward, Benjamin P. Attorney
 Gardner, Douglas J, ESQ Attorney

JOURNAL ENTRIES

- Status Check: Status of the Case

Mr. Gardner advised his client is making a disability claim and his daughter who is assisting him has his records. Mr. Lujan is prepared to make a record under oath. Court advised it needs the discharge paperwork from the hospital. Mr. Gardner so noted. Mr. Boyack advised a motion for partial summary judgment has been filed and would like to reset the trial after. Colloquy regarding scheduling. COURT ORDERED, trial date SET. Mr. Gardner made an oral request for the Court to review the discharge summary of Mr. Lujan in camera as he does not want to file it. COURT SO NOTED.

8/29/17 9:00 AM CALENDAR CALL

9/5/17 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

June 13, 2017

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

**June 13, 2017 9:00 AM Motion for Partial
Summary Judgment**

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Marwanda Knight

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
Gardner, Douglas J, ESQ Attorney

JOURNAL ENTRIES

- Bryan Boyack, Esq., appeared on behalf of Pltf
Douglas Gardner, Esq., appeared on behalf of Deft

Mr. Gardner provided the Court with medical records.

Mr. Boyack argued Deft s expert should not be allowed to make any further opinions that were not disclosed in his reports. Court noted having Mr. Lujan s discharge summary. Mr. Gardner argued Defts are prepared to respond to the affidavit, and requested more time to do so. However, if Defts are not allowed to respond to the affidavit it should be stricken. After hearing from both sides, COURT ORDERED, Motion for Partial Summary Judgment GRANTED.

Mr. Boyack indicated he would submit the proposed order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 29, 2017

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

August 29, 2017 9:00 AM Calendar Call

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15A

COURT CLERK: Sylvia Perry
Elizabeth Vargas

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
Gardner, Douglas J, ESQ Attorney
Attorney

JOURNAL ENTRIES

- Calendar Call

Mr. Boyack advised Mr. Cloward is currently in trial in DC 27 and will be starting another trial 9/18/17 and an issue with an expert the week of 9/25/17. Upon the Court's inquiry, the trial will remain five days. Colloquy regarding scheduling. COURT ORDERED, trial VACATED and RESET.

10/3/17 9:00 AM CALENDAR CALL

10/9/17 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

October 03, 2017

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

October 03, 2017 9:00 AM Calendar Call

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15A

COURT CLERK: Sylvia Perry

RECORDER: Gail Reiger

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
 Gardner, Douglas J, ESQ Attorney

JOURNAL ENTRIES

- Upon the Court's inquiry, parties ready to go forward with trial which will consist of 5-6 witnesses; requesting the end of November. Colloquy regarding scheduling. COURT ORDERED, trial SET TO PROCEED. Additionally, Mr. Garner inquired about a witness appearing by video, Court so noted.

11/6/17 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 06, 2017

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

November 06, 2017 9:00 AM

Jury Trial

Jury Trial

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15A

COURT CLERK: Sylvia Perry

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:	Boyack, Bryan A.	Attorney
	Cloward, Benjamin P.	Attorney
	Gardner, Douglas J, ESQ	Attorney
	Lujan, David E	Defendant
	Morgan, Aaron M	Plaintiff
	Rands, Douglas R	Attorney

JOURNAL ENTRIES

- Jury Trial Begins

OUTSIDE THE PRESENCE OF THE PERSPECTIVE JURY:

Colloquy regarding counsel's proposed jury instructions, trial procedures and voir dire. Mr. Cloward made an oral request to be able to move around the courtroom during voir dire citing Salazar v. State an Whitlock v. Salmon. COURT ORDERED, Mr. Cloward's request DENIED. Counsel may address the jury at the podium but may not move about the courtroom. Further colloquy regarding wage abandonment. Court advised any discussion regarding Plaintiff's employment can be done outside the presence of the jury. Parties so noted.

INSIDE THE PRESENCE OF THE PERSPECTIVE JURY:

Introductions by the Court and Counsel. Voir Dire conducted.

OUTSIDE THE PRESENCE OF THE PERSPECTIVE JURY:

Mr. Cloward made a record as to discussions during a side bar regarding secondary gain.

INSIDE THE PRESENCE OF THE PERSPECTIVE JURY:

Voir dire continued.

OUTSIDE THE PRESENCE OF THE PERSPECTIVE JURY:

Mr. Cloward stated additional concerns as to having to remain at the podium during voir dire. Court so noted.

INSIDE THE PRESENCE OF THE PERSPECTIVE JURY:

Voir dire continued. Peremptory challenges exercised. Court read jury instructions. Jury sworn. COURT ORDERED, trial CONTINUED and in recess for the evening.

CONTINUED TO 11/7/17 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 07, 2017

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

November 07, 2017 10:30 AM Jury Trial Jury Trial

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Sylvia Perry

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
 Cloward, Benjamin P. Attorney
 Gardner, Douglas J, ESQ Attorney
 Lujan, David E Defendant
 Rands, Douglas R Attorney

JOURNAL ENTRIES

- Jury Trial Continued

INSIDE THE PRESENCE OF THE JURY:
Opening statements by Plaintiff's Counsel.

OUTSIDE THE PRESENCE OF THE JURY:
Mr. Cloward waived his opening statement until the Plaintiff's rest. COURT SO ORDERED.
EXCLUSIONARY RULE INVOKED.

