

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID DEZZANI  
AND ROCHELLE DEZZANI,  
Appellants,  
vs.  
KERN & ASSOCIATES, LTD.  
AND GAYLE A.KERN  
Respondents

Supreme Court No. 69896 / 69410  
District Court Case No. CV1500826

FILED

MAR 22 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY J. Hendrix  
DEPUTY CLERK

Appellants' Request  
for  
Reconsideration and Reversal

Come now Appellants David and Rochelle Dezzani and request the Court to reconsider and reverse that portion of its Order entered March 1, 2018, which "affirm[s] the portion of the district court's order awarding costs to Kern, in Docket No. 69896".

In support of this motion, Appellants direct the Court to footnote 5 of the subject Order, which states that "the Dezzani's waived appellate review of this issue", because they "did not move the district court to retax and settle those costs".

In reaching the conclusion that Appellants waived appellate review of the award of costs herein, footnote 5 cited and relied upon an earlier decision, *Sheehan & Sheehan v. Nelson Malley & Co.*, 121 Nev 481, 493, 117 P. 3rd 219,227 (2005),

However, Appellants point out that, unlike the *Sheehan* decision, their appeal in Docket No. 69896 does not involve the *reasonableness* of the costs awarded but, rather, the district court's error in awarding any costs at all. (See Notice of Appeal Documents, Case No. 69896, filed 03/04/2016, Document No. 16-07046).

Because Appellants' appeal herein does not challenge the reasonableness or unreasonableness of the amount of the costs awarded but, rather, the *error of awarding of any costs* against them for simply filing what they believed to be a statutorily-allowed civil action, this Court's citation of, and reliance upon, *Sheehan* to hold that Appellants waived review of the costs award was not correct.

MAR 15 2018

ELIZABETH A. BROWN  
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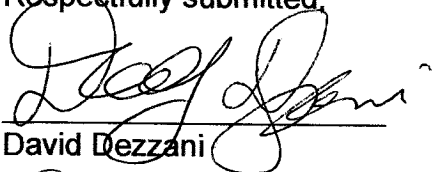
18-11283

In short, because Appellants did not contest the reasonableness of the amount of the costs claimed, there was no prerequisite that they “move the district court to relax and settle those costs” in order to perfect their right to appeal.

Furthermore, because Appellants’ lawsuit was based upon a Nevada statute , NRS116-31183,, which seemingly permitted them to proceed, the district court erred when it awarded costs against them simply for filing their lawsuit.

Accordingly, Appellants request this court to reconsider and reverse that portion of its Order dated March 1, 2016, in Docket No. 69896, affirming the district court’s award of costs.

Respectfully submitted,



David Dezzani



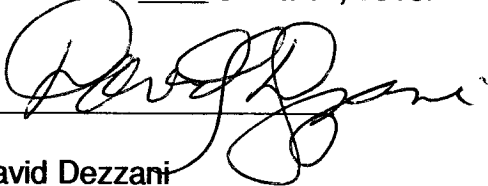
Rochelle Dezzani

DATED, this 12<sup>th</sup> day of March, 2018.

## CERTIFICATE OF SERVICE

The undersigned certifies that he placed true copies of the foregoing document in the U.S. mail, in a sealed envelope, postage prepaid, addressed to the parties and attorneys who have heretofore appeared in this matter.

DATED this 12<sup>th</sup> of March, 2018.

A handwritten signature in black ink, appearing to read "David Dezzani", written over a horizontal line.

David Dezzani