

CLERK OF THE COURT

Electronically Filed
Feb 23 2015 09:12 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

1 **NOAS**
2 **THORNDAL, ARMSTRONG, DELK,**
3 **BALKENBUSH & EISINGER**
4 Michael P. Lowry, Esq.
5 Nevada Bar No. 10666
6 P.O. Drawer 2070
7 Las Vegas, Nevada 89125-2070
8 Tel: (702) 366-0622
9 Fax: (702) 366-0327
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11 Attorneys for Glenn Welt, Rhoda Welt,
12 Lynn Welt and Michele Welt

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 HOWARD SHAPIRO and JENNA SHAPIRO, Case No.: A-14-706566-C
16 Plaintiffs, Dept. No. 27

17 vs.

18 **NOTICE OF CROSS-APPEAL**

19 GLEN WELT, RHODA WELT, LYNN WELT,
20 MICHELLE WELT, individuals;
21 CHECKSNET.COM, a corporation; DOES I
22 through X, and ROE CORPORATIONS I
23 through X, inclusive,

24 Defendants.

25 Glenn Welt, Rhoda Welt, Lynn Welt and Michelle Welt appeal to the Supreme Court of
26 Nevada that part of the district court's January 2, 2015 order denying relief per NRS
27 41.660(1)(b). Notice of entry of this order was served on January 2, 2015. Howard Shapiro and
28 Jenna Shapiro filed a notice of appeal concerning this ruling on February 2, 2015 and the appeal
is assigned Supreme Court docket number 67363. This cross-appeal is timely per NRAP
4(a)(2).

DATED this 13th day of February, 2015.

THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER

/s/ Michael P. Lowry

Michael P. Lowry, Esq.
P.O. Drawer 2070
Las Vegas, NV 89125-2070
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), on February 13, 2015 the **NOTICE OF CROSS-APPEAL** was served upon each of the parties via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

/s/ Michael P. Lowry

An Employee of Thorndal, Armstrong, Delk,
Balkenbush & Eisinger


CLERK OF THE COURT

ASTA
THORNDAL, ARMSTRONG, DELK,
BALKENBUSH & EISINGER
Michael P. Lowry, Esq.
Nevada Bar No. 10666
P.O. Drawer 2070
Las Vegas, Nevada 89125-2070
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Email: mlowry@thorndal.com
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

DISTRICT COURT

CLARK COUNTY, NEVADA

HOWARD SHAPIRO and JENNA SHAPIRO, Case No.: A-14-706566-C
Dept. No. 27

Plaintiffs,

vs.

GLEN WELT, RHODA WELT, LYNN WELT,
MICHELLE WELT, individuals;
CHECKSNET.COM, a corporation; DOES I
through X, and ROE CORPORATIONS I
through X, inclusive,

Defendants.

CROSS-APPEAL CASE STATEMENT

1. Name of appellants filing this case appeal statement:

Glenn Welt, Rhoda Welt, Lynn Welt and Michelle Welt

2. Identify the judge issuing the decision, judgment, or order appealed from:

The Hon. Nancy L. Allf, Department 18, Eighth Judicial District Court.

3. Identify each appellant and the name and address of counsel for each appellant:

Glenn Welt, Rhoda Welt, Lynn Welt and Michelle Welt, collectively represented by
Michael P. Lowry, Esq., of Thorndal Armstrong Delk Balkenbush & Eisinger, P.C., P.O. Drawer
2070, Las Vegas, Nevada, 89125-2070.

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent:

Howard Shapiro and Jenna Shapiro, BOBBY SMITH, collectively represented by Alex
Ghibaudo, Esq. of Schwab Law Group, 2800 W. Sahara Ave., Suite 1H, Las Vegas, NV 89102.

