

EXHIBIT “1”

EXHIBIT “1”

IN THE SUPREME COURT OF THE STATE OF NEVADA

SATICOY BAY LLC SERIES 2021 GRAY
EAGLE WAY,
Appellant,
vs.
JP MORGAN CHASE BANK, N.A.,
Respondent.

No. 68431

FILED

SEP 16 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

**ORDER GRANTING MOTION FOR
RECONSIDERATION AND REINSTATING APPEAL**

This appeal was dismissed by way of clerk's order on August 11, 2015, for failure to pay the filing fee. Appellant has submitted a petition for rehearing, which the court elects to treat as a motion for reconsideration pursuant to IOP Rule 15(c). Having considered the motion, we have determined that relief is warranted. Accordingly, the motion for reconsideration is granted. The clerk of this court is directed to reinstate this appeal and to accept the filing fee previously tendered.

It is so ORDERED.

1 J. Lester, C.J.

cc: Hon. Linda Marie Bell, District Judge
Law Offices of Michael F. Bohn, Ltd.
Smith Larsen & Wixom
Eighth District Court Clerk

EXHIBIT “2”

EXHIBIT “2”

1 MICHAEL F. BOHN, ESQ.
Nevada Bar No.: 1641
2 mbohn@bohnlawfirm.com
LAW OFFICES OF
3 MICHAEL F. BOHN, ESQ., LTD.
376 East Warm Springs Road, Ste. 140
4 Las Vegas, Nevada 89119
(702) 642-3113/ (702) 642-9766 FAX
5 Attorney for appellant

Electronically Filed
Aug 11 2015 01:23 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

6 IN THE SUPREME COURT
7
8 STATE OF NEVADA

9 SATICOY BAY LLC SERIES 2021 GRAY
10 EAGLE WAY,

11 Appellant

12 vs.

13 JP MORGAN CHASE BANK, N.A.,

14
15 Respondant

DOCKET NO.:68431

16
17 **PETITION FOR REHEARING**

18 Plaintiff in intervention/appellant Saticoy Bay LLC Series 2021 Gray Eagle
19 Way, by and through it attorney, Michael F. Bohn Esq., files this petition for
20 rehearing to request that this Court reconsider dismissing this appeal. This petition
21 is based upon the declaration of Michael F. Bohn, Esq.

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1 **DECLARATION OF MICHAEL F. BOHN, ESQ.**

2 MICHAEL F. BOHN, ESQ. states:

3 1. Declarant is the attorney for the appellant in this case and makes this
4 declaration based upon personal knowledge.

5 2. Counsel respectfully requests that this court reconsider its decision to
6 dismiss this appeal.

7 3. This appeal was filed in the district court on July 13, 2015 and was docketed
8 in the Supreme Court on July 17, 2015.

9 4. My assistant paid the \$250 Supreme Court filing fee through the website
10 located at <https://efile.nvsupremecourt.us> on July 17, 2015.

11 5. My credit card was billed by the Nevada Supreme Court on July 17, 2015.
12 A credit card statement showing this charge on July 17, 2015 is Exhibit 1.

13 6. On July 22, 2015, the Supreme Court website refunded \$250 to my credit
14 card. According to the Supreme Court's clerk's office, the \$250 was refunded
15 because the system did not know to which case the payment should be applied.

16 7. Neither or my staff noticed that the credit card charge had been refunded
17 until we began investigating the details on the charge for this appeal.

18 8. On August 11, 2015, I received notice that this appeal was being dismissed
19 for lack of payment.

20 9. Upon contacting the clerk's office, my assistant was advised that filing a
21 petition for rehearing was the only way to have the appeal reinstated.

22 10. This petition for rehearing is requested so that this appeal can move
23 forward.

24 12. This is an appeal of a dismissal with prejudice based on the five year rule
25 under NRCP 41(e). The statute of limitations on the appellant's claim has not yet run.
26 A dismissal of this appeal would forever bar the appellant's right to relief.

