

1
2 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

Electronically Filed
Sep 19 2016 03:45 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

3)
4 KRISTI RAE FREDIANELLI,)
5)
6 Appellant,)
7)
8 v.)
9 SEBASTIAN MARTINEZ,)
10 Respondent.)

Supreme Court Case No. 69992
District Court No. D373016

11
12 **APPELLANT'S OPENING BRIEF**

13
14 Patricia A. Marr, Esq.
15 Nevada Bar No. 008846
16 2470 St. Rose Parkway, Ste. 106H
17 Henderson, Nevada 89074
18 (702) 353-4225 (telephone)
19 (702) 912-0088 (facsimile)
20 patricia@marrlawlv.com
21 *Attorney for Appellant*
22 KRISTI RAE FREDIANELLI

Sebastian Martinez
261 Lenape Heights
Las Vegas, Nevada 89148

23 Frances-Ann Fine, Esq.
24 THE FINE & PRICE LAW GROUP
25 8975 South Pecos Road, Suite 5
Henderson, Nevada 89074
fran@finepricelaw.com
Respondent

NRAP 26.1 DISCLOSURE

1
2 The undersigned counsel of record for Appellant certifies that the following
3 are persons and entities described in NRAP 26.1(a) and must be disclosed. These
4 representations are made in order that the judges of this court may evaluate
5 possible disqualification or recusal. Appellant Kristi Rae Fredianelli is an
6 individual and there are no parent corporations or publicly held companies that
7 own or more of stock. The following are law firms whose partners or associates
8 have appeared for Appellant (including proceedings in the district court or before
9 an administrative agency) or are expected to appear in this Court:
10
11

12 Patricia A. Marr, Esq.
13 Patricia A. Marr, Ltd.
14 2470 St. Rose Parkway, Ste. 106H
15 Henderson, NV 89074
16 Counsel for Appellant

16 Frances-Ann Fine, Esq.
17 Fine and Price
18 8975 South Pecos Rd., Ste. 5
19 Henderson, NV 89074
20 Respondent and former counsel for Appellant in District Court proceedings

20 Sebastian Martinez
21 261 Lenape Heights
22 Las Vegas, Nevada 89148
23 Mr. Martinez is the Plaintiff in the District Court proceedings

23 Anthony Fredianelli
24 2516 Leigh Avenue
25 Las Vegas, Nevada 89120
Former Respondent in District Court proceedings

1 Bruce I. Shapiro, Esq.
Pecos Law Group
2 8925 S. Pecos Rd., Ste. 14A
Henderson, Nevada 89074
3 Former counsel for Appellant in District Court proceedings
4

5 Michael Carmen, Esq.
Kunin & Carmen
6 3551 E. Bonanza Rd., Ste. 110
Las Vegas, Nevada 89110
7 Former counsel for Appellant in District Court proceedings
8

9 Edward L. Kainen, Esq.
Ecker & Kainen, Chtd.
10 300 S. Fourth Street, Ste. 901
Las Vegas, Nevada 89101
11 Former counsel for Appellant in District Court proceedings
12

13 Shelley Lubritz, Esq.
Lubritz Law Group
14 7530 W. Sahara Ave., Ste. 105
Las Vegas, Nevada 89117
15 Former counsel for Appellant and Respondent Anthony Fredianelli in District
Court proceedings
16

17 Miriam E. Rodriguez, Esq.
Law Office of Miriam E. Rodriguez, P.C.
18 1650 E. Sahara Ave., Ste. 2
Las Vegas, Nevada 89104
19 Former counsel for Sebastian Martinez in District Court proceedings
20
21
22
23
24
25

1 Parlade Law, LLC
2 Mari D. Parlade, Esq.
3 3690 E. Sahara Ave., Ste. 109
4 Las Vegas, Nevada 89169
5 Former Guardian Ad Litem for minor child in District Court proceedings

6 PATRICIA A. MARR, LTD.

7 /s/Patricia A. Marr, Esq.