1 **5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed**
2 **to practice law in Nevada and, if so, whether the district court granted that attorney**
3 **permission to appear under SCR 42:**

4 All attorneys identified are licensed to practice law in Nevada.

5 **6. Indicate whether appellant was represented by appointed or retained counsel in the district**
6 **court:**

7 Appellant was represented by retained counsel in the district court.

8 **7. Indicate whether appellant is represented by appointed or retained counsel on appeal:**

9 Appellant is represented by retained counsel on appeal.

10 **8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of**
11 **entry of the district court order granting such leave:**

12 Appellant was not granted leave to proceed in forma pauperis.

13 **9. Indicate the date the proceedings commenced in the district court (e.g., date complaint,**
14 **indictment, information, or petition was filed):**

15 September 4, 2014.

16 **10. Provide a brief description of the nature of the action and result in the district court, including**
17 **the type of judgment or order being appealed and the relief granted by the district court:**

18
19 The Shapiros allege they were defamed by the Welts. The Welts filed a NRS 41.660(2)
20 special motion to dismiss that was granted, in part. The district court dismissed the complaint
21 but denied the Welts request for relief per NRS 41.660(1)(b). The Shapiros have appealed the
22 district court's order granting the motion to dismiss, the Welts now appeal the portion of the
23 order denying NRS 41.660(1)(b) relief.

24 **11. Indicate whether the case has previously been the subject of an appeal to or original writ**
25 **proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of**
26 **the prior proceeding:**

27 Yes, the Shapiros have appealed a different part of the same order. Docket 67363.
28

1 **12. Indicate whether this appeal involves child custody or visitation:**

2 This appeal does not involve child custody or visitation.

3 **13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:**

4 The parties are unwilling to settle.

5 DATED this 13th day of February, 2015.

6 THORNDAL, ARMSTRONG, DELK,
7 BALKENBUSH & EISINGER

8 */s/ Michael P. Lowry*

9

Michael P. Lowry, Esq.
10 P.O. Drawer 2070
11 Las Vegas, NV 89125-2070
12 Attorneys for Glenn Welt, Rhoda Welt,
13 Lynn Welt and Michele Welt

14 **CERTIFICATE OF SERVICE**

15 Pursuant to NRCP 5(b), on February 13, 2015 the **NOTICE OF CROSS-APPEAL** was
16 served upon each of the parties via electronic service through the Eighth Judicial District Court's
17 Odyssey E-File and Serve system.

18 */s/ Michael P. Lowry*

19

An Employee of Thorndal, Armstrong, Delk,
20 Balkenbush & Eisinger

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-14-706566-C

Howard Shapiro, Plaintiff(s)
vs.
Glen Welt, Defendant(s)

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§
§
§

Location: **Department 27**
Judicial Officer: **Allf, Nancy**
Filed on: **09/04/2014**
Cross-Reference Case Number: **A706566**
Supreme Court No.: **67363**

CASE INFORMATION

Statistical Closures

01/02/2015 Motion to Dismiss (By Defendant)

Case Type: **Other Civil Matters**

Case Flags: **Appealed to Supreme Court**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-14-706566-C
Court Department 27
Date Assigned 09/04/2014
Judicial Officer Allf, Nancy



PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	Shapiro, Howard	Schwab, Evan D. <i>Retained</i> 702-489-4442(W)
	Shapiro, Jenna	Schwab, Evan D. <i>Retained</i> 702-489-4442(W)
Defendant	Checksnet.com Removed: 01/02/2015 Dismissed	
	Welt, Glen	Lowry, Michael P. <i>Retained</i> 7023660622(W)
	Welt, Lynn Removed: 01/02/2015 Dismissed	Lowry, Michael P. <i>Retained</i> 7023660622(W)
	Welt, Michelle Removed: 01/02/2015 Dismissed	Lowry, Michael P. <i>Retained</i> 7023660622(W)
	Welt, Rhoda Removed: 01/02/2015 Dismissed	Lowry, Michael P. <i>Retained</i> 7023660622(W)

DATE














EVENTS & ORDERS OF THE COURT

INDEX


09/04/2014	 Complaint Filed By: Plaintiff Shapiro, Howard <i>Complaint</i>	
09/04/2014	Case Opened	
09/05/2014	 Initial Appearance Fee Disclosure Filed By: Plaintiff Shapiro, Howard	

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-14-706566-C











Initial Appearance Fee Disclosure (NRS Chapter 19)

