

1 LAW OFFICE OF DANIEL MARKS
DANIEL MARKS, ESQ.
2 Nevada State Bar No. 002003
ADAM LEVINE, ESQ.
3 Nevada State Bar No. 004673
610 South Ninth Street
4 Las Vegas, Nevada 89101
(702) 386-0536; FAX (702) 386-6812
5 *Attorneys for Plaintiffs*

FILED
FIFTH JUDICIAL DISTRICT COURT

OCT 09 2015

NYE COUNTY DEPUTY CLERK
DEPUTY

Electronically Filed
Oct 14 2015 02:40 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

6 IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF NYE

8
9 RAYMOND DELUCCHI and
TOMMY HOLLIS,

Case No. CV35969
Dept. No. I

10 Plaintiffs,

11 v.

12 PAT SONGER,

13 Defendant.
14 _____/

15 **NOTICE OF APPEAL**

16 Plaintiffs Raymond Delucchi and Tommy Hollis hereby appeal the Order of Dismissal entered
17 in this action on September 24, 2015. (Exhibits "1" attached hereto).

18 DATED this 6th day of October, 2015.

19 LAW OFFICE OF DANIEL MARKS
20 

21 DANIEL MARKS, ESQ.
22 Nevada State Bar No. 002003
ADAM LEVINE, ESQ.
23 Nevada State Bar No. 004673
610 South Ninth Street
24 Las Vegas, Nevada 89101
(702) 386-0536; FAX (702) 386-6812
25 *Attorneys for Plaintiffs*

1 CERTIFICATE OF MAILING

2 I hereby certify that I am an employee of the LAW OFFICE OF DANIEL MARKS, and that on
3 the 7th day of October, 2015, I did deposit in the United States Post Office, at Las Vegas, Nevada, in
4 a sealed envelope with first class postage fully prepaid thereon, a true and correct copy of the
5 foregoing NOTICE OF APPEAL, to the addresses as follows:

6 Joseph P. Garin, Esq.
Siria L. Gutierrez, Esq.
7 LIPSON, NEILSON, COLE, SELTZER GARIN
9900 Covington Cross Drive, Suite 120
8 Las Vegas, Nevada 89144
Attorneys for Defendant Pat Songer

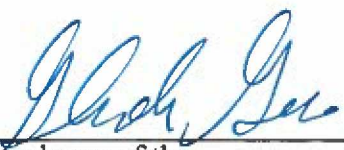
9
10 
11 An employee of the
LAW OFFICE OF DANIEL MARKS

EXHIBIT “1”

1 NEOJ
2 LAW OFFICE OF DANIEL MARKS
3 DANIEL MARKS, ESQ.
4 Nevada State Bar No. 002003
5 ADAM LEVINE, ESQ.
6 Nevada State Bar No. 004673
7 610 South Ninth Street
8 Las Vegas, Nevada 89101
9 (702) 386-0536; FAX (702) 386-6812
10 *Attorneys for Plaintiffs*

2015 SEP 24 P 10 10
Stephanie May
NYE COUNTY CLERK
BY: [Signature]

11
12 IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
13
14 IN AND FOR THE COUNTY OF NYE

15 RAYMOND DELUCCHI and
16 TOMMY HOLLIS,
17
18 Plaintiffs,

Case No. CV35969
Dept. No. I

19 v.

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

22 Defendants.
23
24
25



26
27 NOTICE OF ENTRY OF ORDER OF DISMISSAL

28 TO: PAT SONGER, Defendant;

29 TO: SIRIA L. GUTIERREZ, ESQ., Attorney for Defendant Pat Songer;

30 TO: ERICKSON THORPE & SWAINSTON, LTD., Defendant, and

31 TO: TODD ALEXANDER, ESQ. Attorney for Defendant Erickson Thorpe & Swainston, Ltd.:

32 ///

33 ///

34 ///

35 ///

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that an Order of Dismissal was filed on September 15, 2015, a copy of which is attached hereto.

DATED this 29 day of September, 2015.

LAW OFFICE OF DANIEL MARKS

DANIEL MARKS, ESQ.

Nevada State Bar No. 002003

ADAM LEVINE, ESQ.

Nevada State Bar No. 004673

610 South Ninth Street

Las Vegas, Nevada 89101

(702) 386-0536: FAX (702) 386-6812

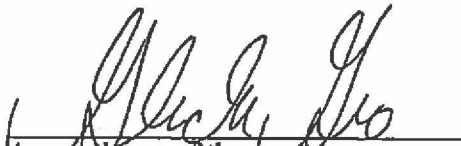
Attorneys for Plaintiffs

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the LAW OFFICE OF DANIEL MARKS, and that on the 21st day of September, 2015, I did deposit in the United States Post Office, at Las Vegas, Nevada, in a sealed envelope with first class postage fully prepaid thereon, a true and correct copy of the foregoing NOTICE OF ENTRY OF ORDER OF DISMISSAL, to the addresses as follows:

Siria L. Gutierrez, Esq.
LIPSON, NEILSON, COLE, SELTZER GARIN
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
Attorney for Defendant Pat Songer

Todd Alexander, Esq.
LEMONS, GRUNDY & EISENBERG
6005 Plumas Street, Suite 300
Reno, Nevada 89519
Attorney for Defendant ETS


An employee of the
LAW OFFICE OF DANIEL MARKS



Case No. CV35969
Dept. 1

FILED

2015 SEP 15 PM 2:25
Sarah Westfall
NYE COUNTY CLERK
BY [Signature]

IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF NYE

RAYMOND DELUCCHI and TOMMY
HOLLIS,

Plaintiffs,

vs.

