

## **Exhibit 1**

## **Exhibit 1**

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

**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

**HOY & HOY, P.C.**

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Attorneys for: Mark B. Steppan

Electronically Filed  
Feb 17 2012 03:33 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

**In the Supreme Court of the State of Nevada**

MARK B. STEPPAN,  
Appellant,

vs.

JOHN ILIESCU, JR.; SONNIA SANTEE ILIESCU;  
John Iliescu, Jr. and Sonnia Santee Iliescu, as  
trustees of the JOHN ILIESCU, JR. AND SONNIA  
ILIESCU 1992 FAMILY TRUST,

Respondents.

And Related Cross-Appeal.

Case No. 60036

**Application for Order Shortening Time**

Mark B. Steppan ("Steppan"), by and through his undersigned counsel, hereby moves for an order to shorten the time within which briefing must occur on Steppan's Motion for Remand. Good cause exists for this Application as Steppan's claims may be effectively barred by NRCP 41(e) if not brought to trial prior to May 4, 2007.

The underlying Complaint in this matter was filed on May 4, 2007. Pursuant to NRCP 41(e), the court "shall" dismiss any action which is not brought to trial within five years after the plaintiff has filed the action. In certain circumstances, a new three year period within which to bring a case to trial will arise after remittitur from appeal. *Id.* Because the underlying action did

1 not proceed to judgment, there will be no extension of the NRCP 41(e) five year rule (absent  
2 stipulation by the parties).

3 Steppan's underlying claims, the same claims for which his appeal was taken, relate to  
4 the foreclosure of his mechanics lien. NRS 108.233(1) mandates that a lien "must not bind"  
5 property for a period of longer than 6 months after the date on which the lien was recorded. If  
6 Steppan's foreclosure complaint is dismissed as a result of the five year rule, Steppan's lien will  
7 arguably become stale and he will be unable to file a new action to foreclose upon the lien. In  
8 this case, dismissal without prejudice is tantamount to a complete forfeiture of Steppan's lien  
9 rights (rights he pursued through four years of litigation, the exchange of 10,000 pages of  
10 documents, ten days of depositions, and days of settlement conference.)  
11

12 Steppan asks this Court to shorten to three days the time within which Respondents must  
13 file and serve their opposition. Doing so will enable full consideration by the Court after  
14 briefing and still provide sufficient time for the matter to proceed to trial within the constraints of  
15 NRCP 41(e).  
16

17 Based on the foregoing, Steppan respectfully requests the Court set February 22nd as the  
18 date by which Respondents must oppose Steppan's Motion to Remand and February 24<sup>th</sup> as the  
19 date by which Steppan must file his reply in support of motion to remand (if any) in response to  
20 Respondents' oppositions (if any).  
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**Privacy Certification**

Undersigned counsel certifies that this document does not contain any social security numbers.

February 17, 2012.

Hoy & Hoy, PC

/s/ Michael S. Kimmel  
 Michael D. Hoy (NV Bar 2723)  
 Michael S. Kimmel (NV Bar 9081)  
 4741 Caughlin Parkway, Suite Four  
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 Attorneys for: Mark B. Steppan

**Certificate of Service**

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Hoy & Hoy, PC, and that on the 17th day of February 2012, I electronically filed a true and correct copy of the foregoing document with the Clerk of the Court by using the ECF system, which served the following parties electronically:

DAVID R. GRUNDY

ALICE CAMPOS MERCADO

GREGORY F. WILSON

Further, I hereby certify that, on the date below, I served a true and correct copy of the foregoing document by depositing a copy of the same for mailing enclosed in a sealed envelope upon which first class postage was fully prepaid addressed to the following:

Gordon Cowan  
10775 Double R. Blvd.  
Reno, Nevada 89521

David Wasick  
879 Mahogany Drive  
Minden, Nevada 89423

DATED this 17th day of February, 2012.

/s/ Kelly Anderson  
An employee of Hoy & Hoy



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**INDEX OF EXHIBITS**

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