10/01/2014	 Demand for Security of Costs Filed By: Defendant Welt, Rhoda <i>Rhoda Welt and Lynn Welt's Demand for Security of Costs</i>
10/01/2014	 Initial Appearance Fee Disclosure Filed By: Defendant Welt, Rhoda <i>Initial Appearance Fee Disclosure for Rhoda Welt and Lynn Welt</i>
10/01/2014	 Disclosure Statement Party: Defendant Welt, Rhoda <i>Rhoda Welt and Lynn Welt's NRCP 7.1 Disclosure Statement</i>
10/08/2014	 Affidavit of Service Filed By: Plaintiff Shapiro, Howard <i>Affidavit of Service</i>
10/08/2014	 Affidavit of Service Filed By: Plaintiff Shapiro, Howard <i>Affidavit of Service</i>
10/08/2014	 Affidavit of Service Filed By: Plaintiff Shapiro, Howard <i>Affidavit of Service</i>
10/13/2014	 Demand for Security of Costs Filed By: Defendant Welt, Glen <i>Glenn Welt & Michele Welt's Demand for Security of Costs</i>
10/13/2014	 Initial Appearance Fee Disclosure Filed By: Defendant Welt, Glen <i>Glenn Welt & Michele Welt's Initial Appearance Fee Disclosure</i>
10/13/2014	 Disclosure Statement Party: Defendant Welt, Glen <i>Glenn Welt & Michele Welt's NRCP 7.1 Disclosure Statement</i>
10/21/2014	 Affidavit Filed By: Plaintiff Shapiro, Howard <i>Affidavit of Service</i>
10/28/2014	 Summons Filed by: Plaintiff Shapiro, Howard <i>Summons</i>
11/14/2014	 Motion to Dismiss Filed By: Defendant Welt, Glen <i>Glenn Welt, Rhoda Welt, Lynn Welt & Michele Welt's Motion to Dismiss</i>
11/17/2014	 Undertaking for Security for Costs for Non-Resident Party: Plaintiff Shapiro, Jenna <i>Undertaking for Security for Costs for Non-Resident</i>










DEPARTMENT 27
CASE SUMMARY
CASE NO. A-14-706566-C

11/17/2014	 Undertaking for Security for Costs for Non-Resident Party: Plaintiff Shapiro, Jenna <i>Undertaking for Security for Costs for Non-Resident</i>
11/17/2014	 Undertaking for Security for Costs for Non-Resident Party: Plaintiff Shapiro, Howard <i>Undertaking for Security for Costs for Non-Resident</i>
11/17/2014	 Undertaking for Security for Costs for Non-Resident Party: Plaintiff Shapiro, Howard <i>Undertaking for Security for Costs for Non-Resident</i>
11/18/2014	 Certificate of Mailing Filed By: Plaintiff Shapiro, Howard <i>Certificate of Mailing</i>
11/19/2014	 Notice Filed By: Plaintiff Shapiro, Howard <i>Notice of Posting Security Cost Bond</i>
11/25/2014	 Certificate of Service Filed by: Plaintiff Shapiro, Howard <i>Certificate of Service</i>
12/02/2014	 Opposition Filed By: Plaintiff Shapiro, Howard <i>Opposition to Motion to Dismiss</i>
12/10/2014	 Reply to Opposition Filed by: Defendant Welt, Glen <i>Glenn Welt, Rhoda Welt, Lynn Welt & Michele Welt's Reply re Motion to Dismiss</i>
12/11/2014	 Undertaking for Security for Costs for Non-Resident Party: Plaintiff Shapiro, Howard <i>Undertaking for Security for Costs for Non-Resident</i>
12/11/2014	 Undertaking for Security for Costs for Non-Resident Party: Plaintiff Shapiro, Howard <i>Undertaking for Security for Costs for Non-Resident</i>
12/11/2014	 Undertaking for Security for Costs for Non-Resident Party: Plaintiff Shapiro, Jenna <i>Undertaking for Security for Costs for Non-Resident</i>
12/11/2014	 Undertaking for Security for Costs for Non-Resident Party: Plaintiff Shapiro, Jenna <i>Undertaking for Security for Costs for Non-Resident</i>
12/12/2014	 Notice Filed By: Plaintiff Shapiro, Howard <i>Notice of Posting Additional Security Cost Bonds</i>
12/12/2014	 Supplement to Opposition

