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25TH ANNUAL CALIFORNIA LAWYER ATTORNEYS OF THE YEAR

Sheppard et al. v. Mandalay Bay LLC

PLAINTIFFS PERSONAL INJURY, WRONGFUL DEATH, PREMISES LIABILITY

The 2017 sniper shootings at a music festival on the Las Vegas Strip left 60 dead and hundreds wounded. The gunman fired from the 32nd floor of the Mandalay Bay Hotel in the deadliest mass shooting by a lone individual in modern U.S. history.

The resulting litigation on behalf of victims against Mandalay Bay and its parent, MGM Resorts International, included a controversial countersuit against hundreds of the plaintiffs and, eventually, a massive settlement by the resort. *Sheppard v. Mandalay Bay LLC*, A-18-769752-C (8th Jud. Dist., Clark Co., Nev., filed Feb. 16, 2018).

On the eve of the third anniversary of the Route 91 Harvest Music Festival shootings, a Nevada state court judge approved an \$800 million payout on behalf of more than 4,000 victims and their families. The settlement documents were filed in September 2020.

The plaintiff litigation leadership group was co-led by Boyle, a founding partner at his firm, and Mark Robinson, with the aid of Daniel Robinson and Stumpf. Robert T. Eglet, the senior partner at Eglet Adams in Las Vegas was a third co-lead, assisted by law

Survivors of deadly shooting rely on legal dream team



Justin L. Stewart / Special to the Daily Journal

FROM LEFT, MATTHEW STUMPF AND KEVIN BOYLE OF PANISH SHEA & BOYLE

partner Robert M. Adams. The settlement created one of the largest victim compensation funds in U.S. history and resolved lawsuits pending in at least 10 states.

“Our three firms worked together well to make it happen,” Boyle said. It was the only settlement for a mass shooting event in U.S. history, he added. The funds have been deposited in the Bank of Nevada and court-appointed administrators are doing the work to get the money flowing to claimants by April, he said.

“After years of hard fought litigation and negotiations, we are thankful that Judge [Linda M.] Bell [of the Nevada trial court] has finalized this important settlement,” Mark Robinson said. “Our firm and the other leadership firms hope to help the victims and their families find closure and some

sense of healing.” He quoted his son and law partner Daniel Robertson as having said, “The court’s order granting good faith settlement is an important final step. Our thoughts and prayers are with the Vegas strong community.”

Bell’s order noted “the extraordinary work and effort by counsel in this case to achieve the maximum amount available to Claimants under the Settlement Agreement, despite having an immensely difficult, unique, and tragic set of circumstances.”

The culpability of the resort was a key component of the litigation and the settlement talks. “There was a madman with an assault rifle, and our position was he should never have been allowed to be there,” Boyle said. “The precedent we helped set was that businesses need to take steps to protect

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customers from being victims of gun violence. That gave a political and ideological perspective to the case.”

In an unusual twist, the defense’s countersuit sought to remove the cases to federal court and clear the resort of liability under the never-before-litigated Safety Act of 2002, a law passed in the wake of 9/11 that shields companies using security technology certified by the federal government to adequately protect against mass injury.

“MGM chose to sue the victims, and they said it was an effort to consolidate all the cases, but the reality was that their object was the dismissal of all the cases,” Boyle said. “We said the Safety Act did not apply, and they never got an answer on that part of the case because they chose to settle before it was adjudicated. We had a hearing on the question and it was still pending when they settled. Why did they settle before it was resolved? I can’t read their tea leaves, but they did choose to pay \$800 million.”

— John Roemer