INSIDE THE PRESENCE OF THE JURY:
Testimony and exhibits presented. (See worksheets). COURT ORDERED, trial in recess and
CONTINUED.

OUTSIDE THE PRESENCE OF THE JURY:

Mr. Gardner made a record as to the motion in limine that granted the Plaintiff summary judgment; further stating opposition and there has not been adequate foundation laid for it. Court advised the issue was there was no expert by the Defense providing any opinion about the issues related to wrist from the defense side. Jury instructions settled.

CONTINUED TO 11/8/17 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 08, 2017

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

November 08, 2017 10:00 AM Jury Trial

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15A

COURT CLERK: Sylvia Perry

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:	Cloward, Benjamin P.	Attorney
	Gardner, Douglas J, ESQ	Attorney
	Lujan, David E	Defendant
	Morgan, Aaron M	Plaintiff
	Rands, Douglas R	Attorney

JOURNAL ENTRIES

- INSIDE THE PRESENCE OF THE JURY:

Testimony and exhibits presented (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY:

Arguments by Mr. Gardner advising reference to the auto citation is not relevant and prejudicial as not relevant. Opposition by Mr. Cloward stating it would be used for impeachment purposes. Further arguments by Counsel. COURT ORDERED, traffic citation inadmissible.

INSIDE THE PRESENCE OF THE JURY:

Testimony and exhibits continued.

OUTSIDE THE PRESENCE OF THE JURY:

Mr. Cloward move for a mistrial as Mr. Garner referred to a pending accident Plaintiff was involved in. Mr. Gardner advised it was brought up for impeachment purposes. COURT ORDERED, matter

TRAILED. MATTER RECALLED, Court stated findings and ORDERED, mistrial GRANTED.

INSIDE THE PRESENCE OF THE JURY:

Court thanked and excused the Jury.

OUTSIDE THE PRESENCE OF THE JURY:

Colloquy regarding scheduling. COURT ORDERED, status check SET.

11/9/18 9:00 AM STATUS CHECK: TRIAL SETTING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 09, 2017

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

November 09, 2017 10:30 AM Status Check Status Check: Trial Setting

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 03B

COURT CLERK: Sylvia Perry

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Cloward, Benjamin P. Attorney
 Gardner, Douglas J, ESQ Attorney

JOURNAL ENTRIES

- Upon the Court's inquiry, Mr. Cloward advised he is unable to begin trial this upcoming Monday as two of the three Drs are unavailable. Colloquy regarding scheduling. COURT ORDERED, trial date SET.

3/6/18 9:00 AM CALENDAR CALL

4/2/18 9:00 AM JURY TRIAL (FIRM)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 06, 2018

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

March 06, 2018 9:00 AM Calendar Call

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Phyllis Irby

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Cloward, Benjamin P. Attorney

JOURNAL ENTRIES

- Mr. Cloward announced ready for trial. COURT ORDERED, TRIAL DATE STANDS.

4-02-18 9:00 AM JURY TRIAL (FIRM)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 02, 2018

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

April 02, 2018 9:00 AM Jury Trial - FIRM

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Aja Brown

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
 Cloward, Benjamin P. Attorney
 Morgan, Aaron M Plaintiff
 Rands, Douglas R Attorney

JOURNAL ENTRIES

- JURY TRIAL FIRM.....PLAINTIFF'S MOTION TO PRESENT A JURY QUESTIONNAIRE PRIOR TO VOIR DIRE OR IN THE ALTERNATIVE FOR MORE LIBERAL JURY SELECTION ON ORDER SHORTENING TIME

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL. Colloquy regarding Plaintiff's Motion. COURT ORDERED, Motion DENIED as it was filed untimely.

PROSPECTIVE JURY PANEL PRESENT. Voir dire of panel. CONFERENCE AT BENCH. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 4/3/18 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 03, 2018

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

April 03, 2018 10:00 AM Jury Trial - FIRM

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Aja Brown

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
 Cloward, Benjamin P. Attorney
 Gardner, Douglas J, ESQ Attorney
 Morgan, Aaron M Plaintiff
 Rands, Douglas R Attorney

JOURNAL ENTRIES

- PROSPECTIVE JURY PANEL PRESENT. CONFERENCE AT BENCH. Peremptory challenges exercised. Court instructed Jury. Eight Jurors and two alternates selected and sworn. Opening statements by Mr. Cloward and Mr. Gardner. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 4/4/18 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 04, 2018

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

April 04, 2018 10:15 AM Jury Trial - FIRM

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Aja Brown

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
 Cloward, Benjamin P. Attorney
 Gardner, Douglas J, ESQ Attorney
 Morgan, Aaron M Plaintiff
 Rands, Douglas R Attorney

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY. Colloquy regarding instructions to the Jury with respect to the previous trial.

JURY PRESENT. Testimony and exhibits presented (see worksheets). COURT ORDERED, matter CONTINUED.

CONTINUED TO: 4/5/18 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 05, 2018

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

April 05, 2018 10:30 AM Jury Trial - FIRM

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Aja Brown

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
 Cloward, Benjamin P. Attorney
 Gardner, Douglas J, ESQ Attorney
 Morgan, Aaron M Plaintiff
 Rands, Douglas R Attorney

JOURNAL ENTRIES

- JURY PRESENT. Testimony and exhibits presented (see worksheets). COURT ORDERED, matter CONTINUED.