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-14-706566-C

	Filed By: Plaintiff Shapiro, Howard <i>First Supplement to Opposition to Motion to Dismiss</i>
12/15/2014	 Notice of Withdrawal of Motion Filed By: Defendant Welt, Glen <i>Glenn Welt, Rhoda Welt, Lynn Welt & Michele Welt's Notice of Withdrawal of Motion</i>
12/15/2014	 Motion to Dismiss Filed By: Defendant Welt, Glen <i>Glenn Welt, Rhoda Welt, Lynn Welt & Michele Welt's Motion to Dismiss</i>
12/17/2014	CANCELED Motion to Dismiss (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i> <i>Glenn Welt, Rhoda Welt, Lynn Welt & Michele Welt's Motion to Dismiss re NRS 18.130(4).</i>
12/18/2014	 Opposition to Motion to Dismiss Filed By: Plaintiff Shapiro, Howard <i>Opposition to Defendants' Motion to Dismiss Plaintiff's Complaint and Counter-motion for Attorney's Fees, Costs, and Sanctions</i>
12/19/2014	 Reply to Opposition Filed by: Defendant Welt, Glen <i>Glenn Welt, Rhoda Welt, Lynn Welt and Michele Welt's Reply Re Motion to Dismiss</i>
12/24/2014	Motion to Dismiss (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Glenn Welt, Rhoda Welt, Lynn Welt & Michele Welt's Motion to Dismiss</i>
12/24/2014	Opposition and Countermotion (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Opposition to Defendants' Motion to Dismiss Plaintiff's Complaint and Counter-motion for Attorney's Fees, Costs, and Sanctions</i>
12/24/2014	 All Pending Motions (10:00 AM) (Judicial Officer: Allf, Nancy)
12/29/2014	 Supplemental Brief Filed By: Defendant Welt, Glen <i>Glenn Welt, Rhoda Welt, Lynn Welt & Michele Welt's Supplement re Motion to Dismiss</i>
12/30/2014	 Status Check (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Status Check: Written Decision</i>
01/02/2015	 Order For Dismissal Without Prejudice <i>Order Granting Defendant's Motion to Dismiss</i>
01/02/2015	 Notice of Entry of Order Filed By: Defendant Welt, Glen <i>Notice of Entry of Order Granting Motion to Dismiss</i>
01/02/2015	Order of Dismissal Without Prejudice (Judicial Officer: Allf, Nancy) Debtors: Howard Shapiro (Plaintiff), Jenna Shapiro (Plaintiff) Creditors: Glen Welt (Defendant), Rhoda Welt (Defendant), Lynn Welt (Defendant), Michelle Welt (Defendant), Checksnet.com (Defendant) Judgment: 01/02/2015, Docketed: 01/08/2015
01/05/2015	 Affidavit in Support Filed By: Defendant Welt, Glen <i>Affidavit in Support of Fees and Costs per NRS 41.670</i>

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-14-706566-C

01/08/2015	 Substitution of Attorney Filed by: Plaintiff Shapiro, Howard <i>Substitution of Attorney</i>
01/15/2015	 Memorandum Filed By: Plaintiff Shapiro, Howard <i>Respondent's to Defendants' Memorandum of Fees and Costs Under NRS 41.670</i>
01/16/2015	 Reply in Support Filed By: Defendant Welt, Glen <i>Reply in Support of Affidavit re Fees and Costs per NRS 41.670</i>
02/02/2015	 Voluntary Dismissal Filed by: Plaintiff Shapiro, Howard <i>Voluntary Dismissal</i>
02/02/2015	 Certificate of Service Filed by: Plaintiff Shapiro, Howard <i>Certificate of Electronic Service</i>
02/02/2015	 Notice of Appeal Filed By: Plaintiff Shapiro, Howard <i>Notice of Appeal</i>
02/02/2015	Voluntary Dismissal (Judicial Officer: Allf, Nancy) Debtors: Checksnet.com (Defendant) Creditors: Howard Shapiro (Plaintiff), Jenna Shapiro (Plaintiff) Judgment: 02/02/2015, Docketed: 02/10/2015
02/04/2015	 Case Appeal Statement Filed By: Plaintiff Shapiro, Howard <i>Case Appeal Statement</i>
02/13/2015	 Notice of Appeal Filed By: Defendant Welt, Glen <i>Notice of Cross-Appeal</i>
02/13/2015	 Case Appeal Statement Filed By: Defendant Welt, Glen <i>Cross-Appeal Case Statement</i>
DATE	FINANCIAL INFORMATION

Defendant Welt, Lynn	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 2/18/2015	0.00
Defendant Welt, Michelle	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 2/18/2015	0.00
Defendant Welt, Rhoda	
Total Charges	223.00
Total Payments and Credits	223.00
Balance Due as of 2/18/2015	0.00

