

IN THE SUPREME COURT OF THE STATE OF NEVADA

PIERRE HASCHEFF, AN
INDIVIDUAL,

Appellant/Cross-Appellant,

vs.

LYNDA HASCHEFF, AN
INDIVIDUAL,

Respondent/Cross-Appellant.

Case No. 86976

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Elizabeth A. Brown
Clerk of Supreme Court

MOTION TO TAKE JUDICIAL NOTICE

Appellant Pierre Hascheff (“Hascheff”) moves this Court for judicial notice of certain items contained in Appellant’s Appendix. While generally this Court will only consider matters contained in the record below on appeal, it will “take judicial notice of facts generally known or capable of verification from a reliable source.” *Mack v. Estate of Mack*, 125 Nev. 80, 92, 206 P.3d 98, 106 (2009). When a “valid reason presents itself,” this Court will take judicial notice of records in another and different case, provided the cases are closely related. *Id.*

In *Cannon v. Taylor*, 88 Nev. 89, 493 P.2d 1313, this Court took judicial notice of a proceeding before the Attorney General because the appeal raised issues of liability that centered upon whether the parties in the appeal relied upon the advice of the Attorney General in the separate proceedings. *Id.* at 91-92, 493 P.2d at 1314.

And, in *Occhiuto v. Occhiuto*, 97 Nev. 143, 625 P.2d 568 (1981), this Court held that the close relationship of a prior divorce proceeding to a subsequent lawsuit seeking to modify the divorce decree warranted judicial notice. *Id.* at 145, 97 Nev. at 569.

This appeal concerns the scope a contractual indemnification clause in the parties' marital settlement agreement, which obligates respondent Lynda Hascheff ("Lynda") to indemnify Pierre for half of any fees he incurs in defense of a malpractice action. In 2018, Pierre was sued by a former client (the "Malpractice Action"). That client, in turn, had been previously sued in litigation concerning his father's estate, and in which litigation Pierre, who represented the decedent, was a percipient witness (the "Collateral Action").

This is the second appeal between Pierre and Lynda on this issue. In the first appeal, Appeal No. 82626, this Court reversed and remanded the district court's determination that Lynda was not obligated to indemnify Pierre for any of the incurred fees. In doing so, this Court found that the district court needed to determine what fees Pierre actually incurred in defense of the Malpractice Action as opposed to the Collateral Action.

The facts of the Malpractice Action and the Collateral Action overlap, and are closely related. Pierre testified as a trial witness in the Collateral Action after he had already been sued in the Malpractice Action. This testimony is admissible against

Pierre in the Malpractice Action. NRS 51.035(3)(a). Therefore, in order to determine what fees were incurred in defense of the Malpractice Action, this Court must also understand the issues and testimony in the Collateral Action, as the two are closely related.

Although the Collateral Action was discussed at length in the record below, the following items were not physically filed into the record but are included in the appendix for this Court’s reference. Accordingly, Pierre requests that this Court take judicial notice of the following items in the Appellant’s Appendix:

Counter-Petition to Surcharge Trustee	01/19/2018	1	AA 0001 – 0040
Amended Objection and Counter-Petition regarding Issue Trust	03/23/2018	1	AA 0041 – 0079
Trial Transcript	02/22/2019	1, 2	AA 0080 - 0284
Trial Transcript	02/25/2019	2, 3	AA 0285 - 0638
Verdict	03/04/2019	3	AA 00639 - 0642
L. Jaksick Opposition to Petition for Instructions	11/16/2020	3	AA 0854 - 0857
W. Jaksick Opposition to Petition for Instructions	11/16/2020	3	AA 0858 - 0924
A. Jaksick Objection to Petition for Instructions	11/17/2020	3	AA 0925 – 0932
Order Granting Petition for Instructions & Motion to Partially Enforce Settlement Agreement	01/08/2021	4	AA 1219 – 1221
Order Finding Violation of NRS 163.115	02/10/2021	4	AA 1237 - 1239
Order Appointing Temporary Trustee	02/25/2021	4	AA 1240 – 1242
Motion to Approve Resolution of T. Jaksick Creditor Claims	05/18/2023	7	AA 1669 – 1698
Order Granting Motion to Approve Resolution of T. Jaksick Creditor Claims	08/02/2023	7	AA 1712 – 1715

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DATED this 16th day of November, 2023

FENNEMORE CRAIG, P.C.

/s/Therese M. Shanks

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CERTIFICATE OF SERVICE

Pursuant to Rule 25(b) of the Nevada Rules of Appellate Procedure, I hereby certify that I am an employee of Fennemore Craig, P.C. and that on this date, I served a true and correct copy of the attached document through the Court's electronic filing system to the following registered users:

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Reno, Nevada 89502

*Attorneys for Respondent/
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DATED this 16th day of November, 2023.

/s/ Diana L. Wheelen
An Employee of Fennemore Craig, P.C.