CONTINUED TO: 4/6/18 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 06, 2018

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

April 06, 2018 9:00 AM Jury Trial - FIRM

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Aja Brown

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
 Cloward, Benjamin P. Attorney
 Gardner, Douglas J, ESQ Attorney
 Morgan, Aaron M Plaintiff
 Rands, Douglas R Attorney

JOURNAL ENTRIES

- JURY PRESENT. Testimony presented (see worksheet). Plaintiff rests.

OUTSIDE THE PRESENCE OF THE JURY. Jury instructions settled on record. COURT ORDERED,
matter CONTINUED.

CONTINUED TO: 4/9/18 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 09, 2018

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

April 09, 2018 9:00 AM Jury Trial - FIRM

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15A

COURT CLERK: Aja Brown

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:	Boyack, Bryan A.	Attorney
	Cloward, Benjamin P.	Attorney
	Gardner, Douglas J, ESQ	Attorney
	Morgan, Aaron M	Plaintiff
	Rands, Douglas R	Attorney

JOURNAL ENTRIES

- JURY PRESENT. Testimony and exhibits presented (see worksheets). CONFERENCE AT BENCH. Defense rests. Court instructed the Jury. Closing statements by Mr. Cloward and Mr. Rands. Rebuttal by Mr. Cloward. At the hour of 3:33 p.m., Jury retired to deliberate.

JURY PRESENT. At the hour of 5:29 p.m., the Jury reached a verdict in accordance with the verdict which was filed in OPEN COURT; Plaintiff awarded damages in the amount of \$2,980,980.00. Court thanked and excused the jurors.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 10, 2018

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

**April 10, 2018 9:00 AM Motion for Attorney Fees
and Costs**

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15A

COURT CLERK: Aja Brown

RECORDER: Renee Vincent

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Matter called, no parties present. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 5/24/18 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 24, 2018

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

**May 24, 2018 9:00 AM Motion for Attorney Fees
and Costs**

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 03B

COURT CLERK: Nancy Maldonado

RECORDER: Renee Vincent

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Court advised the Motion has been withdrawn as of 04/11/18, and should have been taken off calendar.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 06, 2018

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

November 06, 2018 9:00 AM Motion for Judgment Plaintiff's Motion for Entry of Judgment

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 03E

COURT CLERK: April Watkins

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Boyack, Bryan A.	Attorney
	Champion, Andrea M.	Attorney
	Harmon, Sarah E.	Attorney
	Kennedy, Dennis L.	Attorney
	Stewart, Thomas W,	Attorney

JOURNAL ENTRIES

- Mr. Stewart argued the actions of defense counsel were pretty clear throughout the trial he was representing individual Pltf. and Harvest Management. During counsels opening statement he introduced Harvest as his 36(b) client, no dispute Mr. Lujan was in the course and scope of his employment, driving the bus at the time of the accident. Further, Due to an inadvertent error on the verdict form, left off Harvest Management and when counsel noticed this, consulted the NRCP governing special verdicts and 49(a) allows for the Court to make a finding about something not submitted to the jury. Mr. Kennedy argued motion should be denied since and essentially it stems from two premises. The first, whatever the claim was, negligent entrustment or vicarious liability was apparently abandoned at some point early on and was never presented to the jury. Further, you go through the first trial, every step of the way where a lawyer would of said, this is my client, this is the claim that I am defending and it does not happen. It did not happen if voir dire, does not happen when naming witnesses for the jury and in the first trial does not happen in the opening statement and that ends in a mistrial. Then you go to the second trial, nothing in voir dire, nothing in opening

statement about the claim, nothing in the jury instructions, nothing in closing arguments and most importantly, there is nothing on the verdict form. Court inquired why on the jury instructions the caption includes the corporate Deft. and on the special verdict form, it does not. Mr. Kennedy stated he does not know and as to the jury instructions, they are printed off the regular caption that had that Deft. on it. When you look at the jury instructions, there are no jury instructions as to the theories asserted against Harvest Management and if you look at the verdict form, Deft. is singular. Additionally, with respect to that inconsistency, when you look at what counsel says in closing arguments to the jury, counsel argued there is no question counsel understands it is a sole Deft., showing the form on the apparently on the ELMO, this is what the form will look like and this is what you should do. You should find Mr. Lujan is 100% negligent and Pltf. 0% and you should make a finding against Mr. Lujan, the Pltf. and that is what the jury does. Further, Mr. Kennedy argued procedurally they never tried the case against that Deft. As to the master servant theory, Mr. Kennedy stated that is not actual plead, it is mentioned and nothing in there that pleads that theory. In fact, the evidence is, Mr. Lujan was having lunch and returning from lunch when the accident happened. Also, Rule 49 does not get them there, Rule 49 allows the Court to add implicit findings, does not allow the Court to allow add a party Deft. and a claim to a jury verdict form where the jury form does not include them to start with. As to negligent entrustment, Mr. Kenney argued they asked that the individual Deft. Mr. Lujan be found 100% negligent and that was the finding. Mr. Steward further argued inadvertent error on instructions. Mr. Boyack advised the Judge had prepared the special verdict form and along with that what does Harvest Management want the special verdict to look like if there is no comparative negligence on the corporate Deft. There was no evidence presented in any of the trial that he was not within the course and scope. The corporate representative who was put on the stand during the trial discusses he was an employee, discusses the facts of the accident and never does she bring up on direct or cross examination that he was on a break and we are not on the hook here or any assertion of that. Colloquy. COURT ORDERED, motion DENIED. While there is an inconsistency in the caption of the jury instructions and special verdict form, it does not appear to be any additional instructions that would lend credence to the fact that the claims against Harvest Management Sub, LLC, were submitted to the jury. Judgement to be submitted to the Court.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****January 25, 2019**