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-14-706566-C

Defendant Welt, Glen

Total Charges 247.00

Total Payments and Credits 247.00

Balance Due as of 2/18/2015 0.00

Plaintiff Shapiro, Howard

Total Charges 294.00

Total Payments and Credits 294.00

Balance Due as of 2/18/2015 0.00

Plaintiff Shapiro, Jenna

Total Charges 30.00

Total Payments and Credits 30.00

Balance Due as of 2/18/2015 0.00

DISTRICT COURT CIVIL COVER SHEET

County, Nevada
Case No. **A-14-706566-C** Dept **XXVII**
(Assigned by Clerk's Office)

I. Party Information *(provide both home and mailing addresses if different)*

Plaintiff(s) (name/address/phone): <div style="text-align: center;">Howard Shapiro Jenna Shapiro</div>	Defendant(s) (name/address/phone): <div style="text-align: center;">Glen Welt, Rhoda Welt, Lynn Welt, and Checksnet.com</div>
Attorney (name/address/phone): <div style="text-align: center;">Eric P. Roy, Esq. 818 E. Charleston Blvd., Las Vegas, NV 89104 (702)423-3333 Nevada Bar No. 11869</div>	Attorney (name/address/phone): <div style="text-align: center;">Unknown</div>

II. Nature of Controversy *(please select the one most applicable filing type below)*

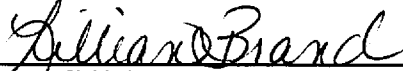
Civil Case Filing Types

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate <i>(select case type and estate value)</i> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

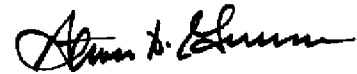
9.4.14

Date


Signature of initiating party or representative

See other side for family-related case filings.

1 **ORDR**



CLERK OF THE COURT

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 HOWARD SHAPIRO, JEAN SHAPIRO,
5 Plaintiffs

CASE NO.: A-14-706566-C

6 vs.

DEPARTMENT 27

7
8 GLEN WELT, LYNN WELT, MICHELLE
9 WELT and RHODA WELT, Defendants

10 **ORDER GRANTING DEFENDANTS' MOTION TO DISMISS**

11
12 Defendants' Motion to Dismiss was filed on December 15, 2014 and was heard
13 on December 24, 2014 at 10:00 a.m., with a quick setting in compliance with NRS
14 41.660(3)(f); Michael Lowry, Esq. appearing on behalf of Defendants and Evan Swab,
15 Esq. appearing on behalf of Plaintiffs. The Court having considered the pleadings and
16 papers on file herein, and being fully advised in the premises, now makes the following
17 decision and order:

18
19 **COURT FINDS** after review that NRS 41.660(3) allows for a special motion to
20 dismiss when the subject of a law suit is "good faith communication in furtherance of . . .
21 the right to free speech in direct connection of an issue of public concern." NRS 41.660.
22 These statutes, commonly known as anti-SLAPP (strategic lawsuit against public
23 participation), is intended to prevent parties from filing law suits in an attempt to restrict
24 or punish communication on an issue of public interest. NRS 41.637. A defendant must
25 show "by a preponderance of the evidence, that the claim is based upon a good faith
26 communication in furtherance of the right to . . . free speech in direct connection with an
27 issue of public concern." NRS 41.660(3)(a). Then, the plaintiff must show by clear and
28

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input checked="" type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

CLERK OF THE COURT

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convincing evidence that there is a probability of it prevailing on the claim. NRS 41.660(3)(b).

COURT FURTHER FINDS after review that Plaintiffs filed the present law suit on September 9, 2014, alleging the following causes of action: 1) Defamation Per Se; 2) Defamation; 3) Extortion; 4) Civil Conspiracy; 5) Fraud; and 6) Punitive Damages. These causes of action arose out of website created by Defendants in response to an action by Plaintiff Howard Shapiro for conservatorship of his father in the New Jersey court system, the Defendants created a website cataloging the bad acts of Plaintiff Howard Shapiro and asking for individuals with more information relating to the case to contact the webmaster, Defendant Glen Welt.

COURT FURTHER FINDS after review that the Defendants have met their burden to show by a preponderance of the evidence that the lawsuit was filed in an attempt to prevent the good faith communication in connection with an issue of public concern. Here, the website was communication regarding an ongoing lawsuit concerning the rights of an elderly individual, and a matter of public concern under NRS 41.637(4). The Defamation Per Se and Defamation causes of action are direct attempts to prevent the communication from reaching the public; the remaining causes of action are derivative of these substantive causes of action. Defendants have shown that the subject of this lawsuit, the website, is protected under anti-SLAPP statutes.

