

1 MICHAEL R. DOYEN (State Bar No. 119687)
michael.doyen@mto.com
2 DANIEL B. LEVIN (State Bar No. 226044)
daniel.levin@mto.com
3 JOHN M. GILDERSLEEVE (State Bar No. 284618)
john.gildersleeve@mto.com
4 MUNGER, TOLLES & OLSON LLP
350 South Grand Avenue, Fiftieth Floor
Los Angeles, California 90071-3426
5 Telephone: (213) 683-9100
6 Facsimile: (213) 687-3702

7 Attorneys for MGM RESORTS
INTERNATIONAL, MANDALAY
CORP. and MGM RESORTS FESTIVAL
8 GROUNDS, LLC

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

11 ARIANNA SERNA MAGGIORE, an
12 individual,

13 Plaintiff,

14 vs.

15 MGM RESORTS INTERNATIONAL, a
Delaware Corporation, MANDALAY
16 CORP., a Nevada Corporation, MGM
RESORTS FESTIVAL GROUNDS, LLC,
17 a Nevada Limited liability Company, LIVE
NATION ENTERTAINMENT, INC., a
18 California corporation, LIVE NATION
GROUP dba ONENATIONGROUP, LLC,
19 a Nevada Domestic Limited Liability
Company, CONTEMPORARY
20 SERVICES CORPORATION, a California
corporation, ESTATE OF STEPHEN
21 PADDOCK, a Nevada resident, and DOES
1 through 100, inclusive,

22 Defendants.

Case No. 2:18-cv-5640

**NOTICE OF REMOVAL BY
DEFENDANTS MGM RESORTS
INTERNATIONAL, MANDALAY
CORP. AND MGM RESORTS
FESTIVAL GROUNDS, LLC**

1 **TO THE COURT, ALL PARTIES, AND ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1441 and 1446, and
3 in accordance with 28 U.S.C. § 1331 and 6 U.S.C. §§ 441-444, Defendants MGM
4 Resorts International, Mandalay Corp. and MGM Resorts Festival Grounds, LLC
5 (together, “Removing Defendants”) hereby remove this action from the Superior
6 Court of the State of California for the County of Los Angeles, Case No. BC710346,
7 to the United States District Court for the Central District of California, Western
8 Division. To Removing Defendants’ knowledge, no defendant in this action has
9 been served with the Summons and Complaint. Removal is proper on the following
10 grounds:

11 **TIMELINESS OF REMOVAL**

12 1. Plaintiff Arianna Serna Maggiore originally filed her complaint in
13 Federal Court in the Central District of California on June 13, 2018. The case was
14 assigned to the Honorable Stephen V. Wilson. On June 18, 2018, Maggiore
15 dismissed the complaint and, on the same day, filed an almost identical complaint in
16 the Superior Court of the State of California for the County of Los Angeles (the
17 “Complaint”). The Complaint alleges various causes of action arising out of the
18 mass shooting in Las Vegas on October 1, 2017. True and correct copies of all
19 pleadings as of the date of this filing are attached as Exhibit A.

20 2. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).
21 Removing Defendants discovered the basis for this Court’s jurisdiction through their
22 own investigation of Plaintiffs’ claims. See attached Declaration of Michael R.
23 Doyen (“Doyen Declaration”). This Notice of Removal is being filed on June 26,
24 2018, within 30 days of Removing Defendants’ discovery of the basis for federal
25 jurisdiction.

1 **GROUND FOR REMOVAL**

2 3. Removal is proper under 28 U.S.C. § 1441(a) and the Support Anti-
3 Terrorism by Fostering Effective Technologies Act of 2002, 6 U.S.C. §§ 441-444
4 (also known by the acronym, the “SAFETY Act”). The SAFETY Act provides for
5 exclusive federal jurisdiction over actions arising from acts of mass violence where
6 technologies or services certified by the Department of Homeland Security were
7 employed at the event to prevent or respond to mass violence. This is such an
8 action.

