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

RAYMOND DELUCCHI and TOMMY  
HOLLIS,

Appellants,

v.

PAT SONGER and ERICKSON, THORPE  
& SWAINSTON, LTD.,

Respondents

CASE NO: 66858  
District Court Case No: CV35969

**REPLY TO APPELLANTS  
DELUCCHI'S AND HOLLIS'  
RESPONSE TO ORDER TO SHOW  
CAUSE**

**I. Introduction**

Appellants attempt to blame Respondent Songer, or even the district court, for the purported unfavorable language in the order granting Respondent Songer's Motion to Dismiss is disappointing. Respondent Songer provided Appellants with a draft order as early as September 18, 2014,<sup>1</sup> and received no response or comments on the contents of the order. When Respondent Songer followed up and sent the proposed order to District Court Judge Wanker,<sup>2</sup> Appellants argued that the court should not be signing any additional orders regarding the Motion to Dismiss.

Appellants failed to appreciate that when Judge Wanker granted ETS' and Respondent Songer's respective Motions to Dismiss under NRS § 41.660, she ordered each party to prepare their own order, which is what the parties did. Although Respondents had

<sup>1</sup> Attached as Exhibit A is a true and correct copy of the email and proposed draft order sent to Glenda Guo.

<sup>2</sup> Attached as Exhibit B is a true and correct copy of the letter and proposed order sent to Judge Wanker, with a CC to Appellant's counsel.

1 similar motions, the findings were different, as there were additional items that needed  
2 consideration for Respondent Songer's Order.

3 Appellants had every opportunity to correct or change the Order at issue as they saw  
4 fit, and decided to ignore Respondent Songer's efforts. Thus, Respondent Songer supports  
5 any penalties the Court issues against Appellants for their misrepresentations to this Court  
6 and their decision to not participate in the process in good faith.

7  
8 **II. Appellants should have voiced their concerns regarding the Order back in  
September 2014, and not eight months later during the pendency of this appeal**

9 In *Weddell v. Stewart*, 127 Nev. Adv. Op. 58, 261 P3d 1080 (2011), this Court noted  
10 that disregard for the Court's directives are "unfortunately all too common," and the  
11 Court took the opportunity to "emphasize that failure to ... comply with this court's  
12 directives in a timely fashion is not without consequence." *Id.* at 261 P.3d at 1086. These  
13 consequences include "loss of the right to appeal." *Id.* (Appeal dismissed for failing to pay  
14 the filing fee.) The Court noted: "[i]t is imperative that the parties follow the applicable  
15 procedural rules and that they comply in a timely fashion with our directives." *Id.* at 1084.  
16 The Court went on and underscored this: "[m]oreover, parties are not at liberty to disobey  
17 notices, orders, or any other directives issued by this court." *Id.* at 1085. See also,  
18 *Huckabay v. NC Auto Parts LLC*, 130 Nev. Adv. Op. 23, 322 P.3d 429 (2014) (Nevada  
19 Supreme Court dismissed an appeal for the failure to timely file the opening brief and  
20 appendix.)

21 Here, the same reasoning in *Weddell* applies. Appellants failed to act in good faith  
22 and follow the civil rules. They failed to timely respond Respondent Songer's request for  
23 review of the order at issue. Appellants had every opportunity to either seek an  
24 amendment of the order, or better yet, actually respond to Respondent Songer's request  
25 for Appellants' to review the draft order and provide any changes or approval to the order.

26 Appellants' failure to provide comments or changes to the draft order and plain refusal  
27 to acknowledge that a separate order was necessary are the root causes of the purported  
28

1 "in-artful" Order. Appellants' could have voiced their concerns at a much earlier date or  
2 attempted to ameliorate the Order, which was eventually filed.

3 **III. Conclusion**

4 Appellants repeatedly seek to avoid any blame for their inaction in the drafting of the  
5 Order. Yes, Appellants did not draft or review the Order; however, this was of their own  
6 choice and not for any failure on part of Respondent Songer.

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 14th day of May, 2015, service of the foregoing **REPLY TO APPELLANTS DELUCCHI'S AND HOLLIS' RESPONSE TO ORDER TO SHOW CAUSE** was made by the Supreme Court's electronic filing system to the email address registered to:

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