

1 **REPLY**

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Tracie K. Lindeman
Clerk of Supreme Court

7 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

9 JENNIFER O'NEAL,

Case No. 70446

10 Appellant,

11 vs.

**RESPONDENT'S REPLY TO
APPELLANT'S RESPONSE TO ORDER
TO SHOW CAUSE**

12 SHARNA HUDSON, individually; GERALD
13 LYLES, individually;

14 Respondents.

15 Appellant's Response to Order to Show Cause correctly lays out what Appellant's counsel did
16 following the case as far as the emails are concerned. Respondent does not dispute that the Motion for
17 New Trial was emailed to Respondent by Appellant on March 24, 2016, or that an Order was entered by
18 the Court on April 25, 2016. The Declaration of Counsel states that Appellant's counsel was told by
19 Loretta at the Alternative Dispute Resolution office to file the Motion for New Trial with the short trial
20 judge. It would be speculation for Respondent to either agree or disagree that this is what happened, but
21 Respondent has no reason to question the Declaration of Appellant's counsel Kirk Kennedy, Esq., that
22 this is what actually happened. And, if that was the proper method of proceeding in the Short Trial arena,
23 then Appellant is correct that his filing of the Notice of Appeal was timely.

24 The issue, however, is whether emailing was the proper avenue to take, specifically with regard
25 to not filing the Motion for a New Trial. As the Order to Show Cause points out NSTR 6 requires all
26 documents to be filed and served in accordance with NRCP 5(e). NSTR 6 provides, "Unless otherwise
27 specified in these rules, all documents must be filed and served in accordance with the provisions of the
28 Nevada Rules of Civil Procedure." And NRCP 5(e) entitled, *Filing with the court defined*, states,

1 The filing of pleadings and other papers with the court as required by these rules shall be
2 made by filing them with the clerk of the court, except that the judge may permit the
3 papers to be filed with the judge, in which event the judge shall note thereon the filing
4 date and forthwith transmit them to the office of the clerk.

5 Thus, the rules explicitly required the filing of the Motion for a New Trial with the clerk of the court.
6 That was not done in this case. Again, Respondent does not dispute that he received the Motion for New
7 Trial on March 24, 2016, by email as represented by Appellant's counsel, but the question is whether
8 emailing the Motion was sufficient under the rules, and it does not appear that emailing the Motion was
9 sufficient under the rules. Therefore, Respondent requests that cause not be found and the Appeal
10 dismissed for lack of jurisdiction.

11 DATED this 12th day of September, 2016.

12 THE HOWARD LAW FIRM

13
14 By /s/ James W. Howard
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CERTIFICATE OF SERVICE

I hereby certify that service of a true and correct copy of **RESPONDENT'S REPLY TO APPELLANT'S RESPONSE TO ORDER TO SHOW CAUSE** was made on the 12th day of September, 2016, as indicated below:

- By first class mail, postage prepaid from Las Vegas, Nevada pursuant to N.R.C.P. 5(b) addressed as follows below
- By facsimile, pursuant to EDCR 7.26 (as amended)
- By receipt of copy as indicated below
- ✓ Via Court authorized electronic mail

Kirk T. Kennedy, Esq.
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Attorney for Plaintiff

/s/ Karen Thomas

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