A-15-718679-C Aaron Morgan, Plaintiff(s)
 vs.
 David Lujan, Defendant(s)

January 25, 2019 3:00 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** Chambers

COURT CLERK: Dulce Romea

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- DEFENDANT HARVEST MANAGEMENT SUB LLC'S MOTION FOR ENTRY OF JUDGMENT...OPPOSITION TO DEFENDANT HARVEST MANAGEMENT SUB LLC'S MOTION FOR ENTRY OF JUDGMENT AND COUNTER-MOTION TO TRANSFER CASE BACK TO CHIEF JUDGE BELL FOR RESOLUTION OF POST-VERDICT ISSUES

The Court having reviewed the motion for judgment and the related briefing and being fully informed, GRANTS the COUNTERMOTION. The MOTION is REFERRED to Judge Bell for decision. Counsel for Plaintiff is directed to submit a proposed order consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing and argument. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order or judgment.

2-12-19 9:00 AM DEFENDANT HARVEST MANAGEMENT SUB LLC'S MOTION FOR ENTRY OF JUDGMENT (DEPT VII - Bell; Courtroom 17A)

3-1-19 CHAMBERS PLAINTIFF'S MOTION FOR ATTORNEY'S FEES AND COSTS (DEPT XI - Gonzalez)

CLERK'S NOTE: Minute order forwarded to Department VII, the Hon. Linda Bell, as to the Motion for Entry of Judgment, and distributed to the parties via the E-Service List. / dr 1-28-19

CLERK'S NOTE: Minute order updated with a court date in Department VII as reflected above and entered in Odyssey. Parties notified via electronic mail. / dr 1-29-19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 19, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

February 19, 2019 9:00 AM Motion for Judgment

HEARD BY: Wiese, Jerry A.

COURTROOM: RJC Courtroom 14A

COURT CLERK: Kimberly Estala

RECORDER:

REPORTER: Kimberly Farkas

PARTIES

PRESENT:

JOURNAL ENTRIES

- No parties present.

COURT ORDERED, matter CONTINUED.

CONTINUED TO: 03/05/19 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 05, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

March 05, 2019 9:00 AM Motion for Judgment

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 17A

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Cloward, Benjamin P. Attorney
 Echols, Micah S. Attorney
 Harmon, Sarah E. Attorney
 Kennedy, Dennis L. Attorney
 Wilde, Kathleen A. Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. Cloward advised he would request the case be reassigned back to Department 7 and Mr. Kennedy advised he has filed a motion in opposition to having the case be reassigned. Upon Court's further inquiry, Mr. Kennedy advised he does not believe the matter at hand does not need to wait pending the decision of the Nevada Supreme Court decision and the transcript of the settling of the jury instructions was not included as part of the appendix.

Following extensive argument by counsel, COURT ADVISED it would like to review the transcripts prior to making a decision and ORDERED, DECISION TO ISSUE; matter SET for Status Check.

03/19/19 STATUS CHECK: DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 14, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

March 14, 2019 2:00 PM Minute Order

HEARD BY: Bell, Linda Marie

COURTROOM: No Location

COURT CLERK: Kimberly Estala

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- For convenience, case A-15-718679-C shall be transferred to Department 7 effective immediately pursuant to EDCR 1.30(b)(15).

CLERK'S NOTE: A copy of this Minute Order was electronically served to all registered for Odyssey File and Serve. //ke 03/14/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 19, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

March 19, 2019 9:00 AM All Pending Motions

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 17A

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Cloward, Benjamin P. Attorney
 Harmon, Sarah E. Attorney
 Kennedy, Dennis L. Attorney
 Wilde, Kathleen A. Attorney

JOURNAL ENTRIES

- STATUS CHECK: DECISION...PLAINTIFF'S MOTION FOR ATTORNEY'S FEES AND COSTS...DEFENDANT HARVEST MANAGEMENT SUB LLC'S MOTION TO STRIKE PORTIONS OF PLAINTIFF AARON MORGAN'S REPLY IN SUPPORT OF MOTION FOR ATTORNEY'S FEES AND COSTS; OR, IN THE ALTERNATIVE, MOTION FOR LEAVE TO FILE SUR-REPLY ON ORDER SHORTENING TIME.

Following extensive argument by counsel, COURT ORDERED, matter TAKEN UNDER ADVISEMENT. Matter SET for status check.

04/02/19 9:00 AM STATUS CHECK: DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 02, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

April 02, 2019 9:00 AM Status Check

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 17A

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Harmon, Sarah E. Attorney
Kennedy, Dennis L. Attorney

JOURNAL ENTRIES

- Court advised decision will be issued today.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 05, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

April 05, 2019 4:30 PM Minute Order

HEARD BY: Bell, Linda Marie **COURTROOM:** No Location

COURT CLERK: Kimberly Estala

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Morgan v Lujan A-15-718679-C The Decision and Order from C-18-322990-2 regarding Nevada v Dogaru was erroneously filed in this case. This Decision and Order shall be stricken.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

July 23, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

July 23, 2019 9:00 AM Motion to Compel

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 17A

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Wilde, Kathleen A. Attorney

JOURNAL ENTRIES

- GIVEN Ms. Wilde advised Mr. Rands advised he was unsure if he was going to appear today.
COURT FINDS, given there was proper notice of the motion and there has been no challenge of the motion and no one is present to oppose today, ORDERED motion GRANTED. Ms. Wilde to prepare an order. Colloquy regarding ongoing litigation of the case.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

October 01, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

October 01, 2019 9:00 AM All Pending Motions

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 17A

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Wilde, Kathleen A. Attorney

JOURNAL ENTRIES

- Douglas Rands, Esq. present on behalf of Defendant appearing via Courtcall.

