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IN THE SUPREME COURT OF THE STATE OF NEVADA

KRISTI RAE FREDIANELLI,)
)
Appellant;)
)
vs.)
)
SEBASTIAN MARTINEZ,)
)
Respondent.)
)

Supreme Court No. **69992**
District Court No. D373016

RESPONDENT'S ANSWERING BRIEF

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SUMMARY OF THE ARGUMENT

The District Court’s Order Granting Counsel’s Motion to Adjudicate the Rights of Counsel, for Enforcement of Attorney’s Lien and for Judgment of Attorney’s Fees, filed February 16, 2016 was proper and should be affirmed, as it was a *retaining* lien pursuant to NRS 18.015(1)(b), not a *charging* lien under NRS 18.015(1)(a).

STANDARD OF REVIEW

The Nevada Supreme Court reviews questions of statutory interpretation de novo. *McDonald Carano Wilson LLP v. The Bourassa Grp., LLC*, 362 P.3d 89, 90 (2015) (citing *D.R. Horton, Inc. v. Eighth Judicial Dist. Court of Nev.*, 123 Nev. 468, 476, 168 P.3d 731, 737 (2007)). A statute must be given its plain meaning when its language is clear and unambiguous. *Id.* A statute is ambiguous if reasonably well-informed persons can understand it in two or more senses. *Id.*

ARGUMENT

Respondent, The Fine & Price Law Group, asserted and perfected a proper retaining lien pursuant to NRS 18.015(1)(b). Appellant Fredianelli mistakenly states that it was a charging lien pursuant to NRS 18.015(1)(a) and therefore cites to inapplicable statutes and case law interpreting sub-section (a).

1 **I. APPLICABLE LAW**

2 NRS 18.015(1)(b) is the governing statute at issue herein. It
3 states as follows (with emphasis added):

4 **NRS 18.015 Lien for attorney's fees: Amount;
5 perfection; enforcement.**

6 **1. An attorney at law shall have a lien:**

7 (a) Upon any claim, demand or cause of action,
8 including any claim for unliquidated damages, which has been
9 placed in the attorney's hands by a client for suit or collection,
10 or upon which a suit or other action has been instituted.

11 **(b) In any civil action, upon any file or other property
12 properly left in the possession of the attorney by a client.**

13 **2. A lien pursuant to subsection 1 is for the amount of
14 any fee which has been agreed upon by the attorney and
15 client. In the absence of an agreement, the lien is for a
16 reasonable fee for the services which the attorney has
17 rendered for the client.**

18 **3. An attorney perfects a lien described in subsection 1
19 by serving notice in writing, in person or by certified mail,
20 return receipt requested, upon his or her client and, if
21 applicable, upon the party against whom the client has a
22 cause of action, claiming the lien and stating the amount of
the lien.**

4. A lien pursuant to:

 (a) Paragraph (a) of subsection 1 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; and

**(b) Paragraph (b) of subsection 1 attaches to any file
or other property properly left in the possession of the
attorney by his or her client, including, without limitation,
copies of the attorney's file if the original documents received
from the client have been returned to the client, and
authorizes the attorney to retain any such file or property
until such time as an adjudication is made pursuant to
subsection 6, from the time of service of the notices required
by this section.**

1 5. A lien pursuant to paragraph (b) of subsection 1 must
2 not be construed as inconsistent with the attorney's
3 professional responsibilities to the client.

4 6. On motion filed by an attorney having a lien under this
5 section, the attorney's client or any party who has been served
6 with notice of the lien, the court shall, after 5 days' notice to all
7 interested parties, adjudicate the rights of the attorney, client or
8 other parties and enforce the lien.

9 7. *Collection of attorney's fees by a lien under this
10 section may be utilized with, after or independently of any
11 other method of collection.*

12 *Levanthal v. Black & LoBello*, 205 P.3d 907 (2013) is not
13 governing precedent in this case. *Levanthal* interprets NRS 18.015(1)(a),
14 which governs *charging liens*. *See Id.* at 909-911.

15 II. DISCUSSION

16 The Fine & Price Law Group properly asserted a retaining lien
17 in this matter pursuant to NRS 18.015(1)(b). (AA015-16). The underlying
18 family court proceedings were clearly a "civil action..." and a lien was
19 asserted against Appellant Fredianelli's file as allowed by the clear
20 terminology in NRS 18.015(1)(b), "*upon any file* or other property properly
21 left in the possession of the attorney by a client." *NRS 18.015(b)*.

22 Under NRS 18.015(2), The Fine & Price Law Group's lien
pursuant to sub-section 1(b) is proper. It is "for the amount of any fee
which has been agreed upon by the attorney and client," or "in the absence
of an agreement, the lien is for a reasonable fee for the services which the

1 attorney has rendered for the client.” *NRS 18.015(2)*. In this case, the fee
2 was reasonable for the amount of services rendered. (AA017-AA040).
3 There is no dispute regarding the amount of the fee under this appeal, and
4 Appellant Fredianelli had provided a Credit/Debit Card Authorization Form
5 to The Fine & Price Law Group for payment of such fees. (AA023).