8 PATRICIA A. MARR, ESQ.
9 Nevada Bar No. 008846
10 2470 St. Rose Parkway, Suite 106
11 Henderson, Nevada 89074
12 (702) 353-4225 (telephone)
13 (702) 912-0088 (facsimile)
14 patricia@marrlawlv.com
15 *Attorney for Appellant*

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page

TABLE OF AUTHORITIES.....	v
JURISDICTIONAL STATEMENT.....	1
ROUTING STATEMENT.....	1
STATEMENT OF THE ISSUES(S) PRESENTED FOR REVIEW.....	1-2
STATEMENT OF THE CASE.....	2-3
STATEMENT OF FACTS.....	3-5
SUMMARY OF THE ARGUMENT.....	6
ARGUMENT.....	6-11
1. THE DISTRICT COURT ERRED IN ENTERING A MONEY JUDGMENT AGAINST APPELLANT IN A PATERNITY ACTION INVOLVING CUSTODY AND VISITATION ISSUES UPON WHICH NO CHARGING LIEN COULD ATTACH, AFTER THE FINAL ENTRY OF A CUSTODIAL/VISITATION ORDER.....	6
CONCLUSION.....	11-12
CERTIFICATE OF COMPLIANCE.....	12-13
CERTIFICATE OF SERVICE.....	14

TABLE OF AUTHORITIES

Cases

Page

Leventhal v. Black & LoBello, 305 P.3d 907 (2013)..... 1,6,11

Rules

NRAP 17(b)(2);17(b)(5)..... 1

NRAP 3A(b)..... 1

NRAP 28 (e)..... 12

NRAP 32 (a) (4)..... 12

NRAP 32 (a) (5)..... 12

NRAP 32 (a) (6)..... 12

NRAP 32 (a) (7)..... 13

NRAP 32 (a) (7)(C)..... 13

Statutes

NRS 18.015..... 6-10

1 **I. JURISDICTIONAL STATEMENT**

2 This appeal arises from a paternity action and follows a final order of the
3 District Court for an award of attorney fees to former counsel/Respondent, Frances
4 Ann Fine, Esq. As such, it is an appeal from an orders made after final judgment,
5 within the meaning of Nevada Rule of Appellate Procedure 3A(b). The Notice of
6 Entry of Order was filed on February 17, 2016, and Appellant filed a Notice of
7 Appeal on March 14, 2016.
8

9 **II. ROUTING STATEMENT**

10 This case is a matter presumptively assigned to the Court of Appeals
11 pursuant to NRAP 17(b)(2); 17(b)(5). Although the case should presumptively be
12 assigned to the Court of Appeals, counsel submits that the Supreme Court should
13 retain the case to clarify its ruling in *Leventhal v. Black & LoBello*, 305 P.3d 907
14 (2013) regarding attorney’s liens in paternity/custodial/domestic actions. (NRAP
15 17(a)(14).
16
17

18 **III. ISSUE(S) ON APPEAL**

- 19
- 20 1. Whether the District Court erred in ignoring the precedent in *Leventhal v.*
21 *Black & LoBello*, 305 P.3d 907 (2013). Specifically, the District Court
22 entered a money judgment in the amount of \$13,701.82 against Appellant
23 in a paternity action involving custody and visitation issues upon which
24 no charging lien could attach, months after the final entry of a
25 custodial/visitation order. The District Court did so after it vacated a

1 scheduled hearing date for Respondent's Motion and issued a Minute
2 Order that granted the Motion.

3 **IV. STATEMENT OF THE CASE**

4 This appeal arises from a paternity action wherein Appellant's former
5 counsel, Respondent Frances-Ann Fine, Esq. ("Respondent"), filed a Motion to
6 Adjudicate the Rights of Counsel, For Enforcement of Attorney's Lien and for
7 Judgment of Attorney's Fees filed on January 7, 2016, in the Eighth Judicial
8 District Court, Family Division, and Clark County, Nevada months after the final
9 order in the case. (AA 017-040).
10
11

12 Although Respondent's Motion asserted "A Notice of Claim of Lien has
13 been filed prior to or contemporaneously with the filing of this Motion," a notice of
14 lien for a *charging* lien was not filed. Respondent's Motion further asserted "[a]
15 file-stamped copy of said Notice together with this Motion will be served upon all
16 interested parties including Client." (AA 019). However, the alleged "Notice"
17 was never filed and never served. Nonetheless, Respondent's Motion failed as a
18 matter of law because it was filed months after entry of the final order on October
19 21, 2015 and the matter is a paternity action upon which "no tangible recovery"
20
21
22 could be obtained.
23
24
25

1 On January 25, 2016, Appellant's counsel filed an Opposition to Motion to
2 Adjudicate the Rights of Counsel, For Enforcement of Attorney's Lien and for
3 Judgment of Attorney's Fees. (AA 041-051).