COURT FURTHER FINDS after review that Plaintiffs have not shown, through clear and convincing evidence, a probability they will prevail on the lawsuit. The Nevada Supreme Court recently reconfirmed its commitment to an absolute litigation privilege in Jacobs v. Adelson, 130Nev. Adv. Op. 44, 325 P.3d 1282, 1285 (2014). Here, the good faith communication is related to the underlying New Jersey lawsuit and is likely

1 protected. Plaintiffs have not met their burden under NRS 41.660(3)(b) to show that there
2 is a probability of prevailing on the merits.

3 **COURT FURTHER FINDS** after review that NRS 41.670 states that the court
4 shall award reasonable costs and attorney's fees after a successful motion to dismiss. The
5 statute also gives the court discretion to allow an additional amount of up to \$10,000 to
6 the person against whom the action was brought.

7
8 **COURT ORDERS** for good cause appearing Defendants' Motion to Dismiss
9 under NRS 41.660 is GRANTED without prejudice. **COURT FURTHER ORDERS** for
10 good cause appearing that Defendants are entitled to their reasonable costs and attorney's
11 fees; counsel to provide an affidavit detailing their costs and fees.

12 Dated: December 31, 2014

13
14 
15 NANCY ALLF
16 DISTRICT COURT JUDGE

17 **CERTIFICATE OF SERVICE**

18 I hereby certify that on or about the date signed I caused the foregoing document to
19 be served by placing same in the attorney folder located at the Regional Justice Center;
20 and/or pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the
21 Eighth Judicial District Court's electronic filing system, with the date and time of the
22 electronic service substituted for the date and place of deposit in the mail.

23 Thorndal, Armstrong, Delk, Balkenbush & Eisinger
24 Michael P. Lowry, Esq. - mplowry@thorndal.com

FAX - 702-364-0327

25 Law Offices of Eric P. Roy
26 Eric P. Roy, Esq. and Alex Ghibaudo, Esq. - eric@ericroylawfirm.com

27 FAX - 702-924-2517

28 
Karen Lawrence
Judicial Executive Assistant


CLERK OF THE COURT

1 **NOEJ**
2 **THORNDAL, ARMSTRONG, DELK,**
3 **BALKENBUSH & EISINGER**
4 Michael P. Lowry, Esq.
5 Nevada Bar No. 10666
6 P.O. Drawer 2070
7 Las Vegas, Nevada 89125-2070
8 Tel: (702) 366-0622
9 Fax: (702) 366-0327
10 Email: mlowry@thorndal.com
11 Attorneys for Glenn Welt, Rhoda Welt,
12 Lynn Welt and Michele Welt

13 **DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 HOWARD SHAPIRO and JENNA SHAPIRO, Case No.: A-14-706566-C
16 Plaintiffs, Dept. No. 27

17 vs.

**NOTICE OF ENTRY OF ORDER
GRANTING MOTION TO DISMISS**

18 GLEN WELT, RHODA WELT, LYNN WELT,
19 MICHELLE WELT, individuals;
20 CHECKSNET.COM, a corporation; DOES I
21 through X, and ROE CORPORATIONS I
22 through X, inclusive,
23 Defendants.

24 PLEASE TAKE NOTICE that on January 2, 2015, the court entered the attached order
25 granting a motion to dismiss.

26 DATED this 2nd day of January, 2015.

27 THORNDAL, ARMSTRONG, DELK,
28 BALKENBUSH & EISINGER

/s/ Michael P. Lowry

Michael P. Lowry, Esq.
P.O. Drawer 2070
Las Vegas, NV 89125-2070
Attorneys for Glenn Welt, Rhoda Welt,
Lynn Welt and Michele Welt

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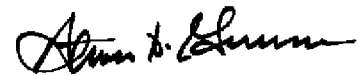
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), on January 2, 2015, **NOTICE OF ENTRY OF ORDER GRANTING MOTION TO DISMISS** was served upon each of the parties via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

/s/ Michael P. Lowry

An Employee of Thorndal, Armstrong, Delk,
Balkenbush & Eisinger

1 **ORDR**



CLERK OF THE COURT

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 HOWARD SHAPIRO, JEAN SHAPIRO,
5 Plaintiffs

CASE NO.: A-14-706566-C

6 vs.