27 13. This court has repeatedly held that the public policy is to hear cases on
28 their merits.

1 14. The appellant and counsel are prepared to comply with any requirements
2 imposed by this court should this court reinstate the appeal.

3 15. If called upon to testify to the above facts, declarant could do so
4 competently.

5 16. I declare under penalty of perjury under the law of the state of Nevada that
6 the foregoing is true and correct.

7 Dated this 11th day of August 2015

8
9 /S/ /Michael F. Bohn, Esq. /
10 MICHAEL F. BOHN, ESQ.

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2. I further certify that this petition complies with the page or type-volume limitations of NRAP 40(b)(3) because, excluding the parts of the brief exempted by NRAP 32(a)(7), it is proportionately spaced and has a typeface of 14 points and contains 835 words.

3. I hereby certify that I have read this petition for rehearing, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found.

DATED this 11th day of August, 2014.

LAW OFFICES OF
MICHAEL F. BOHN, ESQ., LTD.

By: / s / Michael F. Bohn, Esq. /
Michael F. Bohn, Esq.
376 East Warm Springs Rd, Ste. 140
Las Vegas, Nevada 89119
Attorney for plaintiff/appellant

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EXHIBIT 1

EXHIBIT 1

American Airlines



AAdvantage Aviator Red MasterCard Reward Summary

Miles earned on American Airlines and US Airways purchases (2X miles for every dollar spent on eligible purchases)	+	36
Miles earned on all other purchases (1X mile for every dollar spent)	+	2,580
Bonus or promotional miles earned this period	+	0
Adjustments	+	0
Total miles sent to your frequent flyer program	=	2,616

YOU'RE READY TO TAKE FLIGHT

You and up to 4 companions on your reservation may each check one eligible bag free of charge when traveling on domestic itineraries operated by US Airways or American Airlines.

Enjoy Zone 2 boarding on domestic US Airways operated flights
and Group 1 boarding on domestic American Airlines operated flights

Receive 10% of your miles back when you redeem them for travel
(10,000 miles maximum per calendar year)

Activity for MICHAEL F BOHN - card ending in 0866

Payments				
Trans Date	Posting Date	Transaction Description		Amount
07/09	07/09	Payment Received	WELLS FARGO B	-\$4,877.60
08/01	08/03	Payment Received	WELLS FARGO B	-\$176.81
Total Payment Activity				-\$5,054.41
Purchases				
07/15	07/16	HOLLYWOOD THAI CUISINE	LAS VEGAS NV	\$47.83
07/17	07/20	NEVADA SUPREME COURT	CARSON CITY NV	\$250.00
07/18	07/20	AMERICAN 00123067490130	DALLAS TX	\$5.60
BOHN/MICHAEL 11/28/2015 JFK XAO Agency: AA.COM #00123067490130				
07/18	07/20	AMERICAN 00123067490150	DALLAS TX	\$5.60
BOHN/KRITSANA 11/28/2015 JFK XAO Agency: AA.COM #00123067490150				
07/20	07/22	AMERICAN 00123068472880	DALLAS TX	\$5.60
THOMAS/STEPHEN 11/28/2015 JFK XAO Agency: AA.COM #00123068472880				
07/22	07/27	NEVADA SUPREME COURT	CARSON CITY NV	-\$250.00
07/29	07/31	CITY OF LV PARKING MET	LAS VEGAS NV	\$3.00
08/03	08/04	AT&T*BILL PAYMENT	08003310500 TX	\$265.42
Total Purchase Activity				\$333.05

019205 2/6

EXHIBIT “3”

EXHIBIT “3”

IN THE SUPREME COURT OF THE STATE OF NEVADA

SATICOY BAY LLC SERIES 2021 GRAY
EAGLE WAY,
Appellant,
vs.
JP MORGAN CHASE BANK, N.A.,
Respondent.