4 On February 2, 2016, Respondent filed a Reply to Plaintiff's Opposition to
5 Counter-motion. (AA 052-064).

6
7 On February 17, 2016, the District Court entered an Order after it vacated a
8 scheduled hearing date, wherein it granted Respondent's Motion to Adjudicate the
9 Rights of Counsel, For Enforcement of Attorney's Lien and for Judgment of
10 Attorney's Fees. In its order the District Court entered a money judgment in favor
11 of Respondent in the amount of \$13,701.82 plus interest at the contractual rate of
12 12% compounding monthly and all post judgment costs. (AA 065, AA 066-069).

13
14 On March 14, 2016, Appellant filed a Notice of Appeal. (AA 070-075).

15
16 **V. STATEMENT OF THE FACTS**

17
18 On April 11, 2007, Plaintiff, Sebastian Martinez ("Sebastian") filed a
19 Complaint for paternity. (AA 001-004).

20
21 On October 2, 2014, Respondent filed a Notice of Association of counsel.
22 (AA 005-006).

23 Thereafter, litigation ensued until the entry of the last order on October 21,
24 2015. (AA 007-012). Pursuant to the October 21, 2015, final Order the Court
25

1 made certain orders regarding, *inter alia*, Appellant's visitation with the minor
2 child. (AA 007-012).

3 On October 21, 2015, Respondent filed her Notice of Withdrawal as
4 counsel. (AA 013-014).

5 On November 13, 2015, Respondent informed Appellant that the case was
6 "closed" and "over." (AA 050).

7 On November 18, 2015, Respondent filed a Notice of Retaining Lien – not a
8 charging lien. (AA 015-016).

9 On January 7, 2016, Respondent filed a Motion to Adjudicate the Rights of
10 Counsel, for Enforcement of Attorney's Lien and for Judgment of Attorney's Fees.
11 (AA 017-040). Although the Motion asserted "A Notice of Claim of Lien has been
12 filed prior to or contemporaneously with the filing of this Motion," a notice of lien
13 for a charging lien was never filed.

14 On January 25, 2016, Appellant filed her Opposition to Motion to
15 Adjudicate the Rights of Counsel; for Enforcement of Attorney's Lien and for
16 Judgment of Attorney's Fees. (AA 041-051).

17 On February 2, 2016, Respondent filed her Reply to Plaintiff's Opposition
18 and Counter-motion. (AA 052-064).

19 Although a hearing date was scheduled for hearing on February 9, 2016, the
20
21
22
23
24
25

1 Court vacated the hearing on February 4, 2016, granted Respondent's Motion and
2 entered a money judgment against Appellant via a Minute Order. (AA 065-69).

3 On February 17, 2016, the Notice of Entry of Order was entered wherein the
4 District Court granted Respondent's Motion and ordered a money judgment
5 against Appellant in the amount of Thirteen Thousand Seven Hundred One Dollars
6 (\$13,701.82), with interest thereon at the contractual rate of interest compounded
7 monthly, and all post judgment costs. (AA 066-069).
8

9 On March 14, 2016, Appellant filed her Notice of Appeal. (AA 070-075).
10

11 Notably, the underlying domestic action is a paternity case that involved
12 custodial and visitation issues. Thus, there was never any "affirmative recovery of
13 money and/or property – something tangible" upon which to place a charging lien.
14 Moreover, there is no prospect of post-perfection recovery from any post-judgment
15 custody dispute that may occur because the action is a *paternity* action.
16

17 Albeit there was never and will never be any tangible recovery upon which
18 to place a charging lien in this action. Respondent failed to file her Motion to
19 adjudicate and enforce a lien until months after the last order was entered and the
20 case was closed. Indeed, by her own acknowledgement, Respondent informed
21 Appellant that the "case was closed" and "over. (AA 050). More importantly,
22 Respondent requested relief by way of a retaining lien – not a charging lien. (AA
23 062-063).
24
25