Court noted it has a limited opposition from Mr. Rands. Ms. Wilde advised she has not received the opposition. Argument by Ms. Wilde for attorney's fees and costs. Upon Court's inquiry, Ms. Wilde advised fees would be imposed against Mr. Lujan and his counsel as there has not been a withdraw of counsel. Mr. Rands advised he has filed a notice to withdraw however due to an error the motion was not served upon all parties, the motion has now been served as of a month ago. Argument by Mr. Rands to withdraw as counsel and fees not be assessed upon him. Upon Court's further inquiry, Ms. Wilde advised there is no objection to Mr. Rands withdrawal as counsel. COURT ORDERED, motion for withdrawal GRANTED. COURT FURTHER ORDERED, motion for fees GRANTED with respect to law firm Rands, South and Gardner, Mr. Gardner, and Mr. Lujan however not against Mr. Rands personally.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

October 29, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

October 29, 2019 9:00 AM Motion for Judgment

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 17A

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:	Cloward, Benjamin P.	Attorney
	Echols, Micah S.	Attorney
	Harmon, Sarah E.	Attorney
	Kennedy, Dennis L.	Attorney

JOURNAL ENTRIES

- Following arguments by Counsel, COURT ORDERED, matter UNDER ADVISEMENT.

11/12/19 9:00 AM STATUS CHECK: DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 12, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

November 12, 2019 9:00 AM Status Check

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 17A

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- No parties present.

COURT ORDERED, matter CONTINUED one week.

CONTINUED TO: 11/26/19 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

November 26, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

November 26, 2019 9:00 AM Status Check

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 17A

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- No parties present.

COURT ORDERED, matter CONTINUED two weeks.

CONTINUED TO: 12/10/19 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 10, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

December 10, 2019 9:00 AM Status Check

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 17A

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- No parties present. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 12/17/19 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 17, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

December 17, 2019 9:00 AM Status Check

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 17A

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- No parties present.

COURT ORDERED, matter CONTINUED for decision.

CONTINUED TO: 12/24/19 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 24, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

December 24, 2019 9:00 AM Status Check

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 11A

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED.

CONTINUED TO: 12/31/19 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 31, 2019

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

December 31, 2019 9:00 AM Status Check

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 17A

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Court noted a trial will be held on the outstanding issue and ORDERED, matter SET for status check to set a trail.

01/14/20 9:00 AM STATUS CHECK: TRIAL SETTING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 14, 2020

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

January 14, 2020 9:00 AM Status Check

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 17A

COURT CLERK:
Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
Champion, Andrea M. Attorney
Echols, Micah S. Attorney
Harmon, Sarah E. Attorney
Kennedy, Dennis L. Attorney

JOURNAL ENTRIES

- Court advised in reviewing the case it finds it cannot made a decision as their is not enough information therefore the only option is to proceed with trial on this issue. Upon Court's inquiry, parties do not need additional discovery, would request a jury trial, and trial would last approximately 3 days. COURT ORDERED, trial date SET.

06/16/20 9:00 AM CALENDAR CALL

06/22/20 11:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 14, 2020

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

January 14, 2020 9:00 AM All Pending Motions

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 17A

COURT CLERK:

Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:

Boyack, Bryan A.	Attorney
Champion, Andrea M.	Attorney
Echols, Micah S.	Attorney
Harmon, Sarah E.	Attorney
Kennedy, Dennis L.	Attorney

JOURNAL ENTRIES

- STATUS CHECK: TRIAL SETTING...STATUS CHECK: DECISION...

Court advised in reviewing the case it finds it cannot made a decision as their is not enough information therefore the only option is to proceed with trial on this issue. Upon Court's inquiry, parties do not need additional discovery, would request a jury trial, and trial would last approximately 3 days. COURT ORDERED, trial date SET.

06/16/20 9:00 AM CALENDAR CALL

06/22/20 11:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 05, 2020

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

**May 05, 2020 10:30 AM Motion to Withdraw as
Counsel**

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 10C

COURT CLERK: Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- No parties present.

COURT ORDERED, motion GRANTED as unopposed.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

January 07, 2021

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

January 07, 2021 10:30 AM Status Check: Trial Setting

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Kimberly Estala

RECORDER: De'Awna Takas

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Due to the ongoing Covid-19 pandemic and limitations on jury trials, the court will set a status check in 60 days for trial setting.

03/11/21 10:30 AM STATUS CHECK: TRIAL SETTING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 25, 2021

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

March 25, 2021 10:30 AM Status Check: Trial Setting

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Louisa Garcia

RECORDER: Angelica Michaux

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- No parties present. Court noted there was argument set at the Supreme Court; therefore, COURT ORDERED, matter CONTINUED. If Writ is still pending, parties do not need to appear.