6 Under NRS 18.015(3), contrary to Appellant Fredianelli’s
7 vehement argument to the contrary, The Fine & Price Law Group properly
8 served notice of a *retaining lien* pursuant to NRS 18.015, by certified mail,
9 with return receipt requested, and thereby perfected its *retaining lien*
10 pursuant to NRS 18.015(1)(b). (AA052-AA064). The lien thereafter
11 attached to the copy of Appellant Fredianelli’s file in possession of The
12 Fine & Price Law Group until such time as an adjudication was made
13 pursuant to NRS 18.015(4)(b). The district court properly adjudicated the
14 rights of the The Fine & Price Law Group pursuant to its Motion to enforce
15 its retaining lien under NRS 18.015(6), specifically finding that Appellant
16 Fredianelli was properly served with the lien and the motion. (AA065).

17 Appellant Fredianelli cites *Levanthal v. Black & LoBello*, 205
18 P.3d 907 (2013) as mandatory precedent in this matter, but her reliance on
19 *Levanthal* is misplaced. Appellant Fredianelli is incorrectly arguing case
20 precedent that governs *charging liens* pursuant to NRS 18.015(1)(a), not
21
22

1 *retaining liens* pursuant to NRS 18.015(1)(b).

2 As this Court is aware, NRS 18.015(1)(b) became effective
3 July 1, 2013. Prior to that date, NRS 18.015(1) did not have any sub-
4 sections. As of July 1, 2013, the old version of NRS 18.015(1) became
5 NRS 18.015(1)(a) and sub-section (b), *i.e.* NRS 18.015(1)(b) came into
6 existence for the first time as new law, not revised law. This is important to
7 note because *Levanthal* was decided July 11, 2013, just ten (10) days after
8 NRS 18.015(1)(b) became new law. In other words, *Levanthal* did not
9 interpret NRS 18.015(b), the statute under which The Fine & Price Law
10 Group perfected its *retaining lien* against Appellant Fredianelli. Therefore,
11 Appellant Fredianelli's reliance upon *Levanthal* is misplaced.

12 NRS 18.015(1)(b) is different in its requirements than NRS
13 18.015(1)(a). See AA061 (an article published by the State Bar of Nevada
14 explaining the differences between charging liens and retaining liens).
15 Appellant Fredianelli's arguments apply to charging liens under NRS
16 18.015(1)(a) and case law interpreting that statute. Appellant Fredianelli's
17 arguments and cited case law do not apply to the retaining lien The Fine &
18 Price Law Group obtained pursuant to NRS 18.015(1)(b). (AA061). The
19 district court recognized the validity and propriety of the Fine & Price Law
20 Group's *retaining lien* and properly entered an Order to that effect on
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1 February 16, 2016. (AA065-AA069). Said Order should be affirmed.

2 **CONCLUSION**

3 WHEREFORE, for the reasons stated above, Respondent
4 respectfully requests that this Court affirm the District Court's Order
5 Granting Counsel's Motion to Adjudicate the Rights of Counsel, for
6 Enforcement of Attorney's Lien and for Judgment of Attorney's Fees that
7 was filed February 16, 2016.

8 Respectfully submitted on this 11th day of October, 2016.

9 
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13 **CERTIFICATE OF COMPLIANCE**

14 Undersigned counsel hereby certifies that this brief complies
15 with the formatting requirements of NRAP 32(a)(4), the typeface
16 requirements of NRAP 32(a)(5) and the type style requirements of NRAP
17 32(a)(6) because this brief has been prepared in a proportionally spaced
18 typeface using Microsoft WORD and a size 14 Times New Roman Regular
19 font.

20 Undersigned counsel further certifies that this brief complies

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1 with the page or type-volume limitations of NRAP 32(a)(7) because,
2 excluding the parts of the brief exempted by NRAP 32(a)(7)(c), it is
3 proportionately spaced, has a typeface of 14 points or more, and contains
4 1,256 words.

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

16 DATED this 11th day of October, 2016.

17 

18 Corinne Price, Esq.
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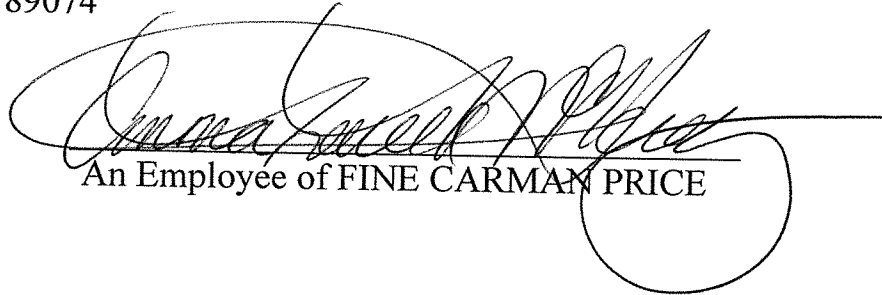
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing *Respondent's Answering Brief* was sent by depositing same for mailing in the United States Mail in a sealed envelope upon which first class postage was prepaid on this 11th day of October, 2016, to the following address:

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