ORDER OF DISMISSAL

PAT SONGER and EROCKSON, THORPE
& SWAINSTON, LTD,

Defendants.

On September 17, 2014, the Court entered Findings of Fact, Conclusions of Law and an Order Granting Defendant Erickson, Thorpe & Swainston's Special Motion to Dismiss. The Court did not award attorneys' fees and costs as part of said Order, instead ordering said parties to file a motion, opposition and reply concerning said attorneys' fees and costs. A Notice of Entry of Order was filed on October 7, 2014. Plaintiffs filed a Notice of Appeal on October 28, 2014.

On November 19, 2014, the Court entered a written Order on Pat Songer's Special Motion to Dismiss Pursuant to NRS 41.660. The Court advised the parties the case would be dismissed with prejudice once the Court awarded attorneys' fees and costs. The Court set a hearing on Songer's Motion for Attorneys Fees and Costs for December 2, 2014. A Notice of Entry of Order was entered on the Songer Order on December 4, 2014.



1 The Plaintiffs filed an Amended Notice of Appeal on December 17, 2014, to
2 encompass both the District Court's September 17, 2014 Order, and its November 19, 2014
3 Order. The Court on December 29, 2014 issued an Order Awarding Attorneys' Fees and
4 Costs. The December 29, 2014 Order failed to specifically state that the District Court was
5 dismissing the case with prejudice.

6 On June 1, 2015, the Nevada Supreme Court issued an Order Dismissing Appeal,
7 finding that the District Court had not issued a final order of dismissal in this case.

8 It was the intention of the District Court, in entering its September 17, 2014 Order,
9 its November 19, 2014 Order, and its December 29, 2014 Order, read together, to dismiss
10 this case in its entirety. In light of the Nevada Supreme Court's June 1, 2015 Order, and
11 based upon the District Court's previous three orders, this case is now dismissed in its
12 entirety, with prejudice.

13 Dated this 15th day of September, 2015.

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15 
16 _____
17 KIMBERLY A. WANKER,
18 DISTRICT COURT JUDGE
19
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28



CERTIFICATION OF SERVICE

The undersigned hereby certifies that on the 15th day of September 2015, she mailed via U.S. mail a copy of the foregoing ORDER to the following:


Siria L. Gutierrez, Esq.
9900 Covington Cross Drive, Suite 120
Las Vegas, NV 89144

Adam Levine, Esq.
610 South Ninth Street
Las Vegas, NV 89101


CHRISTEL RAIMONDO, Clerk to
DISTRICT JUDGE

AFFIRMATION

The undersigned hereby affirms that this Court Order does not contain the social security number of any person.


CHRISTEL RAIMONDO, Clerk to
DISTRICT JUDGE

1 LAW OFFICE OF DANIEL MARKS
2 DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
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Nevada State Bar No. 004673
4 610 South Ninth Street
Las Vegas, Nevada 89101
5 (702) 386-0536: FAX (702) 386-6812
Attorneys for Plaintiffs

FILED
FIFTH JUDICIAL DISTRICT COURT

OCT 09 2015

NYE COUNTY DEPUTY CLERK
DEPUTY 

7 IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF NYE
9

10 RAYMOND DELUCCHI and
11 TOMMY HOLLIS,

Case No. CV35969
Dept. No. I

12 Plaintiffs,

13 v.

14 PAT SONGER,

15 Defendant.
_____ /

16 **CASE APPEAL STATEMENT**

17 1. **Name of appellant filing this case appeal statement:**

18 Raymond Delucchi and Tommy Hollis.

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

20 District Court Judge Kimberly A. Wanker

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

22 Raymond Delucchi and Tommy Hollis, Appellants;

23 Adam Levine, Esq., Law Office of Daniel Marks, 610 South Ninth Street, Las Vegas,

24 Nevada 89101.

25 ///

1 4. Identify each respondent and the names and address of appellant counsel, if
2 known, for each respondent (if the names of a respondent's appellant counsel is
3 unknown, indicate as much and provide the name and address of that respondents
4 trial counsel):

5 Pat Songer, Respondent;

6 Jospeh P. Garin, Esq., Siria L. Gutierrez, Esq., Lipson, Neilson, Cole, Seltzer Garin, 9900
7 Covington Cross Drive, Suite 120, Las Vegas, Nevada 89144, counsel for Respondent Pat
8 Songer.

9 5. Indicate whether any attorney identified above in response to question 3 or 4 is not
10 licensed to practice law in Nevada and, if so, whether the district court granted
11 that attorney permission to appear under SCR 42 (attach a copy of any district
12 court order granting such permission):

13 n/a

14 6. Indicate whether appellant was represented by appointed or retained counsel in
15 district court:

16 Appellants were represented by retained counsel.

17 7. Indicate whether appellant was representing by appointed or retained counsel on
18 appeal:

19 Appellants are being represented by retained counsel.

20 8. Indicate whether appellant is granted leave to proceed in forma pauperis, and the date of
21 entry of the district court order granting such leave:

22 n/a

23 9. Indicate the date the proceedings commenced in the district court:

24 The Complaint was filed on June 4, 2014.

25 10. A brief description of the nature of the action and result in the district court:

The appellants filed an action for defamation and intentional infliction of emotional distress
resulting from a paid for report which caused the appellants to be terminated. The respondent filed

1 special Motions to Dismiss under Nevada's Anti-SLAPP statutes. The Motion was granted. A final
2 Order of Dismissal was entered on September 24, 2015.