No. 68431

FILED

AUG 11 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This appeal was docketed in this court on July 17, 2015, without payment of the requisite filing fee. On that same day a notice was issued directing appellant to pay the filing fee within ten days. The notice further advised that failure to pay the filing fee within ten days would result in the dismissal of this appeal. To date, appellant has not paid the filing fee or otherwise responded to this court's notice. Accordingly, cause appearing, this appeal is dismissed.

It is so ORDERED.

CLERK OF THE SUPREME COURT
TRACIE K. LINDEMAN

BY: *Tracie K. Lindeman*

cc: Hon. Linda Marie Bell, District Judge
Law Offices of Michael F. Bohn, Ltd.
Smith Larsen & Wixom
Eighth District Court Clerk

EXHIBIT “4”

EXHIBIT “4”

IN THE SUPREME COURT OF THE STATE OF NEVADA

SATICOY BAY LLC SERIES 350
DURANGO 104,
Appellant,
vs.
WELLS FARGO HOME MORTGAGE A
DIVISION OF WELLS FARGO BANK,
N.A.,
Respondent.

No. 68435

FILED

AUG 11 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This appeal was docketed in this court on July 17, 2015, without payment of the requisite filing fee. On that same day a notice was issued directing appellant to pay the filing fee within ten days. The notice further advised that failure to pay the filing fee within ten days would result in the dismissal of this appeal. To date, appellant has not paid the filing fee or otherwise responded to this court's notice. Accordingly, cause appearing, this appeal is dismissed.

It is so ORDERED.

CLERK OF THE SUPREME COURT
TRACIE K. LINDEMAN

BY: 

cc: Hon. Ronald J. Israel, District Judge
Law Offices of Michael F. Bohn, Ltd.
Snell & Wilmer, LLP/Las Vegas
Eighth District Court Clerk

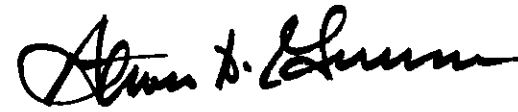
SUPREME COURT
OF
NEVADA

CLERK'S ORDER

15-24153

EXHIBIT “5”

EXHIBIT “5”



CLERK OF THE COURT

1 **NEOJ**

2 Kent F. Larsen, Esq.

3 Nevada Bar No. 3463

4 Chet A. Glover, Esq.

5 Nevada Bar No. 10054

6 **SMITH LARSEN & WIXOM**

7 Hills Center Business Park

8 1935 Village Center Circle

9 Las Vegas, Nevada 89134

10 Tel: (702) 252-5002

11 Fax: (702) 252-5006

12 Email: kfl@slwlaw.com

13 cag@slwlaw.com

14 Attorneys for Defendant

15 JPMorgan Chase Bank, N.A.

16 **DISTRICT COURT**

17 **CLARK COUNTY NEVADA**

18 **SUSAN LOUISE HANNAFORD,**

19 Plaintiff,

20 vs.

21 **CANYON GATE MASTER**
22 **ASSOCIATION,**

23 Defendant.

24 **SATICOY BAY LLC SERIES 2021 GRAY**
25 **EAGLE WAY,**

26 Plaintiff in intervention,

27 vs.

28 **SUSAN LOUISE HANNAFORD; PARRY**
NORMA; JP MORGAN CHASE BANK,
N.A.; MTC FINANCIAL dba TRUSTEE
CORPS,

Defendants in Intervention.

CASE NO: A-09-605965-C

DEPT NO: 7

**NOTICE OF ENTRY OF ORDER TO
DISMISS WITH PREJUDICE**

...

SMITH LARSEN & WIXOM

ATTORNEYS

HILLS CENTER BUSINESS PARK

1935 VILLAGE CENTER CIRCLE

LAS VEGAS, NEVADA 89134

(702) 252-5002 • (702) 252-5006

NOTICE IS HEREBY GIVEN that the attached Order to Dismiss with Prejudice was entered by the Court on the 22nd day of June, 2015.