1 **V. SUMMARY OF THE ARGUMENT**

2 Appellant contends that the District Court erred in ignoring the precedent in
3 *Leventhal v. Black & LoBello*, 305 P.3d 907 (2013). Specifically, the Court entered
4 a money judgment against Appellant in a paternity action involving custody and
5 visitation issues upon which no charging lien could attach, *after* the final entry of a
6 custodial/visitation order.
7

8 **VI. ARGUMENT**

9 **1. THE DISTRICT COURT ERRED IN ENTERING A MONEY**
10 **JUDGMENT AGAINST APPELLANT IN A PATERNITY ACTION**
11 **INVOLVING CUSTODY AND VISITATION ISSUES UPON**
12 **WHICH NO CHARGING LIEN COULD ATTACH, AFTER THE**
13 **FINAL ENTRY OF A CUSTODIAL/VISITATION ORDER.**

14 Respondent’s reliance upon NRS 18.015 in support of her Motion to
15 Adjudicate the Rights of Counsel, For Enforcement of Attorney’s Lien and For
16 Judgment of Attorney’s Fees is misplaced and should have been denied. In
17 *Leventhal v. Black & LoBello*, 305 P.3d 907 (2013) this Honorable Court held that
18 a law firm that represented its client in a divorce proceeding could not enforce a
19 charging lien *after* the entry of a final judgment. Specifically, this Court held:
20

21 Nevada attorneys have all the usual tools available to creditors to recover
22 payment of their fees. For example, a law firm can sue its client and obtain a
23 money judgment for fees due, thereby acquiring, if recorded, a judgment lien
24 against the client's property. NRS 17.150(2). An attorney also has a passive
25 or retaining lien against files or property held by the attorney for the client.
See Argentena Consol. Mining Co. v. Jolley Urga Wirth Woodbury &
Standish, 125 Nev. 527, 532, 216 P.3d 779, 782 (2009). Finally, in an
appropriate case, an attorney may assert a charging lien against the client's

1 claim or recovery under NRS 18.015. Id.; see NRS 18.015(5) (“Collection
2 of attorney's fees by a [charging] lien under this section may be utilized
3 with, after or independently of any other method of collection.”).

4 A charging lien is “a unique method of protecting attorneys.” *Sowder v.*
5 *Sowder*, 127 N.M. 114, 977 P.2d 1034, 1037 (N.M.Ct.App.1999). Such a
6 lien allows an attorney, on motion in the case in which the attorney rendered
7 the services, to obtain and enforce a lien for fees due for services rendered in
8 the case. *See Argentina*, 125 Nev. at 532, 216 P.3d at 782. A charging lien
9 “is not dependent on possession, as in the case of the general or retaining
10 lien. It is based on natural equity—the client should not be allowed to
11 appropriate the whole of the judgment without paying for the services of the
12 attorney who obtained it.” 23 Williston on Contracts § 62:11 (4th ed. 2002).

13 ***The four requirements of NRS 18.015 must be met for a court to***
14 ***adjudicate and enforce a charging lien. See Schlang v. Key Airlines, Inc.,***
15 ***158 F.R.D. 666, 669 (D.Nev.1994) (indicating that, in Nevada, a charging***
16 ***lien is a creature of statute). First, there must be a “claim, demand or cause***
17 ***of action, ... which has been placed in the attorney's hands by a client for suit***
18 ***or collection, or upon which a suit or other action has been instituted.” NRS***
19 ***18.015(1); see Argentina*, 125 Nev. at 534, 216 P.3d at 783 (stating that**
20 ***where the client “did not seek or obtain any affirmative recovery in the***
21 ***underlying action, ... there [is] no basis for a charging lien”). The lien is in***
22 ***the amount of the agreed-upon fee or, if none has been agreed upon, a***
23 ***reasonable amount for the services rendered “on account of the suit, claim,***
24 ***demand or action.” NRS 18.015(1).3 Second, the attorney must perfect the***
25 ***lien by serving “notice in writing, in person or by certified mail, return***
receipt requested, upon his or her client and upon the party against whom the
client has a cause of action, claiming the lien and stating the interest which
the attorney has in any cause of action.” NRS 18.015(2).4 Third, the statute
sets a timing requirement: Once perfected, the “lien attaches to any verdict,
judgment or decree entered and to any money or property which is recovered
on account of the suit or other action, from the time of service of the notices
required by this section.” NRS 18.015(3). Fourth, the attorney must timely
file and properly serve a motion to adjudicate the lien. NRS 18.015(4).