3 11. **Indicate whether this case has previously been the subject on appeal:**

4 Yes.

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

6 No.

7 13. **Indicate whether this appeal involves the possibility of settlement:**

8 Yes.

9 DATED this 7th day of October, 2015.

10 LAW OFFICE OF DANIEL MARKS

11 
12 DANIEL MARKS, ESQ.

13 Nevada State Bar No. 002003

14 ADAM LEVINE, ESQ.

15 Nevada State Bar No. 004673

16 610 South Ninth Street

17 Las Vegas, Nevada 89101

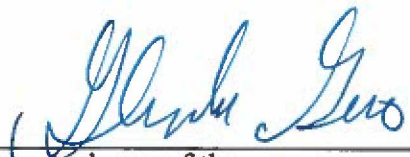
18 (702) 386-0536: FAX (702) 386-6812

19 Attorneys for Plaintiffs
20
21
22
23
24
25

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the LAW OFFICE OF DANIEL MARKS, and that on the 24th day of October, 2015, I did deposit in the United States Post Office, at Las Vegas, Nevada, in a sealed envelope with first class postage fully prepaid thereon, a true and correct copy of the foregoing CASE APPEAL STATEMENT, to the addresses as follows:

Joseph P. Garin, Esq.
Siria L. Gutierrez, Esq.
LIPSON, NEILSON, COLE, SELTZER GARIN
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
Attorneys for Defendant Pat Songer



An employee of the
LAW OFFICE OF DANIEL MARKS

Case #: CV-0035969

Judge: WANKER, KIMBERLY A.

Date Filed: 06/05/14 Department: 01

Case Type: SLNDR TORT/MISCON DEFAMATION

Title/Caption: RAYMOND DELUCCHI and
TOMMY HOLLIS
vs
PAT SONGER and
ERICKSON, THORPE & SWAINSTON, LTD.,
Plaintiffs

Comments: FILE IN TONOPAH

Defendant(s)	Attorney(s)
SONGER, PAT	GARIN, JOSEPH P
Defendant(s)	Attorney(s)
ERICKSON, THORPE & SWAINSTON	ALEXANDER, TODD R.
Plaintiff(s)	Attorney(s)
DELUCCHI, RAYMOND	MARKS, DANIEL
Plaintiff(s)	Attorney(s)
HOLLIS, TOMMY	MARKS, DANIEL

Disp/Judgment: OTHR Date: 09/15/15

Filings:

Date	Pty	Filing	Fees
6/04/14	P	COMPLAINT (2 PLAINTIFFS)AND JURY DEMAND (\$360.00)	275.00
6/04/14	C	SUMMONS-PAT SONGER (ISSUED)	
6/04/14	C	SUMMONS-ERICKSON,THORPE & SWAINSTON, LTD (ISSUED)	
7/02/14	P	SUMMONS/AFFIDAVIT OF SERVICE (ERICKSON, THORPE... - 6/10/14)	
7/11/14	P	ANSWER AND COMPLAINT	198.00
7/24/14	D	DEFENDANT PAT SONGER'S SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660	198.00
7/24/14	D	INITIAL APPEARANCE FEE DISCLOSURE	
7/25/14	P	SUMMONS RETURN SERVED -PAT SONGER (7/4/14)	
7/29/14	D	RECEIPT OF COPY OF DEFENDANT PAT SONGER'S SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660 ***** END OF FILE # 1 *****	
7/29/14	P	OPPOSITION TO DEFENDANT PAT SONGER'S SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660 ***** END OF FILE # 2 *****	
7/30/14	D	SPECIAL MOTION TO DISMISS UNDER NEVADA'S ANTI-SLAPP STATUTES (NRS 41.635, ET SEQ)	
8/01/14	D	DEFENDANT PAT SONGER'S REPLY IN SUPPORT OF HIS SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660	
8/09/14	D	RECEIPT OF COPY OF DEFENDANT PAT SONGER'S REPLY IN SUPPORT OF SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660	
8/15/14	P	OPPOSITION TO DEFENDANT ERICKSON, THORPE & SWAINSTON'S *****END OF FILE #3***** SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660.	

