

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2 PAT SONGER

Case No. 67414

3 Appellant,

4 v.

5 RAYMOND DELUCCHI
and TOMMY HOLLIS,

6 Respondents.
7 _____/

Electronically Filed
Apr 08 2016 09:09 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

MOTION TO VACATE ORAL
ARGUMENTS AND
CONSOLIDATE WITH
NEVADA SUPREME COURT
DOCKET NO. 68994

8 COMES NOW Respondents Raymond Delucchi and Tommy Hollis, by and
9 through undersigned counsel Adam Levine, Esq., of the Law Office of Daniel
10 Marks and hereby moves the Court to Vacate Oral Arguments and Consolidate
11 with Nevada Supreme Court Docket No. 68994. The grounds for Respondents'
12 Motion are set forth in the attached Memorandum of Points and Authorities.

13 DATED this 7th day of April, 2016.

14 LAW OFFICE OF DANIEL MARKS

15 
16 _____
DANIEL MARKS, ESQ.

Nevada State Bar No. 002003

17 ADAM LEVINE, ESQ.

Nevada State Bar No. 004673

18 610 South Ninth Street

Las Vegas, Nevada 89101

19 (702) 386/0536; Fax (702) 386-6812

20 *Attorneys for Respondents*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 On April 1, 2016 this Court issued a Notice of Oral Argument Setting
3 which set oral argument for May 10, 2016. The issue before the Court in this
4 appeal is whether the district court abused its discretion in the amount of
5 attorney's fees awarded to Appellant pursuant to a Special Motion to Dismiss filed
6 under Nevada's Anti-SLAPP statutes. See NRS 41.670.

7 However, the appeal over whether that Special Motion to Dismiss should
8 have been granted in the first instance is currently pending before the Court in
9 Docket No. 68994, and has not yet even been briefed due to the fact that the
10 original appeal on this issue was dismissed on ripeness grounds in Docket No.
11 66858. It was only on March 30, 2016 that this Court reinstated the briefing
12 schedule in Docket No. 68994 after denying a Motion to Dismiss.

13 A review of the Docketing Statement filed in connection with this appeal
14 will reveal that the basis for the court's appellate jurisdiction is that the award of
15 fees constitutes a "special order entered after final judgment" pursuant to NRAP
16 3(A)(8). If the Court reverses the final judgment in connection with the appeal in
17 Docket No. 68994, it will not need to decide whether the amount of attorney's
18 fees was inadequate in connection with this appeal.

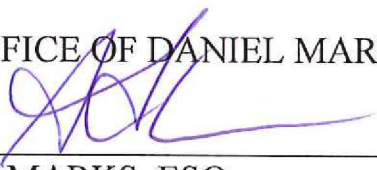
19 This Court's resources are "valuable and limited". *Pan v. Eighth Judicial*
20 *District Court*, 120 Nev. 222, 229, 88 P.3d 840, 844 (2004). Holding oral

1 argument on the *amount* of fees awarded, prior to deciding the underlying case as
2 to *whether* the Special Motion to Dismiss should have been granted in the first
3 place, is not the best use of those valuable and limited judicial resources.

4 For all of the reasons set forth above, Respondents request that the Oral
5 Argument be vacated and this appeal consolidated with Docket No. 68994.

6 DATED this 7th day of April, 2016.

7 LAW OFFICE OF DANIEL MARKS

8 
9 DANIEL MARKS, ESQ.

10 Nevada State Bar No. 002003

ADAM LEVINE, ESQ.

11 Nevada State Bar No. 004673

610 South Ninth Street

Las Vegas, Nevada 89101

(702) 386-0536; Fax (702) 386-6812

12 *Attorneys for Respondents*
13
14
15
16
17
18
19
20

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

CERTIFICATE OF SERVICE

I certify that on the 7th day of April, 2016, I served a copy of this completed Motion to Vacate Oral Argument and Consolidate with Nevada Supreme Court Docket No. 68994 upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es):
- ☒ By serving it upon him/her via electronic filing as mandated by the Court to the email address as provided to the Court by opposing counsel.

Dated this 7th day of April, 2016.



Signature