Leventhal at 908-910. (emphasis added).

This Court further provided:

1 LoBello argues that the favorable outcomes in the property and child
2 custody settlements both present recovery to which the lien could attach and
3 that, alternatively, a lien can attach even where no tangible value is
4 procured. In LoBello's view, *Argentina* incorrectly precludes charging liens
5 in cases that do not produce an affirmative recovery. LoBello further argues
6 that *Argentina* unconstitutionally disfavors attorneys who seek to defend or
7 retain rights rather than procure property. ***LoBello both misunderstands the
8 nature of charging liens and ignores the attorney's ability to pursue client
9 fees via other means available to creditors.***

7 Fundamentally, NRS 18.015(3) requires a client to assert an affirmative
8 claim to relief, from which some affirmative recovery can result. A charging
9 lien cannot attach to the benefit gained for the client by securing a dismissal;
10 it attaches to "the tangible fruits" of the attorney's services. *Glickman v.
11 Scherer*, 566 So.2d 574, 575 (Fla. Dist. Ct. App. 1990); *see also Argentina*,
12 125 Nev. at 534, 216 P.3d at 783–84; *Sowder*, 977 P.2d at 1037. This "fruit"
13 is generally money, property, or other actual proceeds gained by means of
14 the claims asserted for the client in the litigation.⁵ *See Glickman*, 566 So.2d
15 at 575; *see ABA/BNA Lawyers' Manual on Professional Conduct*, at
16 41:2114 (2002) (discussing the types of property needed for a charging lien
17 to attach); *see also Mitchell v. Coleman*, 868 So.2d 639, 642
18 (Fla. Dist. Ct. App. 2004).

15 *Argentina* is controlling precedent. There, the parties settled a personal
16 injury action, and all claims against *Argentina* were dismissed. 125 Nev. at
17 530, 216 P.3d at 781. *Argentina's* counsel moved to adjudicate its charging
18 lien, but the only result obtained in that case was that the claims against
19 *Argentina* were dismissed; *Argentina* did not assert any counterclaims or
20 obtain an affirmative recovery. *Id.* Although *Argentina* unquestionably
21 benefited from the dismissal, there was no recovery to which a charging lien
22 could attach. *Id.* at 534, 216 P.3d at 784.

21 Attempting to distinguish *Argentina*, LoBello argues that Leventhal did
22 obtain an affirmative recovery in the underlying case, namely the property
23 retained in the divorce through the property settlement and the "financial
24 benefits associated with ... child custody," including tax benefits and value
25 in avoiding increased child support.

As to the child-custody benefits, LoBello fails to identify any tangible
recovery derived from the resolution of this issue that is appropriately

1 subject to a charging lien. A child-custody agreement wherein Leventhal
2 retained his share of custody and the associated benefits does not
3 demonstrate any affirmative claim to, or recovery of, money or property.
4 Rather, LoBello preserved Leventhal's previously established joint custody
5 rights against his ex-wife's attempt to revise them. This is similar to
6 Argentina, where the attorney's efforts led to the dismissal of the case but
7 did not involve an affirmative claim or recovery.

8 As to the assets distributed pursuant to the property settlement and divorce
9 decree,⁶ a problem arises because the property settlement *911 took place
10 eight months before LoBello filed and made even a colorable attempt at
11 perfecting its lien, see supra note 4. NRS 18.015(3) imposes a time
12 requirement on attorneys seeking to perfect, adjudicate and enforce a
13 charging lien: "The lien attaches ... from the time of service of the notices
14 required by this section." Although we have never expressly interpreted this
15 section, Nevada's federal district court did so in *Schlang v. Key Airlines,*
16 *Inc.*, 158 F.R.D. 666 (D.Nev.1994).

