

1 **Code 1350**

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5 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
6 **IN AND FOR THE COUNTY OF WASHOE**

7
8 **MARK B STEPPAN,**
9 **Plaintiff,**

10 **vs.**

11 **JOHN ILIESCU, JR. and SONNIA ILIESCU,**
12 **as Trustees of the JOHN ILIESCU, JR. AND**
13 **SONNIA ILIESCU 1992 FAMILY TRUST**
14 **AGREEMENT; JOHN ILIESCU, individually;**
15 **DOES I-V, inclusive; and ROE CORPORATIONS**
16 **VI-X, inclusive,**
17 **Defendants.**

Case No. CV07-00341

(Consolidated with
CV07-01021

Dept. No. 10

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CERTIFICATE OF CLERK AND TRANSMITTAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe. On the 7th day of February, 2012, I electronically filed to the Supreme Court the Order Certifying Intent to Grant Motion for Reconsideration filed February 7, 2012 and the Order Holding in Abeyance Plaintiff's Motion to Retax costs.

These Orders are transmitted pursuant to NRAP 3(l)(B).

I further certify that the transmitted record is a copy of the original pleadings on file with the Second Judicial District Court.

Dated this 7th day of February, 2012.

JOEY ORDUNA HASTINGS
CLERK OF THE COURT

By /s/Lori Matheus
Lori Matheus
Deputy Clerk

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

* * *

MARK B. STEPPAN,

Plaintiff,

vs.

Case No: CV07-00341
(Consolidated with CV07-01021)

Dept. No.: 10

JOHN ILIESCU, JR. and SONNIA ILIESCU,
as Trustees of the JOHN ILIESCU, JR. AND
SONNIA ILIESCU 1992 FAMILY TRUST
AGREEMENT; JOHN ILIESCU, individually;
DOES I-V, inclusive; and ROE
CORPORATIONS VI-X, inclusive,

Defendants.

AND RELATED MATTERS.

ORDER HOLDING IN ABEYANCE PLAINTIFF'S MOTION TO RETAX COSTS

Presently before the Court is a Motion to Retax Costs, filed by Plaintiff MARK B. STEPPAN (hereafter "Plaintiff") on November 7, 2011. Following, on November 21, 2011, Defendants JOHN ILIESCU, JR. and SONNIA ILIESCU, as Trustees of the JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST AGREEMENT, and JOHN ILIESCU (hereafter, collectively, "Defendants") filed an Opposition to Motion to Retax Costs. Thereafter, on December 2, 2011, Plaintiff filed a Reply in Support of Motion to Retax

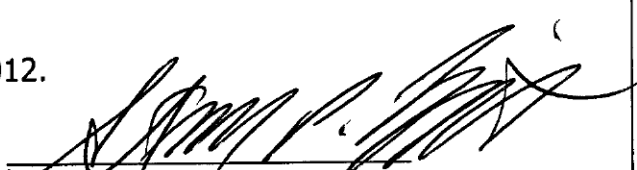
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1 Costs. Contemporaneously with his Reply, Plaintiff filed a Request for Submission, thereby
2 submitting the matter for the Court's consideration.

3 On February 7, 2011, this Court entered an Order Certifying Intent to Grant Motion
4 for Reconsideration. In light of the Court's certification order, the Court believes it would
5 be premature to rule on Plaintiff's Motion to Retax Costs. Therefore, the Court will enter
6 the following order:

7 **NOW THEREFORE, IT IS HEREBY ORDERED** that Plaintiff's Motion to Retax
8 Costs is held in abeyance pending the Nevada Supreme Court's resolution of the appeal in
9 this case.

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11 **DATED** this 7 day of February, 2012.

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14 STEVEN P. ELLIOTT
15 District Judge
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CERTIFICATE OF MAILING

I hereby certify that I electronically filed the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

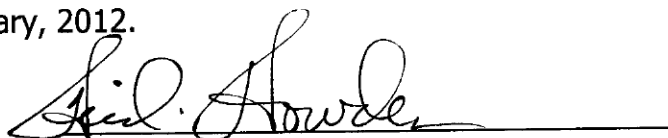
GREGORY WILSON, ESQ. for JOHN SCHLEINING

THOMAS HALL, ESQ. for TRUSTEE OF THE JOHN ILIESCU, JR. & SONNIA ILLIESCU, JOHN ILIESCU, JR., SONNIA ILIESCU

DAVID GRUNDY, ESQ. for KAREN DENNISON, HOLLAND & HART, LLP, JERRY SNYDER, R. HOWARD, HALE LANE PEEK DENNISON HOWARD

MICHAEL HOY, ESQ. for MARK STEPPAN

DATED this 7 day of February, 2012.