8/15/14	D	DEFENDANT ERICKSON, THORPE, & SWAINSTON'S SUPPLEMENTAL BRIEF	
8/18/14	D	DEFENDANT PAT SONGER'S SUPPLEMENTAL BRIEF IN SUPPORT OF HIS SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660	
8/18/14	P	SUPPLEMENT AUTHORITIES REGARDING ANTI-SLAPP STATUTES	
8/25/14	D	DEFENDANT ERICKSON, THORPE & SWAINSTON'S REPLY IN SUPPORT OF SPECIAL MOTION TO DISMISS	
9/17/14	C	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER GRANTING DEFENDANT REICKSON, THORPE & SWAINSTON'S SPECIAL MOTION TO DISMISS	
9/25/14	D	DEFENDANT ERICKSON, THORPE & SWAINSTON'S MOTION FOR COSTS, ATTORNEY'S FEES, AND ADDITIONAL COMPENSATION PURSUANT TO NEVADA'S ANTI-SLAPP STATUTE (NRS 41.670)	
9/25/14	D	MEMORANDUM OF COSTS	
9/26/14	D	DEFENDANT PAT SONGER'S MOTION FOR ATTORNEY'S FEES AND COSTS *****END OF FILE #4*****	
10/01/14	D	DEFENDANT ERICKSON, THORPE & SWAINSTON'S AMENDED MEMORANDUM OF COSTS	
10/01/14	D	ERRATA TO DEFENDANT ERICKSON, THORPE & SWAINSTON'S MOTION FOR COSTS, ATTORNEY'S FEES, AND ADDITIONAL COMPENSATION PURSUANT TO NEVADA'S ANTI-SLAPP STATUTE (NRS 41.670)	
10/01/14	P	PLAINTIFFS' MOTION TO RETAX COSTS	
10/07/14	D	NOTICE OF ENTRY OF ORDER	
10/10/14	D	DEFENDANT ERICKSON, THORPE & SWAINSTON'S OPPOSITION TO PLAINTIFFS' MOTION TO RETAX COSTS	
10/10/14	P	OPPOSITION TO DEFENDANT'S PAT SONGER'S AND ERICKSON, THORPE & SWAINSTON'S MOTION FOR ATTORNEY'S FEES AND COSTS AND ADDITIONAL COMPENSATION; COUNTERMOTION TO STAY	
10/17/14	D	DEFENDANT ERICKSON, THORPE & SWAINSTON'S REPLY IN SUPPORT OF ITS MOTION FOR COSTS, ATTORNEY'S FEES, AND ADDITIONAL COMPENSATION PURSUANT TO NEVADA'S ANTI-SLAPP STATUTE NRS 41.670	
10/17/14	D	REQUEST FOR SUBMISSION	
10/27/14	D	DEFENDANT PAT SONGER'S REPLY IN SUPPORT OF HIS MOTION FOR ATTORNEY'S FEES AND COSTS	
10/28/14	P	NOTICE OF APPEAL	24.00
10/28/14	P	NOTICE OF FILING COST BOND FOR APPEAL	500.00
10/28/14	P	CASE APPEAL STATEMENT	250.00
10/30/14	D	DEFENDANT ERICKSON, THORPE & SWAINSTON'S LIMITED OPPOSITION TO PLAINTIFFS' COUNTERMOTION FOR STAY OF ENFORCEMENT OF AWARD OF COSTS, ATTORNEY'S FEES, AND ADDITIONAL COMPENSATION	
11/12/14	P	PLAINTIFF'S REPLY TO DEFENDANT ETS' OPPOSITION TO MOTION TO RE-TAX COSTS AND LIMITED OPPOSITION TO MOTION TO STAY AWARD OF COSTS AND ATTORNEYS FEE	
11/17/14	S	RECEIPT FOR DOCUMENTS	
11/19/14	S	RECEIPT FOR DOCUMENTS	
11/19/14	C	ORDER GRANTING DEFENDANT PAT SONGER'S SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660	
12/04/14	D	NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT PAT SONGER'S SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660	
12/17/14	P	AMENDED NOTICE OF APPEAL	
12/29/14	S	RECEIPT FOR DOCUMENTS	
12/29/14	C	ORDER AWARDING FEES AND COSTS	
1/07/15	P	NOTICE OF ENTRY OF ORDER AWARDING FEES AND COSTS	
1/29/15	D	NOTICE OF APPEAL (ORDER AWARDING FEES AND COSTS)	24.00
1/29/15	D	DEFENDANT PAT SONGER'S CASE APPEAL STATEMENT	250.00

1/29/15	D	DEFENDANT PAT SONGER'S NOTICE OF POSTING COST BOND	500.00
2/23/15	S	RECEIPT FOR DOCUMENTS	
5/04/15	S	ORDER PARTIALLY DISMISSING APPEAL	
5/28/15	C	STIPULATION AND ORDER TO VACATE AWARD OF FEES AND COSTS AS TO DEFENDANT ERICKSON, THORPE, & SWAINSTON, LTD WITH PREJUDICE	
6/05/15	S	ORDER DISMISSING APPEAL	
6/08/15	P	NOTICE OF ENTRY OF STIPULATION AND ORDER TO VACATE AWARD OF FEES AND COSTS AS TO DEFENDANT ERICKSON, THORPE & SWAINSTON LTD. WITH PREJUDICE	
6/15/15	P	PLAINTIFFS' MOTION FOR ORDER OF FINAL DISMISSAL	
6/26/15	P	RE-NOTICE OF MOTION FOR ORDER OF FINAL DISMISSAL	
6/30/15	S	REMITTITUR	
6/30/15	S	CLERK'S CERTIFICATE/JUDGEMENT (DISMISSED)	
7/02/15	P	CERTIFICATE OF SERVICE	
7/07/15	R	TRANSCRIPT OF TAPE-RECORDED HEARING IN THE MATTER OF SONGER V. DELUCCHI, ET AL	
7/15/15	D	PAT SONGER;S OPPOSITION TO MOTION FOR ORDER OF FINAL DISMISSAL	
9/15/15	C	ORDER OF DISMISSAL (ENTIRE CASE W/ PREJUDICE)	
9/24/15	P	NOTICE OF ENTRY OF ORDER OF DISMISSAL	
10/05/15	S	NOTICE TO TRANSMIT REQUIRED DOCUMENT	
10/09/15	P	NOTICE OF APPEAL	
10/09/15	P	CASE APPEAL STATEMENT	250.00
10/09/15	P	NOTICE OF FILING COST BOND FOR APPEAL	500.00

Case #: CV-0035969

Judge: WANKER, KIMBERLY A.