17 In *Schlang*, the parties settled a wrongful termination action and their
18 appeals were dismissed. *Id.* at 667–68. Former counsel filed a charging lien
19 but failed to serve the notice required to perfect the lien until the settlement
20 was consummated. *Id.* at 669–70. The federal court, citing NRS 18.015(3),⁷
21 found that because the attorney did not perfect his lien before the settlement
22 agreement was carried out, "there no longer existed any proceeds to which
23 the lien could attach."⁸ *Id.* at 670. It therefore declined to adjudicate and
24 enforce the lien.

25 We agree with *Schlang*, and hold that under NRS 18.015(3), the lien attaches
to a judgment, verdict, or decree entered, or to money or property recovered,
after the notice is served. This interpretation harmonizes NRS 18.015(3)'s
attachment provisions with NRS 18.015(2)'s requirement that a lien be
perfected by proper notice. See *Tonopah Lumber Co. v. Nev. Amusement*
Co., 30 Nev. 445, 455, 97 P. 636, 639 (1908) ("[A] lien can only legally
exist when perfected in the manner prescribed by the statute creating it"
(internal quotation omitted)). Thus, if an attorney waits to perfect the lien
until judgment has been entered and the proceeds of the judgment have been
distributed, the right to the charging lien may be lost. See *Sowder*, 977 P.2d
at 1038.

1 Basic notice and fairness requirements support this interpretation. Nevada
2 attorneys must notify their clients in writing of any interest the attorney has
3 that is adverse to a client. RPC 1.8(a); *In re Singer*, 109 Nev. 1117, 1118,
4 865 P.2d 315, 315 (1993). Other courts have found that charging liens
5 constitute adverse interests and applied a similar written notice rule. *See*
6 *Fletcher v. Davis*, 33 Cal.4th 61, 14 Cal.Rptr.3d 58, 90 P.3d 1216, 1221
7 (2004). NRS 18.015(3) promotes these policies by requiring an attorney to
8 serve notice and perfect a charging lien in a timely manner.

9 Diligent perfection of the lien under NRS 18.015(3) ensures that the client,
10 the client's opponent in the litigation, and others have notice of the attorney's
11 lien and may conduct the litigation and deal with any recovery it produces
12 accordingly. A timely motion to adjudicate and enforce the charging lien
13 under NRS 18.015(4) also enables the court to evaluate the lien while it has
14 jurisdiction over any affirmative recovery, while the attorney's performance
15 is fresh in its mind, and before the judgment is satisfied and the proceeds are
16 distributed. *See Weiland v. Weiland*, 814 So.2d 1252, 1253
17 (Fla. Dist. Ct. App. 2002) (holding that notice was untimely where the attorney
18 waited to establish the lien until approximately two months after the case
19 concluded); *Sowder*, 977 P.2d at 1038 (holding that a law firm waived its
20 right to assert its charging lien when it waited several months after the
21 property was distributed to assert its charging lien). *See also Anderson v.*
22 *Farmers Coop. Elevator Ass'n, Inc.*, 874 F.Supp. 989, 992 (D.Neb.1995)
23 (quashing the attorney charging lien because notice of the lien was untimely,
24 made after the property had been transferred to the opposing party); *Libner*
25 *v. Maine Cnty. Comm'rs Ass'n*, 845 A.2d 570, 573 (Me.2004) (holding that
no lien may be imposed without direct and specific notice to the fund of an
opposing party or its carriers that a lien is asserted before the proceeds are
disbursed). ***It would be unreasonable and unfair to clients and to third
parties to allow attorneys to claim a lien on any judgment at any time, no
matter how much time has passed since the case concluded.***

21 *Leventhal* at 910-911. (emphasis added).

22 In this action Respondent represented Appellant in a paternity action
23 regarding, custodial and visitation issues. Thus, there was never any "affirmative
24 recovery of money and/or property – something tangible" upon which to place a
25

1 charging lien. Moreover, there is no prospect of post-perfection recovery from any
2 post-judgment custody dispute that may occur because the action is a *paternity*
3 action.¹

4
5 Albeit there was never and will never be any tangible recovery upon which
6 to place a charging lien in this action, as in *Leventhal*, Respondent failed to file her
7 Motion to adjudicate and enforce a charging lien until months after the final order
8 was entered and the case was closed. Indeed, by her own acknowledgement, Fine
9 informed Appellant that the “case was closed” and “over.”