CONTINUED TO 6/24/21 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

June 22, 2021

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

June 22, 2021 3:00 AM Minute Order

HEARD BY: Bell, Linda Marie

COURTROOM: No Location

COURT CLERK: Yolanda Orpineda

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- This case is still pending a decision from the Nevada Supreme Court. Accordingly, the status check hearing set for June 24, 2021, is continued to July 29 at 10:30 AM and no appearances will be necessary.

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. // yo 06/22/21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 12, 2021

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

August 12, 2021 10:30 AM Status Check: Trial Setting

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Yolanda Orpineda

RECORDER: Kimberly Estala

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
 Harmon, Sarah E. Attorney

JOURNAL ENTRIES

- All parties present via Bluejeans.

Upon Court's inquiry, Mr. Boyack informed the Court that an Answer from the Supreme Court was still pending. COURT ORDERED, CONTINUED

CONTINUED TO: 12/09/21 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 08, 2021

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

December 08, 2021 3:00 AM Minute Order

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 10C

COURT CLERK:
Yolanda Orpineda

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- This case is set for Status Check: Trial Setting on December 9, 2021. Due to an unmovable scheduling conflict, the matter is being moved one week, to December 16, 2021 at 10:30 a.m.

Appearance by BlueJeans is permitted:
<https://bluejeans.com/336240553>
Or dial in: 1-408-419-1715

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. // yo 12.08.21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

December 16, 2021

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

December 16, 2021 10:30 AM Status Check: Trial Setting

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Yolanda Orpineda

RECORDER: Kimberly Estala

REPORTER:

PARTIES

PRESENT:	Boyack, Bryan A.	Attorney
	Echols, Micah S.	Attorney
	Harmon, Sarah E.	Attorney

JOURNAL ENTRIES

- All parties present via Bluejeans.

Discussions regarding availability of Parties for Jury Trial date selection. COURT ORDERED, matter SET for Jury Trial; Calendar Call will be set subsequent to the hearing. Court to prepare the Scheduling Order.

JURY TRIAL: 05.09.22 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 23, 2022

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

March 23, 2022 3:00 AM Minute Order

HEARD BY: Bell, Linda Marie

COURTROOM: Chambers

COURT CLERK: Sandra Matute

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Due to trial schedule and judicial availability, the hearing on calendar for March 24, 2022 at 10:30 a.m. is RESET to March 31, 2022 at 10:30 a.m.

Appearance by BlueJeans is permitted: <https://bluejeans.com/336240553> or dial in: 408-419-1715.

CLERK'S NOTE: The above minute order has been distributed to counsel by the Court Clerk via electronic service. sm/ / 03-23-22

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 31, 2022

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

March 31, 2022 10:30 AM Motion to Dismiss

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Patia Cunningham

RECORDER: Kimberly Estala

REPORTER:

PARTIES

PRESENT: Boyack, Bryan A. Attorney
 Cloward, Benjamin P. Attorney
 Echols, Micah S. Attorney
 Harmon, Sarah E. Attorney

JOURNAL ENTRIES

- Ms. Harmon argued that the plaintiff has not moved all claims against the Defendant within the 5 year rule and requested that the claim be dismissed without prejudice. Following additional argument by Ms. Harmon COURT ADVISED that It DOES NOT FIND it appropriate to administer an Administrative Order to resolve issues in an individual case. Mr. Echols argued that Defense Counsel is changing the language of the 41e rule and is now trying to divide the action and the claims. Further colloquy regarding whether or not all of the claims have been tried. COURT WILL ISSUE A WRITTEN ORDER.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 21, 2022

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

April 21, 2022 3:00 AM Minute Order

HEARD BY: Bell, Linda Marie **COURTROOM:** Chambers

COURT CLERK: Sandra Matute

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Regarding the Motion to Dismiss pending before this Court, argued on March 31, 2022, the Court requests additional briefing as to the November 2017 trial, which resulted in a mistrial. Transcripts from the trial were filed into this case on February 8, 2018.

The Court requests blind briefs with regard to the November 2017 trial as it relates to the pending Motion to Dismiss before this Court. Those briefs shall be filed no later than 30 days from the date of this minute order, or by Friday, May 20, 2022.

As a result of this supplemental briefing, the current trial date will be VACATED and reset pending the outcome of the Motion to Dismiss.

CLERK'S NOTE: The above minute order has been distributed to counsel by the Court Clerk via electronic service. sm/ / 04-21-22

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

June 02, 2022

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

June 02, 2022 3:00 AM Minute Order

HEARD BY: Bell, Linda Marie **COURTROOM:** Chambers

COURT CLERK: Sandra Matute

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- On May 26, 2022, Defendant submitted a Motion to Strike on an Order Shortening Time. Defendant requests portions of Plaintiff's May 20 blind brief to be stricken, or in the alternative, leave to respond to the blind brief.

Based on review of the papers, and pursuant to EDCR 2.23(c), the Court DENIES Defendant's request to strike portions of Plaintiff's brief, and GRANTS Defendant's request for leave to respond.

The hearing on calendar for June 2, 2022 is therefore VACATED.

CLERK'S NOTE: The above minute order has been distributed to counsel by the Court Clerk via electronic service. sm// 06-02-22

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 10, 2022

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

August 10, 2022 9:00 AM Status Check Status Check: Written Decision

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 05B

COURT CLERK: Kimberly Gutierrez

RECORDER: Kimberly Estala

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- There being no appearances for the hearing, COURT ORDERED, matter CONTINUED.