9 4. The SAFETY Act applies to actions arising from any (i) “unlawful”
10 act, (ii) that “causes harm to a person ... in the United States,” and (iii) that “uses or
11 attempts to use ... weapons ... designed or intended to cause mass ... injury.” 6
12 U.S.C. § 444(2)(B) (defining, for purpose of the SAFETY Act, an “act of
13 terrorism”). The associated regulations set forth the same definition. 48 C.F.R. §
14 50.201. The Secretary of Homeland Security must determine whether the statutory
15 and regulatory definitions are met. *Id.* Subsequent events demonstrate that the
16 Secretary has made such a determination.¹

17 _____
18 ¹ The Secretary and the DHS have made clear that the tragedy in Las Vegas falls
19 within the scope of the SAFETY Act. *See* Congressional Testimony of Acting
20 Secretary of DHS, Nov. 30, 2017 (noting emphasis of “terrorists and other violent
21 criminals ... on attacking soft targets,” including “recent tragedies in Nevada,” and
22 that the “SAFETY Act Program” “provide critical incentives for the development
23 and deployment of anti-terrorism technologies by providing liability protections for
24 ‘qualified anti-terrorism technologies,’” which applies to a number of stadiums
25 nationwide); Department of Homeland Security, *Soft Targets and Crowded Places*
26 *Security Plan Overview*, May 2018 (noting that “mass shootings” in various places,
27 including at a “concert,” aim “to kill and maim unsuspecting individuals” [p. 2] fall
28 within the Department’s “primary mission” “to prevent terrorist attacks within the
U.S, reduce the vulnerability of the U.S. to terrorism, and minimize the damage and
assist in the recovery from terrorist attacks that do occur, including those in ST-CPs
[soft-targets-crowded places],” and that the protections of the SAFETY Act have
been “approved for open venues such as sports arenas and stadia” [p. 17]);

1 5. Paddock’s attack on the Route 91 Concert meets these statutory
2 requirements. The Complaint alleges that Paddock attempted to use, and did in fact
3 use, weapons that were designed and intended to cause mass injury, and did in fact
4 cause mass injury. The Complaint alleges that Paddock “fired multiple rounds of
5 ammunition into the crowd of people at the Las Vegas Village . . . us[ing] bump
6 stocks to fire his weapons rapidly, mimicking automatic fire.” ¶¶ Compl. 14-15; *see*
7 *also* Compl. ¶ 42 (“With malicious and evil intent, PAD DOCK opened fire into the
8 crowd of concert-goers at the Route 91 Harvest Festival, intending to harm
9 thousands of attendees at the concert.”). The Complaint describes Paddock’s
10 actions as a “mass shooting,” alleging that “[d]uring an approximately 11-minute
11 stretch of rapid-fire shooting,” Paddock “killed 58 people and injured hundreds of
12 other concert goers at the Las Vegas Village.” Compl. ¶¶ 8, 15, 16.

13 6. The SAFETY Act provides that the district courts of the United States
14 “shall have original and exclusive jurisdiction” over “all actions for any claim for ...
15 personal injury, or death” that arise out of, relate to, or result from such an unlawful
16 act of mass violence “when qualified anti-terrorism technologies have been
17 deployed in defense against or response or recovery from such act and such claims
18 result or may result in loss to the Seller.” 6 U.S. C. § 442(a).

19 7. Pursuant to the SAFETY Act, the Department of Homeland Security
20 has certified the services provided by Defendant Contemporary Services

21 _____
22 Congressional Testimony of Secretary of DHS, May 15, 2018 (noting DHS is
23 “seeking to ramp up ‘soft target’ security efforts,” that DHS programs “address
24 threats to soft targets – including schools, entertainment venues, major events, and
25 public spaces.”). On June 4, 2018, DHS announced that it had “developed a ST-CP
26 Security Enhancement and Coordination Plan,” which has not been made public.
27 The plan addresses “the increased emphasis by terrorists and other extremist actors
28 to leverage less sophisticated methods to inflict harm in public areas ... such as
<https://www.dhs.gov/publication/securing-soft-targets-and-crowded-spaces>

1 Corporation (“CSC”) – the Security Vendor for the Route 91 concert. The DHS
2 Certification recognizes CSC’s security services as appropriate for preventing and
3 responding to acts of mass violence. 6 U.S.C. § 441; *see also* 48 C.F.R. § 50.201.

4 8. The protections of the SAFETY Act – including the provision of
5 exclusive federal jurisdiction – apply not only to the certified provider of the DHS
6 Certified services (here, CSC), but also to the provider’s customers and other
7 downstream users of the Certified services. 6 C.F.R. § 25.7(d). The use of such
8 DHS Certified services at the concert gives rise to exclusive federal jurisdiction over
9 this action.

10 9. Security for the Route 91 Harvest Festival was provided by CSC. *See*
11 Compl. ¶ 7 (alleging CSC was “concert[t] and event security firm for the Route 91
12 Harvest Festival . . . in October 2017.”).

13 10. CSC’s “Event Security Services” are Certified by the Department of
14 Homeland Security, pursuant to section 441(a) of the SAFETY Act, as appropriate
15 services for preventing and responding to incidents of mass violence. *See* Doyen
16 Declaration.