Date Filed: 06/05/14 Department: 01

Case Type: SLNDR TORT/MISCON DEFAMATION

Title/Caption: RAYMOND DELUCCHI and
TOMMY HOLLIS
vs
PAT SONGER and
ERICKSON, THORPE & SWAINSTON, LTD.,
Plaintiffs

Comments: FILE IN TONOPAH

Defendant(s)
SONGER, PAT

Attorney(s)
GARIN, JOSEPH P

Defendant(s)
ERICKSON, THORPE & SWAINSTON

Attorney(s)
ALEXANDER, TODD R.

Plaintiff(s)
DELUCCHI, RAYMOND

Attorney(s)
MARKS, DANIEL

Plaintiff(s)
HOLLIS, TOMMY

Attorney(s)
MARKS, DANIEL

Disp/Judgment: OTHR Date: 09/15/15

Hearings:

Date	Time	Hearing	Reference
8/04/14	1:30	DEFENDANT PAT SONGER'S MOTION TO DISMISS	
JUDGE: KIMBERLY A. WANKER			
CLERK: TANNER DAVIS			
BAILIFF: JAMES BURKE			
APP: TODD ALEXANDER IS PRESENT WITH BRENT RYMAN FROM ERICKSON, THORPE & SWAINSON. SIRIA GUTIERREZ IS PRESENT FOR PAT SONGER. ADAM LEVINE IS PRESENT TELEPHONICALLY FOR PLAINTIFFS. COURT CALLS THE MATTER AND NOTES PLAINTIFF'S COUNSEL CLAIMS TO NOT HAVE NOTICE OF TODAY'S HEARING. COURT OUTLINES HER CONCERNS WITH THE INVESTIGATOR AND QUESTIONS WHY HE DID NOT INTERVIEW THE VICTIMS. COURT NOTES MR. LEVINE IS NOW PRESENT TELEPHONICALLY AND OUTLINES THE CASE HISTORY. COURT ADDRESSES THE PARTIES ABOUT WHETHER OR NOT THE INVESTIGATOR IS HELD TO ANY STANDARDS. MR. ALEXANDER SITES CASE LAW IN SUPPORT OF HIS ARGUMENTS. COURT ADDRESSES THE PARTIES ABOUT WANTING TO GIVE THIS CASE THE ATTENTION IT NEEDS AND CONTINUES THIS MATTER UNTIL AUGUST 27TH, 2014 @ 1:15 TO GIVE ALL PARTIES A CHANCE PROPER TIME TO FILE THEIR OPPOSITIONS OR REPLY'S. COURT WANTS ALL DOCUMENTS FILED BY AUGUST 18TH, 2014.			

8/27/14	1:15	DEFENDANT PAT SONGER'S MOT TO DISMISS CONT'D	
JUDGE: KIMBERLY A. WANKER			
CLERK: TANNER DAVIS			
BAILIFF: JAMES BURKE			
APP: ADAM LEVINE IS PRESENT WITH RAYMOND DELUCCHI AND TOMMY HOLLIS. SIRIA GUTIERREZ IS PRESENT FOR PAT SONGER. TODD ALEXANDER IS PRESENT FOR ERICKSON,			