CONTINUED TO: 08/24/2022 9:00 AM Status Check: Written Decision

CLERK'S NOTE: A copy of this Minute Order was electronically served by Courtroom Clerk, Kimberly Gutierrez, to all registered parties for Odyssey File & Serve. /kg 8/11/2022

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

August 19, 2022

A-15-718679-C Aaron Morgan, Plaintiff(s)
vs.
David Lujan, Defendant(s)

August 19, 2022 3:00 AM Minute Order

HEARD BY: Bell, Linda Marie

COURTROOM: Chambers

COURT CLERK: Kara Seibert

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The August 24, 2022 hearing is VACATED. The August 31, 2022 date to reset the trial is rescheduled to September 21, 2022 to be heard on the same date at the pending motion for summary judgment.

CLERK'S NOTE: The above minute order has been distributed to all registered parties via Odyssey File and Serve. //ks 8-19-22

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****September 16, 2022**

A-15-718679-C Aaron Morgan, Plaintiff(s)
 vs.
 David Lujan, Defendant(s)

September 16, 2022 3:00 AM Minute Order

HEARD BY: Bell, Linda Marie**COURTROOM:** Chambers**COURT CLERK:** Kimberly Gutierrez**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Plaintiff Aaron Morgan files a Motion for Summary Judgment regarding the sole remaining issue in this case, vicarious liability. Defendant David Lujan was employed as a shuttle bus driver owned by Harvest Management at the time of the automobile crash that was the subject of the case. During the crash he was driving the shuttle bus with no passengers. The question is whether Mr. Lujan was in the course and scope of his employment at the time of the accident. In support of the motion for summary judgment, Mr. Lujan provided an affidavit indicating that he was not allowed to use the shuttle bus for personal errands and that while driving the bus he was on the clock and working. In the affidavit, Mr. Lujan indicates that on the day of the accident he was not taking a lunch break, but had rather stopped to use the restroom while waiting for a resident with medical appointments. This differs from Mr. Lujan's testimony in the first trial of this matter where he testified he was on a lunch break at the park.

Regardless of whether Mr. Lujan had just completed a lunch break or stopped for the restroom, the only evidence before the court was that Mr. Lujan was driving the shuttle bus for work purposes at the time of the accident. Harvest Management did not support their opposition with any affidavit or other admissible evidence to refute that Mr. Lujan was working while driving the shuttle bus. On that basis and based on the arguments presented in the Motion for Summary Judgment, Mr. Morgan's motion is granted. Counsel for Mr. Morgan to submit an order to the Court. As this resolves the

remaining issue in the case, both the hearing on the motion and the status check on trial setting are VACATED.

CLERK'S NOTE: A copy of this Minute Order was electronically served by Courtroom Clerk, Kimberly Gutierrez, to all registered parties for Odyssey File & Serve. /kg (9/16/2022)

PLAINTIFF'S EXHIBITS**CASE NO. A-15-718679-C**

Morgan v. Lujan, Management Sub LLC

		Stipulated	Date Offered	Objection	Date Admitted
1.	Traffic Accident Report				
2.	Form 5 Code List				
3.	Property Damage Estimate for Morgan's Vehicle				
4.	Photos of Morgan Vehicle				
5.	AMR Records				
6.	Sunrise Hospital Records				
7.	Urgent Care Records				
8.	Ryan Grabow, MD Records				
9.	Nevada Comprehensive Pain Center Records				
10.	Las Vegas Valley Chiropractic Records				
11.	Las Vegas Radiology Records				
12.	William Muir, MD Records				
13.	PayLater Pharmacy Records				
14.	Advanced Spine and Rehabilitation Records				
15.	Southern Hills Hospital Records				
16.	Radiology Specialists, Ltd. Records				
17.	PBS Anesthesia Records				
18.	Fremont ER Records				
19.	Andrew Cash, M.D. Records				
20.	ATI Physical Therapy Records				
21.	Terrence Clauretje, CV, TH, FS				
22.	Terrance Dinneen, M.S. CV, TH, FS				
23.	Photos of Accident Scene				
24.	Video of Accident Scene				
25.	Complaint				
26.	Answer				
27.	Order re: Wrist				
28.	Las Vegas Radiology Films (2 CD's)				

DEFENDANT'S TRIAL EXHIBITS

CASE NO. A-15-718679-C

Morgan v. Lujan, Management Sub LLC

Date Offered OBJ Admitted Date

A.	Incident/Accident Report					
B.	Driver Statement Report					
C.	Incident Diagram					
D.	Accident Information Card					
E.	State of Nevada Traffic Accident Report					
F.	Repair Estimate (Plaintiff's vehicle)					
G.	Sixteen (16) colored photographs of Plaintiff's vehicle					
H.	Nine (9) colored photographs of Defendant's vehicle					
I.	U.S. Department of Transportation Alcohol Testing Forms Results (as to Defendant)					
J.	Las Vegas Metropolitan Police Department Traffic Collision Information					
K.	Expert, Steven M. Sanders, Report					

[illegible]

COURT'S EXHIBITS

CASE NO. A719679

Date Offered Objection Date Admitted

1. QUESTION FROM JUROR # 5	11/7/17	N	11/7/17
2. " " " " # 5	I	I	I
3. " " " " # 5	I	I	I
4. QUESTION FROM JUROR # 5	11/8/17	N	11/8/17
5. " " " " # 1	I	I	I
6. " " " " # 1	I	I	I
7. " " " " # 2	I	I	I
8. QUESTION FROM JUROR # 2	11/8/17	N	11/8/17
9. " " " " # 9	I	I	I
10. " " " " # 9	I	I	I
11. QUESTION FROM JUROR # 9	11/8/17	N	11/8/17

EXHIBIT(S) LIST

Case No.: A718679

Hearing / Trial Date: 04/02/18

Dept. No.: VII

Judge: Linda Marie Bell

Court Clerk: Aja Brown

Plaintiff: Aaron Morgan

Recorder / Reporter: Renee Vincent

Counsel for Plaintiff: Bryan Boyak and Benjamin

vs.