17 11. CSC’s security services Certified by DHS include “Physical Security”;
18 “Access Control”; and “Crowd Management.” CSC’s Certified Crowd Management
19 Services include:

- 20 • “Awareness of venue-specific emergency response protocols and
21 evacuation procedures to include emergency alert and mass-notification systems and
22 sheltering procedures”;
 - 23 • “Pre-event venue / event safety inspections”;
 - 24 • “Facilitation of crowd movement during ingress, circulation, sheltering
25 in place, emergency evacuations, and egress”;
 - 26 • “Pre-event coordination and multi-agency collaboration with public
27 safety agencies”;
- 28

1 • “Selection, vetting, and training of employees.”

2 12. CSC was retained as the “Security Vendor” for the Route 91 Harvest
3 Festival, and provided the security personnel for the concert. CSC’s responsibilities
4 at the Route 91 Harvest Festival included providing the following DHS Certified
5 services:

6 • “perimeter security, event access, festival grounds event security”;

7 • “Staff[ing] inner perimeter and gates”;

8 • “Protect[ing] against unauthorized access”;

9 • “early warning ... of perimeter breaches”;

10 • “Secur[ing] internal festival grounds”;

11 • “Patrol[ing] festival floor grounds and assist[ing] patrons with any
12 security related issues”;

13 • pre-event planning for “Security and Safety”;

14 • “Emergency response” and “evacuation,” including evacuation for
15 “terrorist threat” and “ensur[ing] that the exit routes and gates remain unobstructed.”

16 13. The Complaint alleges that CSC, as well as defendants MGM and Live
17 Nation as promoters of the concert, breached a duty of reasonable care by “failing to
18 properly train and supervise employees in an appropriate plan of action in case of a
19 foreseeable event, such as a terrorist attack” Compl. ¶28.

20 14. The Complaint alleges CSC, as well as defendants MGM and Live
21 Nation, were negligent “in the conducting of the . . . music festival” by “failing to
22 design, build and mark adequate exits in case of emergency.” Compl. ¶ 28. CSC’s
23 crowd movement, emergency evacuation and egress services, as well as its hiring
24 and training of security staff, are all certified by DHS as qualified anti-terrorism
25 services and subject to the protections of the SAFETY Act.

26 15. The Complaint alleges that “[a]s a direct and proximate result” of
27 CSC’s acts or omissions, “Plaintiff MS. MAGGIORE was caused to incur injury to
28

1 her body and mind” and suffered pain, medical expenses, emotional distress and
2 other damages. Compl. ¶ 31.

3 **THIS COURT HAS JURISDICTION AND REMOVAL IS PROPER**

4 16. Based on the foregoing facts and allegations, this Court has original
5 jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 6 U.S.C. § 442(a)
6 because:

7 (a) Paddock’s conduct was an unlawful act and caused harm to
8 persons in the United States, by use of weapons designed or intended to cause mass
9 injury;

10 (b) The shooting occurred at a venue where DHS Certified services
11 were in use to prevent and respond to such acts;

12 (c) Plaintiff alleges that failures in the provision of such services
13 caused her injuries.

14 17. The United States District Court for the Central District of California,
15 Western Division is the appropriate venue for removal pursuant to 28 U.S.C. §
16 1441(a) because it embraces the place where Plaintiff originally filed this case, in
17 Los Angeles County Superior Court. *See* 28 U.S.C. § 84(c); *id.* § 1441(a).

18 18. Upon filing this Notice of Removal, Removing Defendants will furnish
19 written notice to Plaintiffs’ counsel, and will file and serve a copy of this Notice
20 with the Clerk of the Superior Court of Los Angeles County pursuant to 28 U.S.C. §
21 1446(d).

22 19. This Notice of Removal is filed subject to and with full reservation of
23 rights. No admission of fact, law or liability is intended by this Notice of Removal,
24 and all defenses, motions, and pleas are expressly reserved.

25 WHEREFORE, Removing Defendants remove to this Court the above action
26 pending against them in the Superior Court of California, County of Los Angeles.

27
28

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

DATED: June 26, 2018

MUNGER, TOLLES & OLSON LLP
MICHAEL R. DOYEN
DANIEL B. LEVIN
JOHN M. GILDERSLEEVE

By: s/ Michael R. Doyen
MICHAEL R. DOYEN

Attorneys for MGM RESORTS
INTERNATIONAL, MANDALAY CORP. and
MGM RESORTS FESTIVAL GROUNDS,
LLC