Dated this 22nd day of June, 2015.

SMITH LARSEN & WIXOM

/s/ Chet A. Glover

Kent F. Larsen, Esq.

Nevada Bar No. 3463

Chet A. Glover, Esq.

Nevada Bar No. 10054

1935 Village Center Circle

Las Vegas, Nevada 89134

Attorneys for JPMorgan Chase Bank, N.A.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 23, 2015 a true copy of the foregoing Notice of Entry of Order to Dismiss with Prejudice was sent via electronic means to the following at their last known email addresses, pursuant to EDCR 8.05(a):

Law Offices of Michael F. Bohn, Esq.

Contact

Eserve Contact

Michael F Bohn Esq

Email

office@bohnlawfirm.com

mbohn@bohnlawfirm.com

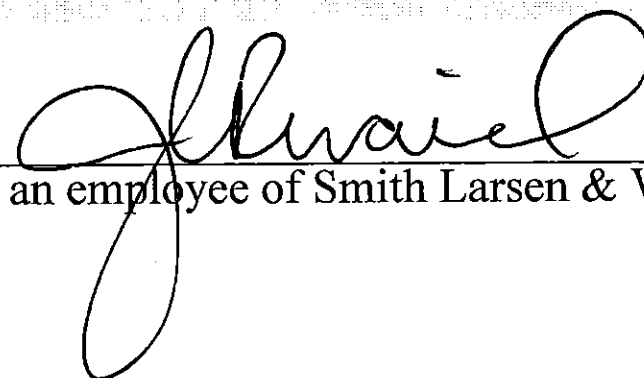
Silvestri Gidvani PC

Contact

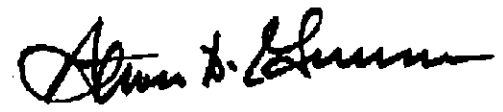
Phillip A. Silvestri, Esq.

Email

psilvestri@silgid.com



an employee of Smith Larsen & Wixom



1 ORDR

2 **EIGHTH JUDICIAL DISTRICT COURT** CLERK OF THE COURT
3 **CLARK COUNTY, NEVADA**

4
5 SUSAN LOUISE HANNAFORD, an individual,
6 Plaintiff,

7 vs.

Case No. A-09-605965-C
Dept No. VII

8 CANYON GATE MASTER ASSOCIATION, a Nevada
9 corporation; DOES I-X, inclusive; and ROE
CORPORATIONS 1-10, inclusive;

10 Defendant.

11 SATICOY BAY LLC SERIES 2021 GRAY EAGLE WAY,
12 Plaintiff in Intervention,

13 vs.

14 SUSAN LOUISE HANNAFORD; PARRY NORMA; JP
15 MORGAN CHASE BANK, N.A.; MTC FINANCIAL
16 d/b/a TRUSTEE CORPS,

17 Defendant in Intervention.

18 **ORDER TO DISMISS WITH PREJUDICE**

19 On March 3, 2015, this Court issued an Order to Show Cause why this matter should
20 not be dismissed pursuant to NRCP 41(e). On April 16, 2015, at the Show Cause hearing,
21 Plaintiff-In-Intervention, Saticoy Bay LLC Series 2021 Gray Eagle Way ("Saticoy"),
22 requested that the Court dismiss the matter without prejudice. After hearing oral
23 argument, the Court requested briefing from Saticoy and Defendant-in-Intervention
24 JPMorgan Chase Bank, N.A. regarding this issue. On April 30, 2015, Saticoy and Chase
25 submitted their respective briefs to the Court. Having reviewed the parties' papers, the
26 Court finds good cause to dismiss this case with prejudice pursuant to NRCP 41(e) for the
27 parties' failure to bring the case to trial within five years.
28