Cloward

Defendant: David Lujan

Counsel for Defendant: Douglas Gardner and

Douglas Rands

HEARING / TRIAL BEFORE THE COURT

PLAINTIFF'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
1					
2					
3	PROPERTY DAMAGE ESTIMATE MORGAN VEH	4/4/18	N	4/4/18	ws
4	PHOTOS OF MORGAN'S VEHICLE	4/4/18	N	4/4/18	ws
5					
6	SUNRISE HOSPITAL RECORDS	4/9/18	N	4/9/18	ws
7	URGENT CARE RECORDS	4/4/18	N	4/4/18	ws
8					
9	NEVADA COMPREHENSIVE PAIN CTR RECS	4/5/18	N	4/5/18	ws
10	LAS VEGAS VALLEY CHIROPRACTIC RECS	4/5/18	N	4/5/18	ws
11	LAS VEGAS RADIOLOGY RECORDS	4/5/18	N	4/5/18	ws
12					
13					
14					
15					
16					
17					

Case No: A718079

VS.

PLAINTIFF'S

[illegible]

EXHIBIT(S) LIST

Case No.: A718679

Hearing / Trial Date: 04/02/18

Dept. No.: VII

Judge: Linda Marie Bell

Court Clerk: Aja Brown

Plaintiff: Aaron Morgan

Recorder / Reporter: Renee Vincent

Counsel for Plaintiff: Bryan Boyak and Benjamin

vs.

Cloward

Defendant: David Lujan

Counsel for Defendant: Douglas Gardner and

Douglas Rands

HEARING / TRIAL BEFORE THE COURT

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted	
1	QUESTION FROM JUROR # 6 (ASKED)	4/4/18	N/A	4/4/18	wa
2	QUESTION FROM JUROR # 6 (ASKED)	4/4/18	N/A	4/4/18	wa
3	QUESTION FROM JUROR # 6 (ASKED)	4/5/18	N/A	4/5/18	wa
4	QUESTION FROM JUROR # 6 (ASKED)	4/5/18	N/A	4/5/18	wa
5	QUESTION FROM JUROR # 5 (ASKED)	4/5/18	N/A	4/5/18	wa
6	QUESTION FROM JUROR # 8 (ASKED)	4/5/18	N/A	4/5/18	wa
7	QUESTION FROM JUROR # 10 (ASKED)	4/5/18	N/A	4/5/18	wa
8	QUESTION FROM JUROR # 9 (ASKED)	4/5/18	N/A	4/5/18	wa
9	QUESTION FROM JUROR # 6 (ASKED)	4/6/18	N/A	4/6/18	wa
10	QUESTION FROM JUROR # 6 (ASKED)	4/6/18	N/A	4/6/18	wa
11	QUESTION FROM JUROR # 5 (ASKED)	4/6/18	N/A	4/6/18	wa
12	QUESTION FROM JUROR # 5 (ASKED)	4/6/18	N/A	4/6/18	wa
13	QUESTION FROM JUROR # 5 (ASKED)	4/6/18	N/A	4/6/18	wa
14	QUESTION FROM JUROR # 5 (ASKED)	4/6/18	N/A	4/6/18	wa
15	QUESTION FROM JUROR # 10 (ASKED)	4/6/18	N/A	4/6/18	wa
16	QUESTION FROM JUROR # 10 (ASKED)	4/6/18	N/A	4/6/18	wa
17	QUESTION FROM JUROR # 10 (ASKED)	4/6/18	N	4/6/18	wa

EXHIBIT(S) LIST

Case No: A718679

Aaron Morgan

VS.

David Lujan

COURT'S EXHIBITS

[illegible]



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

DENNIS L. KENNEDY
8984 SPANISH RIDGE AVE.
LAS VEGAS, NV 89148-1302

DATE: December 15, 2022
CASE: A-15-718679-C

RE CASE: AARON M. MORGAN vs. DAVID E. LUJAN; HARVEST MANAGEMENT SUB LLC

NOTICE OF APPEAL FILED: December 13, 2022

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

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

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

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

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

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

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

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT REGARDING VICARIOUS LIABILITY AGAINST HARVEST MANAGEMENT SUB LLC; NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT REGARDING VICARIOUS LIABILITY AGAINST HARVEST MANAGEMENT SUB LLC; NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT REGARDING VICARIOUS LIABILITY AGAINST HARVEST MANAGEMENT SUB LLC; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

AARON M. MORGAN,

Plaintiff(s),

vs.

DAVID E. LUJAN; HARVEST
MANAGEMENT SUB LLC,

Defendant(s),

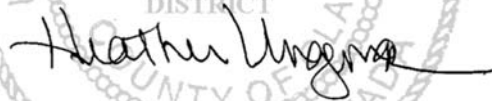
Case No: A-15-718679-C

Dept No: VII

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 15 day of December 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk