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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MARC J. RANDAZZA, an individual,
JENNIFER RANDAZZA, an individual, and
NATALIKA RANDAZZA, an individual,

Plaintiff,

v.

CRYSTAL COX, an individual, et al.,

Defendants.

Case No.: 2:12-cv-2040-JAD-PAL

**Counterdefendant Marc J. Randazza's
Supplement to Counterdefendant's
Special Motion to Dismiss Counter-
claimant's Counterclaim [Doc. 224]**

Counterdefendant Marc J. Randazza ("Randazza"), through his undersigned counsel, hereby files this Supplement ("Supplement") to Counterdefendant Randazza's Special Motion to Dismiss Counterclaimant, Crystal Cox's ("Cox") Counterclaim (the "Motion to Dismiss") [Doc. 224] which is fully briefed and presently pending before this Court. This Supplement is brought for the purpose of bringing to the Court's attention the dismissal and closure of a related action (Case No. 2:13-cv-00983, herein, the "983 Action"), which dismissal was entered after the completion of briefing on the Motion to Dismiss.

In the Motion to Dismiss, Randazza argues that the counterclaims of the present action (Case No. 2:12-cv-02040, herein, the "Present Action") are claim precluded by the dismissal with prejudice of Case No. 2:13-cv-00297 (the "297 Action"), asserting the same claims raised by the same claimant, Cox, against the same party, Randazza, before the same court, the United States District Court, District of Nevada, (Judge Miranda Du). *See* Motion at 29. This

FCA-W-0221 Supplement to Special Motion to Dismiss

1

Supplement to Special Motion to Dismiss

Supplement serves to provide additional, recently discovered, evidence in support of this claim preclusion argument. *See Id.*

On January 20, 2015, United States District Court Judge Andrew P. Gordon, accepted the Findings and Recommendation of United States Magistrate Judge George Foley, Jr., and ordered the dismissal with prejudice of Cox’s complaint in the ‘983 Action. *See Findings and Recommendation & Order*, dated June 12, 2014, (issued by Magistrate Judge Foley), (“Report & Recommendation”), attached hereto as **Exhibit 1**, at 7; *see also*, *Order*, dated January 20, 2015, (issued by Judge Gordon) (“Order”), attached hereto as **Exhibit 2**. Counterdefendant Randazza brings these findings and orders to the attention of the Court because the claims asserted by Cox in the ‘983 Action against Randazza are materially the same as those asserted by Cox in the Present Action.

In his Report & Recommendation, Magistrate Judge Foley recommended dismissal with prejudice because Cox’s claims in that action (the ‘983 Action) were the “identical claims against the same Defendants in a previous case [the ‘297 Action] which was dismissed with prejudice pursuant to Rule 41(b) for Plaintiff’s [Cox’s] failure to timely file an amended complaint pursuant to the Court’s order.”¹ In making this finding, Magistrate Judge Foley noted that on February 26, 2013, Cox filed the amended counterclaim of the Present Action as the Complaint in the ‘297 Action).²

Magistrate Judge Foley then noted that the ‘297 Action not only alleged the same claims as those brought in the Present Action and in the ‘983 Action, but further noted that those claims were brought against the same parties, specifically Counterdefendant Randazza in the Present Action.³ Ultimately, after failing to comply with the Court’s order in the ‘297 Action to file an amended complaint, the Court dismissed the ‘297 Action “with prejudice pursuant to Rule

¹ Report & Recommendation at 6-7.

² *Id.* at 3.

³ *Id.* at 3-4.

41(b)” on May 14, 2014.⁴ Magistrate Judge Foley then applied the doctrine of claim preclusion to the ‘983 Action and found the claims in that action were barred as res judicata by the dismissal with prejudice of the ‘297 Action.⁵

Because Cox’s Counterclaims in the Present Action are the same claims brought against the same party (Randazza) as those of the ‘297 Action and ‘983 Action, and because both the ‘297 Action and the ‘983 Action have been dismissed with prejudice, the Counterclaims of the Present Action also should be dismissed with prejudice pursuant to Rule 41(b) “due to the principle of res judicata”⁶ to avoid the possibility of inconsistent rulings on the same claims against the same parties.

Accordingly, Counterdefendant Randazza respectfully requests the Court grant Counterdefendant’s Special Motion to Dismiss Counterclaimant Cox’s Counterclaims with prejudice.

DATED this 3rd day of March, 2014.

Respectfully Submitted,

WEIDE & MILLER, LTD.

/s/ F. Christopher Austin
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Attorney for Attorneys for Plaintiff, Counterdefendant
Marc J. Randazza

⁴ *Id.* at 4.

⁵ *Id.* at 6, 7.

⁶ *Id.* at 7

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Weide & Miller, Ltd. and that on March 3, 2015, I served a full, true and correct copy of the foregoing **Counterdefendant Marc J. Randazza's Supplement to Counterdefendant's Special Motion to Dismiss Counterclaimant's Counterclaim [Doc. 224]** via the United States District Court's CM/ECF filing system upon the following:

RANDAZZA LEGAL GROUP
Ronald D. Green, Esq.
Nevada Bar No. 7360
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and

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and via U.S. Mail to the party below requesting notice:

CRYSTAL L. COX,
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Port Townsend, WA 98368
Pro Se Defendant, Counterclaimant

/s/ F. Christopher Austin
An employee of WEIDE & MILLER, LTD.