5107 7 7 NOT LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

Discussion

“Any action heretofore or hereafter commenced shall be dismissed by the court in which the same shall have been commenced ... unless such action is brought to trial within 5 years after the plaintiff has filed the action.” NRCP 41(e). The Supreme Court of Nevada has held that “dismissal pursuant to NRCP 41(e) for failure to bring to trial a claim within five years of filing the complaint is mandatory.” Johnson v. Harber, 94 Nev. 524, 526, 582 P.2d 800, 801 (1978). The five year rule applies to a Saticoy’s Complaint in Intervention as it would any other claim and the five-year period begins to run when the original complaint was filed. See United Ass’n of Journeymen & Apprentices of Plumbing & Pipe Fitting Indus. v. Manson, 105 Nev. 816, 820, 783 P.2d 955, 958 (1989) (“the original claim and any crossclaims, counterclaims and third-party claims are all part of one ‘action.’ Under the language of NRCP 41(e), the action commences when the plaintiff files a complaint, and the five-year period for bringing the action to trial begins to run”). The original Complaint in this case was filed on December 15, 2009—five years, six months, and seven days from the date of this Order.

There exist few exceptions to the NRCP 41(e) five-year rule. See NRCP 41(e) (dismissal is mandatory “except where the parties have stipulated in writing”); Baker v. Noback, 112 Nev. 1106, 1109-10, 922 P.2d 1201, 1203 (1996) (“the time during which a complaint is pending before the [malpractice screening] panel should be excluded from the five-year mandatory dismissal period”); Boren v. City of N. Las Vegas, 98 Nev. 5, 6, 638 P.2d 404, 405 (1982) (“Any period during which the parties are prevented from bringing an action to trial by reason of a stay order shall not be computed in determining the five-year period of Rule 41(e)”); Rickard v. Montgomery Ward & Co., 120 Nev. 493, 494, 96 P.3d 743, 744 (2004) overruled on other grounds by Carstarphen v. Milsner, 128 Nev. Adv. Op. 5, 270 P.3d 1251 (2012) (in the bankruptcy context, an “[11 U.S.C.] § 362(a) automatic stay tolls NRCP 41(e)’s five-year prescriptive period”). However, none of the exceptions to NRCP 41(e) apply in this case: there was not a written agreement to extend the five-year rule; this case does not involve the medical malpractice screening panel; this case does not involve a

1 stay of district court proceedings; nor does this case involve an automatic stay under the
2 bankruptcy code.

3 "The district court has discretion to dismiss the case with or without prejudice.
4 However, unless the district court states in its order that dismissal is without prejudice,
5 dismissal with prejudice is presumed." Brent G. Theobald Const., Inc., v. Richardson
6 Const., Inc., 122 Nev. 1163, 1167, 147 P.3d 238, 241 (2006) abrogated on other grounds by
7 Buzz Stew, LLC v. City of N. Las Vegas, 124 Nev. 224, 181 P.3d 670 (2008). Casualty and
8 Surety Co., 109 Nev. 558, 563-64 (1993) (citations omitted). "Factors relevant to the
9 district court's exercise of that discretion include [1] the underlying conduct of the parties,
10 [2] whether the plaintiff offers adequate excuse for the delay, [3] whether the plaintiff's case
11 lacks merit, and [4] whether any subsequent action following dismissal would not be barred
12 by the applicable statute of limitations." Monroe v. Columbia Sunrise Hosp. & Med. Ctr.,
13 123 Nev. 96, 103, 158 P.3d 1008, 1012 (2007).

