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Tracie K. Lindeman  
Clerk of Supreme Court

*Attorney for John Iliescu, Jr., Sonnia Iliescu  
individually and as Trustees of the John Iliescu,  
Jr. & Sonnia Iliescu 1992 Family Trust*

**IN THE SUPREME COURT of the STATE OF NEVADA**

MARK B. STEPPAN,

Appellant,

**Case No 60036**

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 COUNTERCLAIM /

**OPPOSITION TO MOTION FOR REMAND**

Respondents above-named, through counsel, Gordon M. Cowan, Esq., submit  
the following opposition to Appellant's Motion for Remand:

***Background***

The Plaintiff / Appellant Mark Steppan ("Steppan"), a California based architect,  
seeks \$2+ million in professional architectural fees in a mechanics' lien claim he filed  
against the Respondents, John and Sonnia Iliescu and their family trust ("Iliescu").  
Iliescu never contracted for Steppan's services. Iliescu merely owns the property  
against which Steppan pursues his mechanics lien.

Steppan's \$2+ million claim is not based on the "value of services." The \$2+  
million sum is, instead, based on a contract sum agreed to by those who purchased

1 Iliescu's property, who were considered the property's "owner" when they contracted  
2 with Stepan.

3 Stepan and the new owner envisioned a top-end, high-rise development. But,  
4 the development never came to pass. The project was never built. Ground breaking  
5 never took place.

6 The property reverted back to Iliescu when the purchasers could no longer  
7 perform. At that point, Iliescu also inherited Stepan's lien.

8 Although the anticipated future design work would not come to pass, Stepan  
9 nevertheless, sharply insists on his \$2+ million fee claim against Iliescu, based on a  
10 contract sum rather than on the true "value of services" that had been completed.

11 The architectural services actually rendered were completed by the California  
12 firm, Fisher Friedman, not Stepan. Stepan merely held the Nevada architect's  
13 license under which the architectural work was to have been completed.

14  
15 ***The Motion for Remand***

16 Stepan seeks to remand this appeal back to the district court. Stepan's basis  
17 rests on the district court's provisional or advisory order that signals an intent to reverse  
18 a dismissal of his case. Stepan's case was dismissed nearly four months previously.  
19 The district court dismissed the case when Stepan did not file his NRCP Rule 16.1  
20 Joint Case Conference Report. The Rule 16.1 Joint Case Conference Report was due  
21 *several years* prior to the dismissal order. The district court, on this point, stated the  
22 following:

23 Here, 1,489 days have passed since Defendants' filing of  
24 their Answer and 712 days have passed since Plaintiff was  
25 required to file its last Case Conference Report.

26 (Order, p.7, Oct. 25, 2011, Supreme Court Dk. No. 12-01959).

27 The district court now indicates it is "inclined to grant reconsideration" of the  
28 dismissal motion that it granted previously. The district court, in relevant part, states the

1 following:

2 After reviewing the pleadings and arguments of parties, the  
3 Court is inclined to grant reconsideration of its October 25,  
4 2011 Order Granting Defendants Iliescus' Motion to Dismiss.

5 (Order, Feb. 7, 2012, Supreme Court Dk. No. 12-04231).

6 The district court's advisory order follows the process set forth in *Huneycutt v.*  
7 *Huneycutt*, 94 Nev. 79, 575 P.2d 585 (1978). The district court recognized its lack of  
8 jurisdiction to rule on Steppan's reconsideration motion while divested of authority  
9 during this appeal. See NRS § 177.155.

### 11 ***Reviewing Standard***

12 The Nevada Supreme Court maintains discretion to grant or deny a motion  
13 seeking remand of an appeal back to the district court. See *Mack-Manley v. Manley*,  
14 122 Nev. 849, 856, 138 P.3d 525, 530 (2006). Appellate courts do not rubber-stamp or  
15 grant such motions as a matter of course. See, *Foster v. Dingwall*, 228 P.3d 453  
16 (2010) (relying on *Post v. Bradshaw*, 422 F.3d 419, 422 (6th Cir.2005) which, in turn,  
17 noted that appellate courts do not rubber-stamp or grant such motions as a matter of  
18 course).

### 20 ***Discussion***

21 Steppan's *provisional* Motion for Reconsideration which influenced the court's  
22 advisory or potential *future* action, is based largely on an affidavit Steppan obtained  
23 from the Hon. Brent Adams. Judge Adams' affidavit states in relevant part, the  
24 following: "The Court did not expect any party to file an early case conference report  
25 under Rule 16.1(e)(2)." (Affidavit at Exhibit 2 to Steppan's *proposed* Motion for  
26 Reconsideration, proposed to be filed in Dept. 10, in Case CV07-00341 in the Second  
27 Judicial District Court)("Adams Affidavit").

28

1 But, Judge Adams went further, confirming he, “did not enter a written order  
2 under NRCP 16.1(f) designating the case as “complex litigation,” (Adams Affidavit, p.2).