THORPE & SWAINSTON, WITH REBECCA BRUSH PRESENT AS AN ASSOCIATE. COURT CALLS THE MATTER AND OUTLINES THE CASE HISTORY. MS. GUTIERREZ BRIEFS THE RECORD REGARDING THE ANTI-SLAPP LAWS AND WHY THE 2013 AMENDMENT TO THE LAW SHOULD APPLY IN THIS PARTICULAR CASE. MS. GUTIERREZ STATES THE BURDEN HAS SHIFTED TO MR. LEVINE TO PROVE HOW HE INTENDS TO PREVAIL ON A DEFAMATION CLAIM. MR. ALEXANDER ADDRESSES THE COURT ABOUT MR. LAVINE FALLING DRASTICALLY SHORT OF PRESENTING CLEAR AND CONVINCING EVIDENCE IN THIS CASE. MR. ALEXANDER OUTLINES CASE LAW REGARDING WHY THE 2013 AMENDMENT SHOULD APPLY AND ARGUES IN SUPPORT OF MS. BRUCH ADVISING MR. SONGER TO COME TO HER BEFORE RELEASING THE REPORT. MR. LEVINE CLARIFIES THE CASE LAW REFERENCED BY MR. ALEXANDER AND MS. GUTIERREZ. MR. LEVINE EXPLAINS TO THE COURT HIS REASONINGS FOR NOT COMING FORWARD WITH EVIDENCE IN THIS MATTER DUE TO THE FACT OF DEFENSE COUNSEL NOT MEETING THE THRESHOLD NEEDED TO REQUIRE EVIDENCE TO BE PRODUCED. MR. LEVINE NOTES THE ANTI-SLAPP STATUTES DO NOT APPLY WHEN A FALSE STATEMENT IS GIVEN AND REFERS TO MULTIPLE FALSE STATEMENTS MADE IN THE REPORT BY MR. SONGER. MR. LEVINE FURTHER ADDRESSES THE CASE LAW CITED BY DEFENSE COUNSEL AND HOW MR. SONGER AND MS. BRUCH WERE NOT EXERCISING THEIR FIRST AMENDMENT RIGHTS. COURT INQUIRES WITH MR. LEVINE REGARDING WORK PRODUCT LAW. MR. LEVINE STATES MR. SONGER WAIVED ALL RIGHTS TO THE CONFIDENTIALITY OF THE REPORT WHEN HE GAVE THE REPORT TO MR. DELUCCHI AND MR. HOLLIS. MS. GUTIERREZ STATES THE THRESHOLD MR. LEVINE ARGUED DEFENSE COUNSEL HAS NOT MET, HAS BEEN MET BASED SOLELY ON THE STATUTES PERTAINING TO THIS CASE. MS. GUTIERREZ FURTHER STATES THE REPORT BY MR. SONGER WAS MADE IN GOOD FAITH EVEN THOUGH IT WAS NOT THE MOST GRAMMATICALLY CORRECT REPORT. MR. ALEXANDER ADDRESSES THE COURT REGARDING MR. SONGER NOT BEING REQUIRED TO BELIEVE THE WITNESSES THAT WERE INTERVIEWED AND THAT HE DID NOT GET TO INTERVIEW EVERYONE IN THIS MATTER. COURT ADDRESSES THE PARTIES STATING IT IS HER UNDERSTANDING THE 2013 AMENDMENTS APPLY IN THIS CASE AND THE LEGISLATURE WANTED THIS TO BE A BROAD AMENDMENT. COURT OUTLINES CASE HISTORY NECESSARY TO THE ANTI-SLAPP STATUTES AND BELIEVES DEFENSE COUNSEL IS CORRECT IN THIS CASE. MR. LEVINE ARGUES THAT MR. SONGER'S REPORT WAS NOT MADE IN GOOD FAITH. COURT ADDRESSES MR. LEVINE'S ARGUMENTS AND STATES THAT SHE BELIEVES MR. SONGER'S REPORT WAS GIVEN IN GOOD FAITH. COURT NOTES IF AN APPEAL TO THE SUPREME COURT IS FORTHCOMING SHE MAY HAVE A STAY ON THE ATTORNEY'S FEES. COURT INSTRUCTS COUNSEL FOR MR. SONGER AND ERICKSON, ET AL, TO PREPARE THEIR OWN ORDERS. COURT SETS THIS MATTER FOR NOVEMBER 19TH, 2014 @ 1:30 PM.

12/02/14 1:30 STATUS CHECK/ATTORNEY'S FEES

11/19/14GERI

JUDGE: KIMBERLY A. WANKER

CLERK: TANNER DAVIS

BAILIFF: JAMES BURKE

APP: ADAM LEVINE IS PRESENT FOR RAYMOND DELUCCHI AND TOMMY HOLLIS. SIRIA GUTIERREZ IS PRESENT FOR PAT SONGER. TODD ALEXANDER IS PRESENT FOR ERICKSON, THORPE & SWAINSTON.

COURT CALLS THE MATTER. MR. ALEXANDER OUTLINES AN ERROR IN THE PAPER PLEADINGS REGARDING THE CLIENT'S DEDUCTIBLE. COURT REVIEWS THE CASE FILE AND OUTLINES THE FEES/COSTS. COURT NOTES THERE IS NOT AN OPPOSITION TO MS. GUTIERREZ'S COSTS. MS. GUTIERREZ STATES AT THE TIME OF FILING THE MEMORANDUM AND COSTS IN THIS CASE WAS A PROJECTED AMOUNT SINCE THE CLIENT IS BILLED QUARTERLY, AND THE PROJECTED AMOUNT HAS NOT BEEN OFFICIALLY BILLED. COURT NOTES THAT SHE HAS NOT FOUND CASE LAW THAT AWARDED TRAVEL COSTS WHEN AWARDED FEES AND COSTS IN SPECIAL MOTIONS TO DISMISS. MS. GUTIERREZ STATES HER CLIENT WAS BILLED FOR A TOTAL OF \$21767.50. COURT OUTLINES THE HOURLY RATE MS. GUTIERREZ AND MR. ALEXANDER SUBMITTED AND HOW IT IS ALMOST IDENTICAL AND BELIEVES BOTH TO BE REASONABLE. COURT STATES SHE IS INCLINED TO GRANT THE TOTAL AMOUNT THE CLIENTS WERE BILLED. MR. LEVINE ARGUES THAT THE STATUTES REFLECT REASONABLE FEES AND COSTS SHOULD BE AWARDED, NOT ALL FEES THAT ARE

ACCRUED BY THE CLIENTS. MR. LEVINE FURTHER ARGUES THAT SOME OF THE ATTORNEY'S FEE DESCRIPTIONS ARE REDACTED OUT OF THE MEMORANDUM OF FEES AND COSTS SO HE IS NOT EVEN SURE WHAT HIS CLIENT WILL BE PAYING FOR. COURT BELIEVES REASONABLE ATTORNEY'S FEES FALLS RIGHT IN LINE WITH WHAT THE CLIENTS WERE BILLED FOR. COURT AWARDS ATTORNEY'S FEES IN THE AMOUNT OF \$22,907.50 TO E.T.S. AND \$21,767.50 TO PAT SONGER. COURT AWARDS COSTS IN THE AMOUNT OF \$709.38 TO E.T.S. AND \$702 TO PAT SONGER. COURT DENIES THE ADDITIONAL \$10,000 BOTH DEFENDANTS ARE REQUESTING. MR. LEVINE REQUESTS THE COURT NOT TO REQUIRE A BOND IN THIS MATTER BECAUSE THE BONDSMAN REQUIRE 10-15% THAT WILL BE GONE AS SOON AS IT IS PAID. MR. ALEXANDER STATES EVERYONE WOULD BE COMFORTABLE WITH A BOND IN PLACE. MS. GUTIERREZ CONCURS. COURT ORDERS THAT A BOND IS NOT REQUIRED AS LONG AS MR. DELUCCHI AND MR. HOLLIS ARE EMPLOYED BY PAHRUMP VALLEY FIRE DEPARTMENT; BUT IF THEY LEAVE THEIR CURRENT JOB OR GET FIRED, THEY BOTH MUST POST A \$50,000 BOND.