14 The Court finds that, considering the Monroe factors, dismissal of this case with
15 prejudice is warranted for the following reasons: (1) the prosecuting parties—Hannaford
16 and Saticoy—have not taken affirmative steps to adequately prosecute this case; (2) Saticoy,
17 the only remaining plaintiff in this action, offers the excuse that it intervened only nineteen
18 months ago, which the Court find to be an inadequate excuse for delay; (3) Saticoy's case,
19 lacks merit; and (4) the three-year statute of limitations for foreclosing an HOA lien, see
20 NRS 116.3116(6), has run. The Court therefore finds good cause to dismiss this case, with
21 prejudice, pursuant to NRCP 41(e) for the parties' failure to bring the case to trial within
22 five years of the Complaint being filed.

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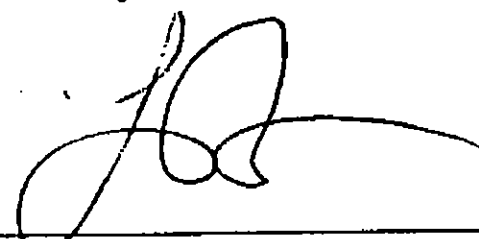
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LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

Conclusion

This case, including Saticoy Bay LLC Series 2021 Gray Eagle Way's Complaint in Intervention, is dismissed with prejudice pursuant to Nevada Rule of Civil Procedure 41(e).

DATED this 22nd day of June, 2015.

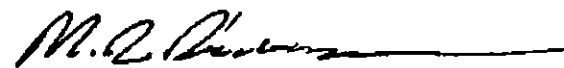


LINDA MARIE BELL
DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 22nd of June, 2015, he caused to be served the foregoing Decision and Order by faxing, mailing, or electronically serving a copy to counsel as listed below:

Name	Party	Phone	Service Method
Michael F. Bohn, Esq.	Attorney for Plaintiff in Intervention Saticoy Bay LLC		E-Service -or- mbohn@bohnlawfirm.com / office@bohnlawfirm.com
Kent Larsen, Esq. Chet Glover, Esq. Smith Larsen & Wixom	Attorneys for Defendant JPMorgan Chase Bank, N.A.	(702)252-5002	E-Service -or- kfl@slwlaw.com cag@slwlaw.com


MICHAEL R. DICKERSON
LAW CLERK, DEPARTMENT VII

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Order filed in District Court case number A605965 DOES NOT contain the social security number of any person.

/s/ Linda Marie Bell Date 6/22/2015
District Court Judge

LINDA MARIE BELL
DISTRICT JUDGE
DEPARTMENT VII

EXHIBIT “6”

EXHIBIT “6”

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

SATICOY BAY LLC SERIES 2021 GRAY
EAGLE WAY,
Appellant,
vs.
JP MORGAN CHASE BANK, N.A.,
Respondent.

Supreme Court No. 68431
District Court Case No. A605965

**NOTICE OF POTENTIAL DISMISSAL FOR FAILURE TO PAY SUPREME
COURT FILING FEE**

TO: Law Offices of Michael F. Bohn, Ltd. \ Michael F. Bohn

This matter was docketed in the Supreme Court of Nevada without payment of the required \$250 filing fee. NRS 2.250(1)(a).

Please remit the filing fee within 10 days of this notice to:

Supreme Court Clerk's Office
201 South Carson Street
Carson City, Nevada 89701-4702

Be advised that no action will be taken on this matter until the filing fee is paid.

Your failure to pay the requisite Supreme Court filing fee within 10 days will result in
DISMISSAL OF THIS MATTER.

DATE: July 17, 2015

Tracie Lindeman, Clerk of Court

By: Linda Hamilton
Deputy Clerk

Notification List

Electronic

Law Offices of Michael F. Bohn, Ltd. \ Michael F. Bohn
Smith Larsen & Wixom \ Chet A. Glover
Smith Larsen & Wixom \ Kent F. Larsen
Steven D. Grierson, Eighth District Court Clerk

IN THE SUPREME COURT STATE OF NEVADA

SATICOY BAY LLC SERIES 2021
GRAY EAGLE WAY,

Appellant,

vs.

JPMORGAN CHASE BANK, N.A.,

Respondent.