3 Importantly, Judge Adams also confirms the following:

4  
5 [o]n March 7, 2008, counsel filed a stipulation, upon which I  
6 entered an order, that claims against individual lawyers sued  
7 for professional negligence were dismissed, and that  
8 ***claims against the defendant law firm was stayed “for all***  
9 ***purposes, including discovery and trial, pending the***  
10 ***final resolution of all claims asserted by plaintiffs***  
11 ***against defendants.”***

12 Adams Affidavit, p.2. Emphasis added.

13 Steppan’s mechanics lien suit is not the “professional negligence” matter that is  
14 “stayed,” to which Judge Adams references in his affidavit. Judge Adams was referring  
15 instead, to Iliescu’s Third Party Complaint brought against lawyers when Iliescu found  
16 themselves unprotected from Steppan’s suit. Iliescu sought legal help in the property  
17 sale transaction. Iliescus’ lawyers left Iliescu defenseless against Steppan’s lien claim,  
18 resulting in Iliescu having brought the Third Party suit against those lawyers.

19 According to Judge Adams, the “professional negligence” claim (Iliescu’s suit) is  
20 the only matter “stayed” pending the outcome of Steppan’s mechanics lien case.  
21 Steppan’s mechanics lien case otherwise, remained active at all times. See, *Arnold v.*  
22 *Kip*, 123 Nev. 410, 414-15, 168 P. 3d 1050 (2007).

23 Iliescus’ prior counsel (before Cowan) sought the dismissal against Steppan on  
24 NRCP Rule 16.1 grounds when the lawyers defending against Iliescu’s Third Party  
25 Complaint, sought dismissal of Iliescus’ action, in part, for the identical reason.<sup>1</sup> On

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26  
27 <sup>1</sup> For reasons not clearly known, the Iliescu’s former lawyers sought summary  
28 judgment on the merits of the professional negligence claims even though Judge  
Adams had clearly “stayed” the Third Party professional negligence matter until the

1 September 1, 2011, Judge Elliott dismissed Iliescus' Third Party Complaint against  
2 Iliescu's former lawyers for significantly less flagrant violations (in the words of Judge  
3 Elliott) of Rule 16.1 than what convinced Judge Elliott to dismiss Steppan's complaint.  
4 (See, Order, Oct. 25, 2011, Supreme Court Dk. No. 12-01959; See, Order, Sept. 1,  
5 2011, Supreme Court Dk. No. 12-\_\_\_\_ ).

6  
7 **Conclusion**

8 Although Iliescus did nothing wrong, nor did they harm others, the Iliescus are  
9 nevertheless, being called upon to pay the debts of others. The debt sought to be  
10 exacted from them is not commensurate with the true value of services rendered.  
11 Iliescus' lawyers, who did not advise them on how best to protect themselves from  
12 liens, have likewise skirted responsibility when obtaining summary judgment on that  
13 part of the case that was to have remained "stayed" to the conclusion of Steppan's lien  
14 claim, according to Judge Adams. The Iliescus are not deserving of such harsh results  
15 from Nevada courts.

16 Appellate courts do not rubber-stamp or grant such motions as that sought by  
17 Steppan, as a matter of course. See, *Foster v. Dingwall*, 228 P.3d 453 (2010). For the  
18 reasons stated, Iliescu respectfully asks the court to exercise its discretion to deny the  
19 relief requested.

20 ///

21 ///

22 ///

23 \_\_\_\_\_  
24 resolution of Steppan's mechanics lien claim. Judge Adams' order in this regard, is  
25 commensurate with the ruling in *Semenza v. Nevada Med. Liability Ins. Co.*, 104 Nev.  
26 666, 667-68, 765 P.2d 184, 185 (1988) where damages in the professional negligence  
claim are not known until after the resolution of the underlying claim giving rise to the  
professional negligence.

27 Noteworthy also, is that the motion, seeking dismissal of Iliescus' Third Party  
28 claim, was pursued against Iliescus when they were unrepresented by counsel in this  
case.

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RESPECTFULLY, this 29<sup>th</sup> day of February 2012

GORDON M. COWAN, ESQ. (Nev. 1781)  
LAW OFFICE OF GORDON M. COWAN

s/  
\_\_\_\_\_  
*Attorneys for Plaintiffs*

**PRIVACY AFFIRMATION**

The undersigned does hereby affirm that the within document does NOT  
contain the social security number of any person.

s/  
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**CERTIFICATE OF SERVICE**

Pursuant to NRAP 25(d), I certify that I am employed at 10775 Double R Blvd.,  
Reno, Nevada 89521, and on this date 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:

MICHAEL D. HOY  
DAVID R. GRUNDY  
ALICE CAMPOS MERCADO  
GREGORY F. WILSON

and, on this date I served the individuals / parties listed below by:

  X   Placing an original or true copy thereof in a sealed envelope with postage  
prepaid in the United States Mail at Reno, Nevada, following ordinary business  
practices;

       Personal delivery;

       Facsimiles to:

Mike Hoy, Esq., Mike Kimmel, Esq.	775.786.7426
David Grundy, Esq., Alice Mercado, Esq.	775.786.9716
Gregory Wilson, Esq.	775.786.7764

       Reno-Carson Messenger Service;

       Certified Mail with Return Receipt Requested.

addressed as follows:

David Wasick  
879 Mahogany Dr.  
Minden NV 89423

DATED February 29, 2012

s/

\_\_\_\_\_  
G.M. Cowan