IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Electronically Filed
Aug 02 2016 01:11 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

MICHAEL SARGEANT, individually and on behalf of others similarly situated

vs.

HENDERSON TAXI

No. 70837

DOCKETING STATEMENT
CIVIL APPEALS

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See* KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department XVII

County Clark Judge Hon. Michael Villani

District Ct. Case No. A-15-714136-C

2. Attorney filing this docketing statement:

Attorney Leon Greenberg and Dana Sniegocki Telephone 702-383-6085

Firm Leon Greenberg Professional Corporation

Address 2965 S. Jones Boulevard,
Suite E-3
Las Vegas, NV 89146

Client(s) Michael Sargeant

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Anthony L. Hall, R. Calder Huntington Telephone 702-669-4650

Firm HOLLAND & HART, LLP

Address 9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

Client(s) Henderson Taxi

Attorney _____ Telephone _____

Firm _____

Address

Client(s) _____

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- ☐ Judgment after bench trial
- ☐ Judgment after jury verdict
- ☒ Summary judgment
- ☐ Default judgment
- ☐ Grant/Denial of NRCP 60(b) relief
- ☐ Grant/Denial of injunction
- ☐ Grant/Denial of declaratory relief
- ☐ Review of agency determination
- ☐ Dismissal:
  - ☐ Lack of jurisdiction
  - ☐ Failure to state a claim
  - ☐ Failure to prosecute
  - ☐ Other (specify): _____
- ☐ Divorce Decree:
  - ☐ Original ☐ Modification
- ☐ Other disposition (specify): _____

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Sargeant v. Henderson Taxi, Case No. 69773

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (*e.g.*, bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

8. Nature of the action. Briefly describe the nature of the action and the result below:

Putative class action for defendant's taxi driver employees for unpaid minimum wages and related damages and relief pursuant to Nevada's Constitution.

The District Court, in its Order entered February 3, 2016, directed the entry of summary judgment in favor of the defendant based upon its prior Order entered on October 8, 2015, finding that the plaintiff's claims had been fully resolved by a collective bargaining agreement grievance between the defendant and the labor union representing taxi driver employees of the defendant.

This is an appeal of the post-judgment order of the district court, entered July 8, 2016 granting an award of attorneys' fees in favor of defendants and against the plaintiff.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

The district court's finding that the plaintiff Sargeant had maintained this action in violation of NRS 18.010(2)(b) after the district court's order of October 8, 2015, and such conduct justified an award of attorney's fees to Henderson Taxi was contrary to law because: (1) The October 8, 2015 order did not recite that any final judgment on Sargeant's case was created by such order's findings or that the district court would consider no request for any further relief by Sargeant; and (2) The October 8, 2015 order, while making certain contradictorily worded findings about an "accord and satisfaction" of Sargeant's claims being recognized by the district court, was silent on whether the district court would consider any request by Sargeant to enforce the terms of such "accord and satisfaction." Thus Sargeant's request that the district court enforce such terms did not violate NRS 18.010(2)(b).

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

The previously filed appeal, Sargeant v. Henderson Taxi, Case No. 69773, seeks to overturn the district court's judgment dismissing Sargeant's case. If that appeal results in a reversal of the district court's judgment the district court's post-judgment order awarding fees to Henderson Taxi under NRS 18.010(2)(b), the subject of this appeal, must be vacated as Henderson will cease to be a "prevailing party" in this litigation.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This appeal is not presumptively assigned to the Court of Appeals or presumptively retained by the Supreme Court under NRAP 17. Appellant believes this appeal should be retained by the Supreme Court because of its relationship to the prior Sargeant v. Henderson Taxi appeal, case 69773, as that prior appeal raises as its principal issues questions of first impression arising under the Nevada Constitution, as per NRAP 17(a)(13).

14. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? _____

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

Appellant does not intend to file any such motion.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from 7/8/2016

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served 7/8/2016

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. *See* AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed July 13, 2016

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, *e.g.*, NRAP 4(a) or other

NRAP 4(a)(1)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☐ NRAP 3A(b)(1)	☐ NRS 38.205
☐ NRAP 3A(b)(2)	☐ NRS 233B.150
☐ NRAP 3A(b)(3)	☐ NRS 703.376
☒ Other (specify) NRAP 3A(b)(8)	

(b) Explain how each authority provides a basis for appeal from the judgment or order:

This is an appeal of a special order granting Henderson Taxi attorney's fees such order being entered after final judgment.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Michael Sargeant, Plaintiff

Henderson Taxi, Defendant.

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Claim by plaintiff under Art. 15, Sec. 16 of Nevada's Constitution for minimum wages.
Claim by plaintiff under NRS 608.040 for thirty days penalty wages.
All claims were disposed of by the district court's order of February 3, 2016.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (*e.g.*, order is independently appealable under NRAP 3A(b)):

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Michael Sargeant	Leon Greenberg
Name of appellant	Name of counsel of record
Aug 2, 2016	/s/ Leon Greenberg
Date	Signature of counsel of record

Nevada, Clark County
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 2ND day of August , 2016 , I served a copy of this completed docketing statement 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): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

By electronic court service:

Holland & Hart, LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas,NV 89134

Dated this 2nd day of August , 2016

/s/ Sydney Saucier
Signature