10
11 Accordingly, this Court should apply the law in *Leventhal* to this case, find
12 that the District Court erred as a matter of law in granting Respondent’s Motion
13 for a charging lien/money judgment and make any other order(s) that it determines
14 are appropriate.

15 16 VII. CONCLUSION

17 Appellant respectfully requests that this Honorable Court find that the District
18 Court erred by entering a money judgment/charging lien against Appellant in a
19 paternity action involving custody and visitation issues upon which no charging
20 lien could attach, after the final entry of a custodial/visitation order and that
21

22
23 ¹ Notably, the *Leventhal* case involved post-divorce litigation wherein property
24 division was at issue, while this case is a paternity action without any prospect of
25 property division or affirmative tangible recovery from an attorney’s services.
There is no tangible “fruit” of an attorney’s services to which a charging lien may
attach.

1
2
3 pursuant to the foregoing this Honorable Court remand the matter for proceedings
4 consistent with its orders, and for any further relief that is warranted.
5

6 Dated this 19th day of September 2016.

7
8 ~~PATRICIA A. MARR, LTD.~~

9 ~~/s/ Patricia A. Marr, Esq.~~

10 ~~PATRICIA A. MARR, ESQ.~~

11 Nevada Bar No. 008846

12 2470 St. Rose Parkway, Suite 106

13 Henderson, Nevada 89074

14 (702) 353-4225 (telephone)

15 (702) 912-0088 (facsimile)

16 patricia@marrlawlv.com

17 *Attorney for Appellant*

18
19 **CERTIFICATE OF COMPLIANCE**

20 I hereby certify that this brief complies with the formatting requirements of
21 NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style
22 requirements of NRAP 32(a)(6) because:

23 This brief has been prepared in a proportionally spaced typeface using
24 Microsoft Word 8 in size 14 New Roman font;
25

1 I further certify that this brief complies with the page limitations of NRAP
2 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C),
3 it does not exceed 14 pages;

4
5 Finally, I certify that I have read this appellate brief and to the best of my
6 knowledge, information and belief, it is not frivolous or interposed for any
7 improper purpose. I further certify that this brief complies with all applicable
8 Nevada Rules of Appellate Procedure, in particular NRAP 28(e) (1), which
9 requires every assertion in the brief regarding matters in the record to be support
10 by a reference to the page and volume number, if any, of the transcript of appendix
11 where the matter relied on is to be found. I understand that I may be subject to
12 sanctions in the event that this accompany brief is not in conformity with the
13 requirements of the Nevada Rules of Appellate Procedure.,
14
15

16 Dated this 19th day of September 2016.

17 PATRICIA A. MARR, LTD.

18 ~~/s/ Patricia A. Marr, Esq.~~

19 PATRICIA A. MARR, ESQ.

20 Nevada Bar No. 008846

21 2470 St. Rose Parkway, Suite 106

22 Henderson, Nevada 89074

23 (702) 353-4225 (telephone)

24 (702) 912-0088 (facsimile)

25 patricia@marrlawlv.com

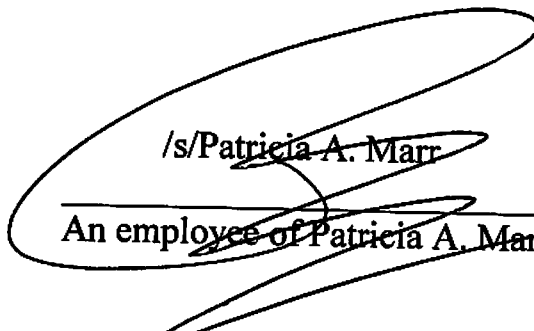
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Appellant's Opening Brief and Appendix was sent by first class mail, postage prepaid, to the following parties on the 19th day of September 2016.

Frances-Ann Fine, Esq.
THE FINE & PRICE LAW GROUP
8975 South Pecos Road, Suite 5
Henderson, Nevada 89074
fran@finepricelaw.com

Sebastian Martinez
261 Lenape Heights
Las Vegas, Nevada 89148


/s/ Patricia A. Marr
An employee of Patricia A. Marr, Ltd.