CASE NO: 68431

**MOTION FOR
RECONSIDERATION OF ORDER
GRANTING MOTION FOR
RECONSIDERATION AND
REINSTATING APPEAL**

Electronically Filed
Sep 21 2015 04:37 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

Respondent JPMorgan Chase Bank, N.A. (“**Chase**”) respectfully requests that this Honorable Court reconsider its Order Granting Motion for Reconsideration and Reinstating Appeal (the “**Order**”) filed on September 16, 2015, attached hereto as Exhibit 1. Chase believes that the Order was granted based upon a misapprehension of the facts. Moreover, because Chase was not provided the ability to oppose Appellant Saticoy Bay LLC Series 2021 Gray Eagle Way’s (“**Saticoy**”) Petition for Rehearing (the “**Petition**”),¹ *see* Exhibit 2, Chase respectfully requests that the Court entertain this Motion for Reconsideration.

...

¹ On August 11, 2015, Saticoy Bay filed the Petition requesting that the Court withdraw its Order Dismissing Appeal. *See* Exhibit 3. Pursuant to NRAP 40, “[n]o answer to a petition for rehearing or reply to an answer shall be filed unless requested by the court.” Because no answer to the Petition was requested by the Court, Chase was ostensibly not permitted to file an opposition to the Petition. However, in the Order, the Court converted the Petition to a motion for reconsideration, pursuant to IOP Rule 15(c), without providing Chase a chance to oppose the converted Petition.

I.

RELEVANT FACTS

1. On July 17, 2015, Saticoy filed this appeal. However, on the same date, Saticoy also filed an appeal in Supreme Court Case No. 68435, *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortgage A Div. of Wells Fargo Bank, N.A.* (the “**350 Durango Appeal**”).

2. Apparently, Saticoy failed to pay the requisite filing fee in either appeal, and on August 11, 2015, the Court dismissed both appeals for that reason. *See* Exhibits 3 and 4, respectively.

3. On August 11, 2015, Saticoy filed its Petition arguing that the appeal in this matter should be reinstated, because “the system did not know to which case the payment should be applied.” *See* Petition at ¶ 7.

4. The Petition, however, failed to alert the Court that Saticoy Bay had filed two appeals on the same day, both of which were dismissed, but only one filing fee was made. *See id.* at Ex. 1 (*noting* only one payment to the Nevada Supreme Court on July 17, 2015).

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II.

ARGUMENT

A. THE COURT SHOULD RECONSIDER ITS ORDER BECAUSE THERE IS NO EVIDENCE THAT SATICOY'S UNTIMELY PAYMENT WAS FOR THIS MATTER

The untimely payment on July 17, 2015 could have been for the 305 Durango Appeal. Saticoy has not made any showing that the singular payment was made specifically for this appeal, as opposed to the 305 Durango Appeal. It is believed that because the property involved in this case is the current residence of the principal behind Saticoy, Eddie Haddad, that Saticoy made an after-the-fact decision to try to allocate the singular filing fee to this case, as opposed to 305 Durango Appeal. However, given Saticoy's lack of prosecution of this matter at the district court (discussed further below), this after-the-fact allocation should not be accepted by the Court. In *Weddell v. Stewart*, 127 Nev. Adv. Op. 58, ___, 261 P.3d 1080, 1084 (2011), this Court stated as follows, in relevant part:

Consequently, for this court to be able to continue to fulfill its responsibility of resolving legal disputes in a fair, efficient, and timely manner, it is imperative that the parties follow the applicable procedural rules and that they comply in a timely fashion with our directives. *For far too long, we have tolerated procedural derelictions, including failure to timely submit fees, such as occurred in these appeals. We will no longer.*

(emphasis added). In its Petition, Saticoy argues that “[t]his court has repeatedly held that the public policy is to hear cases on their merits.” See Ex. 2 at ¶ 13.