12/02/14 1:30 DEFENDANTS MOTION FOR ATTORNEYS FEES, COSTS..

*****SEE MINUTES ABOVE*****

12/02/14 1:30 PLAINTIFFS' MOTION TO RETAX COSTS

*****SEE MINUTES ABOVE*****

9/01/15 9:00 PLAINTIFFS' MOTION FOR ORDER OF.. **TELE** 7/21 RENOTIC
JUDGE: KIMBERLY A. WANKER
CLERK: VERONICA AGUILAR
BAILIFF: VANESSA OSCARSON

APP: SIRIA GUTIERREZ, ESQ., IS PRESENT ON BEHALF OF DEFENDANT; ADAM LEVINE, ESQ., IS APPEARING TELEPHONICALLY ON BEHALF OF PLAINTIFF. THE COURT OUTLINES THE CASE HISTORY AND CONTINUES TO REVIEW THE SUPREME COURT S ORDER DISMISSING MR. LEVINE S APPEAL. MR. LEVINE REQUESTS A NEW ORDER BY THE COURT AND CONTINUES TO OUTLINE HIS EXHIBITS WHICH SUPPORT HIS ARGUMENT. THE COURT REVIEWS THE ORDER FOR THE RECORD. MS. GUTIERREZ ADDRESSES THE COURT REGARDING THE SUPREME COURT DECISION AND CONTINUES TO POINT OUT THAT MR. LEVINE FAILED TO PROVIDE THE BURDEN IN HIS SUPREME COURT APPEAL. MR. LEVINE ARGUES THE MATTER AND CONTINUES TO STATE THAT THE BURDEN WAS PROVIDED TO THE SUPREME COURT. THE COURT NOTES SHE WILL BE ISSUING A NEW ORDER OUTLINING THE TWO FINAL JUDGMENT ORDERS.

1 NEOJ
LAW OFFICE OF DANIEL MARKS
2 DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
3 ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
4 610 South Ninth Street
Las Vegas, Nevada 89101
5 (702) 386-0536: FAX (702) 386-6812
Attorneys for Plaintiffs

2015 SEP 24 P 1:10
NYS DEPT. OF CORRECTIONS
CLERK

7 IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF NYE

10 RAYMOND DELUCCHI and
11 TOMMY HOLLIS,

Case No. CV35969
Dept. No. I

12 Plaintiffs,

13 v.

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

15 Defendants.
16 _____/

17 **NOTICE OF ENTRY OF ORDER OF DISMISSAL**

18 TO: PAT SONGER, Defendant;

19 TO: SIRIA L. GUTIERREZ, ESQ., Attorney for Defendant Pat Songer;

20 TO: ERICKSON THORPE & SWAINSTON, LTD., Defendant, and

21 TO: TODD ALEXANDER, ESQ. Attorney for Defendant Erickson Thorpe & Swainston, Ltd.:

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23 ///

24 ///

25 ///

1 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that an Order of Dismissal was
2 filed on September 15, 2015, a copy of which is attached hereto.

3 DATED this 21st day of September, 2015.

4 LAW OFFICE OF DANIEL MARKS



5 DANIEL MARKS, ESQ.

6 Nevada State Bar No. 002003

7 ADAM LEVINE, ESQ.

8 Nevada State Bar No. 004673

9 610 South Ninth Street

10 Las Vegas, Nevada 89101

11 (702) 386-0536: FAX (702) 386-6812

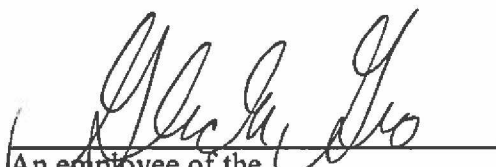
12 *Attorneys for Plaintiffs*

1 CERTIFICATE OF MAILING

2 I hereby certify that I am an employee of the LAW OFFICE OF DANIEL MARKS, and that on
3 the 25th day of September, 2015, I did deposit in the United States Post Office, at Las Vegas, Nevada,
4 in a sealed envelope with first class postage fully prepaid thereon, a true and correct copy of the
5 foregoing NOTICE OF ENTRY OF ORDER OF DISMISSAL, to the addresses as follows:

6 Siria L. Gutierrez, Esq.
7 LIPSON, NEILSON, COLE, SELTZER GARIN
8 9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
Attorney for Defendant Pat Songer

9 Todd Alexander, Esq.
10 LEMONS, GRUNDY & EISENBERG
6005 Plumas Street, Suite 300
Reno, Nevada 89519
Attorney for Defendant ETS

11
12 
13 An employee of the
LAW OFFICE OF DANIEL MARKS
14
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Case No. CV35969
Dept. 1

2015 SEP 17 10 25 AM '15
Sarah Westfall
NYE COUNTY CLERK

IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF NYE

RAYMOND DELUCCHI and TOMMY
HOLLIS,

Plaintiffs,

ORDER OF DISMISSAL

vs.