HEIDI HOWDEN
Judicial Assistant

FILED

Electronically
02-07-2012:11:29:21 AM
Joey Orduna Hastings
Clerk of the Court
Transaction # 2748537

Electronically Filed
Feb 08 2012 12:09 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

* * *

MARK B. STEPPAN,

Plaintiff,

vs.

Case No: CV07-00341
(Consolidated with CV07-01021)

Dept. No.: 10

JOHN ILIESCU, JR. and SONNIA ILIESCU,
as Trustees of the JOHN ILIESCU, JR. AND
SONNIA ILIESCU 1992 FAMILY TRUST
AGREEMENT; JOHN ILIESCU, individually;
DOES I-V, inclusive; and ROE
CORPORATIONS VI-X, inclusive,

Defendants.

AND RELATED MATTERS.

ORDER CERTIFYING INTENT TO GRANT MOTION FOR RECONSIDERATION

Presently before the Court is a Motion for Leave to File Motion for Reconsideration, filed by Plaintiff MARK B. STEPPAN (hereafter "Plaintiff") on November 8, 2011. Following, on November 21, 2011, Defendants JOHN ILIESCU, JR. and SONNIA ILIESCU, as Trustees of the JOHN ILIESCU, JR. AND SONNIA ILIESCU 1992 FAMILY TRUST AGREEMENT, and JOHN ILIESCU (hereafter, collectively, "Defendants") filed an Opposition to Steppan's Motion for Leave to File Motion for Reconsideration. Thereafter, on December 1, 2011, Plaintiff filed a Reply in Support of Motion for Leave to File Motion for Reconsideration.

1 The following day, on December 1, 2011, Plaintiff filed a Request for Submission, thereby
2 submitting the matter for the Court's consideration. However, on December 22, 2011,
3 Plaintiff filed a Notice of Appeal, appealing this Court's Order Granting Defendants Iliescus'
4 Motion to Dismiss.

5 Pursuant to NRS 177.155, the Nevada Supreme Court has sole jurisdiction over a
6 matter from the time an appellant files a Notice of Appeal until the Remittitur issues to the
7 district court. *Buffington v. State*, 110 Nev. 124, 126, 686 P.2d 643, 644 (1994). A motion
8 for reconsideration is not a tolling motion pursuant to NRAP 4(a)(2), and the district court
9 thus lacks jurisdiction to grant a motion for reconsideration after a timely notice of appeal
10 has been filed. *Chapman Industries v. United Ins. Co. of America*, 110 Nev. 454, 458, 874
11 P.2d 739, 741 (1994) (citing *Alvis v. State, Gaming Control Bd.*, 99 Nev. 184, 660 P.2d 980
12 (1983)).

13 Based on the above, it is clear that this Court lacks jurisdiction to grant Plaintiff's
14 Motion for Reconsideration. Nonetheless, the Nevada Supreme Court has held that a
15 district court may certify its intent to grant a motion for reconsideration if it would be
16 inclined to do so following remand by the Nevada Supreme Court. *See Huneycutt v.*
17 *Huneycutt*, 94 Nev. 79, 575 P.2d 585 (1978); *Foster v. Dingwall*, ___ Nev. ___, 228 P.3d
18 453 (2010) (clarifying and more fully explaining the certification process announced in
19 *Huneycutt*).

20 After reviewing the pleadings and arguments of the parties, the Court is inclined to
21 grant reconsideration of its October 25, 2011 Order Granting Defendants Iliescus' Motion to
22 Dismiss. Accordingly, the Court hereby certifies its intent to grant the requested relief
23 pursuant to *Huneycutt v. Huneycutt*, 94 Nev. 79, 575 P.2d 585.

24
25 **DATED** this 7 day of February, 2012.

26 
27 STEVEN P. ELLIOTT
28 District Judge

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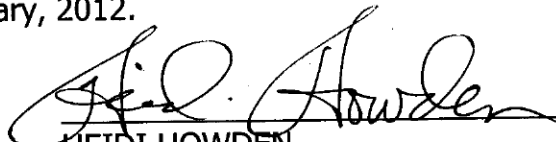
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MICHAEL HOY, ESQ. for MARK STEPPAN

DATED this 7 day of February, 2012.


HEIDI HOWDEN
Judicial Assistant