However, in *Huckabay Prop., Inc. v. NC Auto Parts, LLC*, a similar argument was made for reconsideration of dismissal of an appeal, and this Court held:

[A] party cannot rely on the preference for deciding cases on the merits to the exclusion of all other policy considerations, and when an appellant fails to adhere to Nevada's appellate procedure rules, which embody judicial administration and fairness concerns, or fails to comply with court directives or orders, that appellant does so at the risk of forfeiting appellate relief.

130 Nev. Adv. Op. 23, ___, 322 P.3d 429, 434 (2014). The rationale in *Huckabay* applies here. Saticoy failed to file the requisite filing fee when it filed this appeal. See Exhibit 6, Notice of Potential Dismissal for Failure to Pay Supreme Court Filing Fee, (the "**Notice to Pay**"). Pursuant to the Notice to Pay, Saticoy was alerted that it had failed to pay the requisite filing fee. However, instead of making payments for this matter and the 305 Durango Appeal, Saticoy made one payment and left it to the Court to try to decide to which case the singular payment applied. Then, nearly a month after making the one payment, and after having this matter and the 305 Durango Appeal dismissed, Saticoy indicated that it intended the one payment to be allocated to this case. See generally, Ex. 2.

This seems to be the exact situation that the Court was trying to avoid when it issued its decisions in *Weddell* and *Huckabay* (i.e. the unnecessary expenditure by the Court of limited resources). Therefore, Chase respectfully requests that this Honorable Court reconsider its Order and reinstate the dismissal of this appeal.

B. SATICOY’S FAILURE TO ATTEND TO THIS MATTER AT THE DISTRICT COURT AND ON APPEAL SUPPORTS REINSTATING THE DISMISSAL

As noted above, this Court has held, “[f]or far too long, we have tolerated procedural derelictions, including failure to timely submit fees, such as occurred in these appeals. *We will no longer.*” See *Weddell, supra* (emphasis added). Here, the Court should also take into account the fact that Saticoy was not only derelict in paying the filing fee on appeal, but the dismissal below was, in part, based upon Saticoy’s failure to take its case to trial within five (5) years, pursuant to NRCPC 41(e). See Exhibit 5, Notice of Entry of Order of to Dismiss with Prejudice. Therefore, Chase requests that the Court reconsider the reinstatement of this appeal and review the facts now presented.

First, Saticoy did not take its case to trial within five (5) years, which in part, resulted in a dismissal with prejudice. Second, the district court specifically found that “Saticoy’s case, lacks merit ... and the three-year statute of limitations for foreclosing an HOA lien ... has run.” See Ex. 6. Third, the untimely filing fee that Saticoy finally made cannot be allocated to this matter in light of the filing of the 305 Durango Appeal.

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Therefore, this Court should not have to expend its limited resources in sorting out this matter. Thus, Chase respectfully requests that this Honorable Court reconsider its Order and reinstate the dismissal of this appeal.

Dated this 21st day of September, 2015.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 21, 2015 a true copy of the foregoing **MOTION FOR RECONSIDERATION OF ORDER GRANTING MOTION FOR RECONSIDERATION AND REINSTATING APPEAL** was filed and served electronically via the Court's E-Flex system in accordance with NRAP 25 to the following at their last known email addresses:

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ATTORNEY'S CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6), because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in Times New Roman font size 14.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) and NRAP 27(d)(2) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more, and does not exceed 10 pages.

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3. Finally, I hereby certify that I have read this brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 21st day of September, 2015.

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EXHIBIT LIST

Exhibit No.	Description	Page Nos.
1	Order Granting Motion for Reconsideration and Reinstating Appeal	1
2	Petition for Rehearing	7
3	Order Dismissing Appeal	1
4	Order Dismissing Appeal (305 Durango Appeal)	1
5	Notice of Entry of Order to Dismiss with Prejudice	7
6	Notice of Potential Dismissal for Failure to Pay Supreme Court Filing Fee	1