PAT SONGER and EROCKSON, THORPE
& SWAINSTON, LTD,

Defendants.

On September 17, 2014, the Court entered Findings of Fact, Conclusions of Law and an Order Granting Defendant Erickson, Thorpe & Swainston's Special Motion to Dismiss. The Court did not award attorneys' fees and costs as part of said Order, instead ordering said parties to file a motion, opposition and reply concerning said attorneys' fees and costs. A Notice of Entry of Order was filed on October 7, 2014. Plaintiffs filed a Notice of Appeal on October 28, 2014.

On November 19, 2014, the Court entered a written Order on Pat Songer's Special Motion to Dismiss Pursuant to NRS 41.660. The Court advised the parties the case would be dismissed with prejudice once the Court awarded attorneys' fees and costs. The Court set a hearing on Songer's Motion for Attorneys Fees and Costs for December 2, 2014. A Notice of Entry of Order was entered on the Songer Order on December 4, 2014.



1 The Plaintiffs filed an Amended Notice of Appeal on December 17, 2014, to
2 encompass both the District Court's September 17, 2014 Order, and its November 19, 2014
3 Order. The Court on December 29, 2014 issued an Order Awarding Attorneys' Fees and
4 Costs. The December 29, 2014 Order failed to specifically state that the District Court was
5 dismissing the case with prejudice.

6 On June 1, 2015, the Nevada Supreme Court issued an Order Dismissing Appeal,
7 finding that the District Court had not issued a final order of dismissal in this case.

8 It was the intention of the District Court, in entering its September 17, 2014 Order,
9 its November 19, 2014 Order, and its December 29, 2014 Order, read together, to dismiss
10 this case in its entirety. In light of the Nevada Supreme Court's June 1, 2015 Order, and
11 based upon the District Court's previous three orders, this case is now dismissed in its
12 entirety, with prejudice.

13 Dated this 15th day of September, 2015.

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17 KIMBERLY A. WANKER,
18 DISTRICT COURT JUDGE
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CERTIFICATION OF SERVICE

The undersigned hereby certifies that on the 15th day of September 2015, she mailed via U.S. mail a copy of the foregoing ORDER to the following:

Siria L. Gutierrez, Esq.
9900 Covington Cross Drive, Suite 120
Las Vegas, NV 89144

Adam Levine, Esq.
610 South Ninth Street
Las Vegas, NV 89101

Christel Raimondo

CHRISTEL RAIMONDO, Clerk to
DISTRICT JUDGE

AFFIRMATION

The undersigned hereby affirms that this Court Order does not contain the social security number of any person.

Christel Raimondo

CHRISTEL RAIMONDO, Clerk to
DISTRICT JUDGE



Case No. CV35969
Dept. 1

FILED

2015 SEP 15 P 4:24

NYE COUNTY CLERK
BY DEPUTY

IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF NYE

RAYMOND DELUCCHI and TOMMY
HOLLIS,

Plaintiffs,

ORDER OF DISMISSAL

vs.

PAT SONGER and EROCKSON, THORPE
& SWAINSTON, LTD,

Defendants.

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18 DISTRICT COURT JUDGE
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CERTIFICATION OF SERVICE

The undersigned hereby certifies that on the 15TH day of September 2015, she mailed via U.S. mail a copy of the foregoing ORDER to the following:

Siria L. Gutierrez, Esq.
9900 Covington Cross Drive, Suite 120
Las Vegas, NV 89144

Adam Levine, Esq.
610 South Ninth Street
Las Vegas, NV 89101

CHRISTEL RAIMONDO, Clerk to
DISTRICT JUDGE

AFFIRMATION

The undersigned hereby affirms that this Court Order does not contain the social security number of any person.

CHRISTEL RAIMONDO, Clerk to
DISTRICT JUDGE

**OFFICE OF THE NYE COUNTY CLERK
SANDRA L. MERLINO**

Tonopah Office
Nye County Courthouse
P.O. Box 1031
101 Radar Road
Tonopah, Nevada 89049
Phone (775) 482-8127
Fax (775) 482-8133



Pahrump Office
Government Complex
1520 East Basin Avenue
Pahrump, Nevada 89060
Phone (775) 751-7040
Fax (775) 751-7047

October 12, 2015

NOTICE OF DEFICIENCY: The Petitioner provided a check for the \$24 fee however the check had to be returned for lack of signature on it.

VIA E-FILE

Supreme Court Clerk
201 S. Carson Street, #201
Carson City, NV 89701-4702

Re: CV 35969

RAYMOND DELUCCHI and TOMMY HOLLIS
VS
PAT SONGER

Dear Ms. Lindeman:

I am enclosing the documentation required to submit the above-referenced matter on appeal.

This is a civil case. I will be forwarding the fee of \$250.00 via US Mail.

If I can be of any assistance, please feel free to contact me at our Tonopah office.

Sincerely,

SANDRA L. MERLINO
NYE COUNTY CLERK

By:

A handwritten signature in cursive script, appearing to read "Amy Dowers".

AMY DOWERS, Deputy Clerk / Tonopah