DEPARTMENT 27

7
8 GLEN WELT, LYNN WELT, MICHELLE
9 WELT and RHODA WELT, Defendants

10 **ORDER GRANTING DEFENDANTS' MOTION TO DISMISS**

11
12 Defendants' Motion to Dismiss was filed on December 15, 2014 and was heard
13 on December 24, 2014 at 10:00 a.m., with a quick setting in compliance with NRS
14 41.660(3)(f); Michael Lowry, Esq. appearing on behalf of Defendants and Evan Swab,
15 Esq. appearing on behalf of Plaintiffs. The Court having considered the pleadings and
16 papers on file herein, and being fully advised in the premises, now makes the following
17 decision and order:

18
19 **COURT FINDS** after review that NRS 41.660(3) allows for a special motion to
20 dismiss when the subject of a law suit is "good faith communication in furtherance of . . .
21 the right to free speech in direct connection of an issue of public concern." NRS 41.660.
22 These statutes, commonly known as anti-SLAPP (strategic lawsuit against public
23 participation), is intended to prevent parties from filing law suits in an attempt to restrict
24 or punish communication on an issue of public interest. NRS 41.637. A defendant must
25 show "by a preponderance of the evidence, that the claim is based upon a good faith
26 communication in furtherance of the right to . . . free speech in direct connection with an
27 issue of public concern." NRS 41.660(3)(a). Then, the plaintiff must show by clear and
28

CLERK OF THE COURT

RECEIVED
JAN 02 2015

60

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input checked="" type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

convincing evidence that there is a probability of it prevailing on the claim. NRS 41.660(3)(b).

COURT FURTHER FINDS after review that Plaintiffs filed the present law suit on September 9, 2014, alleging the following causes of action: 1) Defamation Per Se; 2) Defamation; 3) Extortion; 4) Civil Conspiracy; 5) Fraud; and 6) Punitive Damages. These causes of action arose out of website created by Defendants in response to an action by Plaintiff Howard Shapiro for conservatorship of his father in the New Jersey court system, the Defendants created a website cataloging the bad acts of Plaintiff Howard Shapiro and asking for individuals with more information relating to the case to contact the webmaster, Defendant Glen Welt.

COURT FURTHER FINDS after review that the Defendants have met their burden to show by a preponderance of the evidence that the lawsuit was filed in an attempt to prevent the good faith communication in connection with an issue of public concern. Here, the website was communication regarding an ongoing lawsuit concerning the rights of an elderly individual, and a matter of public concern under NRS 41.637(4). The Defamation Per Se and Defamation causes of action are direct attempts to prevent the communication from reaching the public; the remaining causes of action are derivative of these substantive causes of action. Defendants have shown that the subject of this lawsuit, the website, is protected under anti-SLAPP statutes.

COURT FURTHER FINDS after review that Plaintiffs have not shown, through clear and convincing evidence, a probability they will prevail on the lawsuit. The Nevada Supreme Court recently reconfirmed its commitment to an absolute litigation privilege in Jacobs v. Adelson, 130Nev. Adv. Op. 44, 325 P.3d 1282, 1285 (2014). Here, the good faith communication is related to the underlying New Jersey lawsuit and is likely

1 protected. Plaintiffs have not met their burden under NRS 41.660(3)(b) to show that there
2 is a probability of prevailing on the merits.

3 **COURT FURTHER FINDS** after review that NRS 41.670 states that the court
4 shall award reasonable costs and attorney's fees after a successful motion to dismiss. The
5 statute also gives the court discretion to allow an additional amount of up to \$10,000 to
6 the person against whom the action was brought.

7
8 **COURT ORDERS** for good cause appearing Defendants' Motion to Dismiss
9 under NRS 41.660 is GRANTED without prejudice. **COURT FURTHER ORDERS** for
10 good cause appearing that Defendants are entitled to their reasonable costs and attorney's
11 fees; counsel to provide an affidavit detailing their costs and fees.

12 Dated: December 31, 2014

13
14 
15 NANCY ALLF
16 DISTRICT COURT JUDGE

17 **CERTIFICATE OF SERVICE**


18 I hereby certify that on or about the date signed I caused the foregoing document to
19 be served by placing same in the attorney folder located at the Regional Justice Center;
20 and/or pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the
21 Eighth Judicial District Court's electronic filing system, with the date and time of the
22 electronic service substituted for the date and place of deposit in the mail.

23 Thorndal, Armstrong, Delk, Balkenbush & Eisinger
24 Michael P. Lowry, Esq. - mplowry@thorndal.com

FAX - 702-364-0327

25 Law Offices of Eric P. Roy
26 Eric P. Roy, Esq. and Alex Ghibaudo, Esq. - eric@ericroylawfirm.com

27 FAX - 702-924-2517

28 
Karen Lawrence
Judicial Executive Assistant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

December 24, 2014

A-14-706566-C Howard Shapiro, Plaintiff(s)
vs.
Glen Welt, Defendant(s)

December 24, 2014 10:00 AM Motion to Dismiss

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Plaintiff Howard Shapiro present telephonically.

Arguments by counsel regarding the merits of the motion, opposition and countermotion. Colloquy regarding status of guardianship litigation and procedure there. Mr. Lowry stated a tentative settlement has been reached however it requires Court approval. Matter trialed for Mr. Ghibaudo to speak to his client off the record regarding the New Jersey litigation.

MATTER RECALLED. Mr. Ghibauda stated, as to the New Jersey litigation, there is an order out of New Jersey, there is a conservator that has been appointed to handle the finances, however, his client is solely in charge of any and all medical decisions concerning his father, Defendants Lynn, Rhoda and Michelle Welt have agreed to that, and Defendant Glen Welt has not been involved in any of the litigation in New Jersey but he is handling the website. Further arguments by counsel. COURT ORDERED, Glenn Welt, Rhoda Welt, Lynn Welt & Michele Welt's Motion to Dismiss and the Counter-motion for Attorney's Fees, Costs, and Sanctions CONTINUED FOR WRITTEN DECISION, if there is an update to the New Jersey litigation then Court would welcome a supplement and the filed document should be faxed or emailed to the Judicial Executive Assistant or Law Clerk.

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

December 24, 2014

A-14-706566-C Howard Shapiro, Plaintiff(s)
vs.
Glen Welt, Defendant(s)

December 24, 2014 10:00 AM All Pending Motions

HEARD BY: Alf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Ghibaudo, Alex, ESQ Attorney
 Lowry, Michael P. Attorney
 Shapiro, Howard Plaintiff

JOURNAL ENTRIES

- GLENN WELT, RHODA WELT, LYNN WELT & MICHELE WELT'S MOTION TO DISMISS...OPPOSITION TO DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT AND COUNTER-MOTION FOR ATTORNEY'S FEES, COSTS, AND SANCTIONS

Plaintiff Howard Shapiro present telephonically.

Arguments by counsel regarding the merits of the motion, opposition and countermotion. Colloquy regarding status of guardianship litigation and procedure there. Mr. Lowry stated a tentative settlement has been reached however it requires Court approval. Matter trialed for Mr. Ghibaudo to speak to his client off the record regarding the New Jersey litigation.

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CONTINUED FOR CHAMBER'S DECISION.....12/30/2014 (CHAMBERS)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

December 30, 2014

A-14-706566-C Howard Shapiro, Plaintiff(s)
vs.
Glen Welt, Defendant(s)

December 30, 2014 3:00 AM Status Check

HEARD BY: Allf, Nancy **COURTROOM:**

COURT CLERK: Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Order Granting Motion to Dismiss filed January 2, 2015.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

MICHAEL P. LOWRY, ESQ.
P.O. DRAWER 2070
LAS VEGAS, NV 89125-2070

DATE: February 18, 2015
CASE: A706566

RE CASE: HOWARD SHAPIRO; JENNA SHAPIRO vs. GLEN WELT; RHODA WELT; LYNN WELT; MICHELLE WELT; CHECKSNET.COM

NOTICE OF APPEAL FILED: February 13, 2015

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.**

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF CROSS-APPEAL; CROSS-APPEAL CASE STATEMENT;
DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING
DEFENDANTS' MOTION TO DISMISS; NOTICE OF ENTRY OF ORDER GRANTING MOTION TO
DISMISS; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

HOWARD SHAPIRO; JENNA SHAPIRO,

Plaintiff(s),

vs.

GLEN WELT; RHODA WELT; LYNN WELT;
MICHELLE WELT; CHECKSNET.COM,

Defendant(s),

Case No: A706566

Dept No: XXVII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 18 day of February 2015.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk