

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL J. MONA, JR. AN
INDIVIDUAL; AND RHONDA H.
MONA, NON-PARTY

Appellants,

vs.

FAR WEST INDUSTRIES, A
CALIFORNIA CORPORATION

Respondents.

No. 70857

Electronically Filed
Aug 12 2016 09:08 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

**JOINT DOCKETING STATEMENT
CIVIL APPEALS**

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The 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 26 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 XV
County Clark Judge Joe Hardy
District Ct. Case No. A670352

2. **Attorney filing this docketing statement:**

Attorney Terry A. Coffing, Esq., Micah Echols, Esq. and Tye S. Hanseen, Esq.
Telephone 702-382-0711
Firm Marquis Aurbach Coffing
Address 10001 Park Run Drive, Las Vegas, NV 89145
Client Michael J. Mona, Jr.

Attorney James E. Whitmire, Esq. Telephone 702-948-8771
Firm Santoro Whitmire
Address 10100 W. Charleston Blvd, Suite 250, Las Vegas, NV 89135
Client Non-Party Rhonda H. Mona

Attorney Robert L. Eisenberg, Esq. Telephone 702-786-6868
Firm Lemons, Grundy & Eisenberg
Address 6005 Plumas Street, Third Floor, Reno, NV 89519
Client Non-Party Rhonda H. Mona

3. **Attorney(s) representing respondent(s):**

Attorney F. Thomas Edwards, Esq. and Andrea Gandara, Esq.
Telephone 702-791-0308
Firm Holley Driggs Walch Fine Wray Puzey & Thompson
Address 400 South Fourth Street, Third Floor, Las Vegas, NV 89101
Client Far West Industries

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

- | | | |
|---|--|---------------------------------------|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal | |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of Jurisdiction | |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim | |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute | |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input checked="" type="checkbox"/> Other (specify) | \$490,000 Order
against non-party |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce decree: | |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original | <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify) | |

5. **Does this appeal raise issues concerning any of the following:**N/A

- ☐ 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:

The underlying District Court case gave rise to the pending Writ Petition in Case No. 68434, Rhonda Helene Mona and Michael J. Mona, Jr. v. Eighth Judicial District Court (Far West Industries); oral argument was held on July 6, 2016.

The Supreme Court's determination of issues in Case No. 68434 will most likely cause the present appeal to become moot.

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:

Far West Industries v. Rio Vista Nevada, LLC, World Development, Bruce Maize, and Michael Mona Jr.; A-12-670352-F; Eighth Judicial District Court, Clark County, Nevada.

Far West Industries v. Michael Mona, Jr., Rhonda Helene Mona, Michael Mona, III, and Lundene Enterprises; A-15-724490-C; Eighth Judicial District Court, Clark County, Nevada.

Rhonda Helene Mona v. Michael Mona, Jr.; D-15-517425-D; Eighth Judicial District Court, Clark County, Nevada; July 23, 2015.

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

The underlying action is a foreign judgment collection case. Respondent Far West obtained a California judgment against multiple defendants, including Appellant Michael J. Mona, domesticated the judgment in Nevada, and began collection activities. In the Nevada judgment collection case, Far West sought a judgment against non-party Rhonda Mona, Michael J. Mona's ex-wife.

Because Rhonda Mona is not a party in the underlying judgment collection action, a judgment cannot be entered against her. Nonetheless, the District Court entered an order that could be interpreted as a judgment against Rhonda Mona because it allows for execution against her in the amount of \$490,000.00.

Also, as indicated above, the Supreme Court's decision in Case No. 68434 may result in the present appeal becoming moot.

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

- (1) Lack of personal jurisdiction over Rhonda Mona.
- (2) A separate action was needed against Rhonda.
- (3) Violation of procedural due process rights.
- (4) The post-marital property settlement agreement protects Rhonda's separate property.
- (5) Whether Rhonda's community property interests are subject to the judgment against Michael Mona.
- (6) Whether this court should overrule *Randono v. Turk*, 86 Nev. 123, 466 P.2d 218 (1970).

10. **Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceeding 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 related District Court case also gave rise to the pending Writ Petition in Case No. 68434, Rhonda Helene Mona and Michael J. Mona, Jr. v. Eighth Judicial District Court (Far West Industries).

The issues were the same in Case No. 68434 and the Supreme Court's determination of those issues may moot this appeal. However, at this point, the District Court has now gone even further by entering an Order against non-party Rhonda Mona that could be interpreted as a judgment because it allows for execution against her in the amount of \$490,000.00.

Rhonda Mona is not a party in the underlying case. Thus, a judgment cannot be entered against her, and there is a legitimate question as to whether she

would be considered an “aggrieved party” for purposes of appeal. Nonetheless, although the order from which this appeal is taken is not entitled a “judgment,” it could possibly be interpreted as a judgment against Rhonda Mona.

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 (*Randono v. Turk*, 86 Nev. 123, 466 P.2d 218 (1970).

☒ 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 Supreme 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:

The case should be presumptively assigned to the Supreme Court pursuant to NRAP 17(a)(13)-(14). Please see question No. 12, above. Also, the related

writ proceeding (No. 68434) was assigned to the Supreme Court, and oral argument has already been held before the *en banc* court in that case.

14. **Trial.** If this action proceeded to trial, how many days did the trial last? N/A
Was it a bench or jury trial? N/A

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?

N/A

TIMELINESS OF NOTICE OF APPEAL

16. **Date of entry of written judgment or order appealed from** The Amended Nunc Pro Tunc Order Regarding Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment was filed on June 13, 2016.

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

17. **Date written notice of entry of judgment or order was served** The Notice of Entry of Amended Nunc Pro Tunc Order Regarding Plaintiff Far West Industries' Motion to Reduce Sanctions Order to Judgment was served on June 15, 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 N/A.

(c) Date written notice of entry of order resolving tolling motion was served N/A.

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed July 15, 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:

A Joint Notice of Appeal was filed on July 15, 2016.

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).

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) (A special order entered after final judgment)

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

NRAP 3A(b)(1)—Rhonda Mona is not a party in the underlying case. Thus, a judgment cannot be entered against her, and there is a legitimate question as to whether she would be considered an “aggrieved party” for purposes of appeal. Nonetheless, the District Court has entered an Order against Rhonda Mona that

could be interpreted as a judgment because it allows for execution against her in the amount of \$490,000.00. As indicated in Rhonda Mona's notice of appeal, this is a protective appeal due to uncertainty regarding whether the order is appealable and whether Rhonda Mona can be considered an aggrieved party.

NRAP 3A(b)(8)—The appealed from Order affects the rights of Mike Mona and non-party Rhonda Mona and grows out of a final judgment previously entered in California.

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

(a) Parties:

Far West Industries, Mike Mona, and non-party Rhonda Mona.¹

(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:

The only judgment debtor Far West has pursued in the underlying action is Mike Mona. The non-party that Far West has pursued in the underlying action is Rhonda Mona.

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.

This is a foreign judgment collection action. Thus, there are no "claims."

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

¹As indicated earlier in this docketing statement, Rhonda Mona is not a "party" to the underlying action, but an Order has been entered against her allowing execution in the amount of \$490,000, which could be construed as a judgment—even though Rhonda is not a party. Because of this uncertainty, Rhonda Mona's attorneys have joined in the notice of appeal, to protect Rhonda Mona's right to challenge the order in Nevada appellate courts. See *Fernandez v. Infusaid Corp.*, 110 Nev. 187, 192-93, 871 P.2d 292 (1994) (recognizing protective notice of appeal where right to appeal is uncertain).

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

(a) Specify the claims remaining pending below:

This is a foreign judgment collection action. Thus, collection activities will endure indefinitely and there will not necessarily be an adjudication of all claims. That said, the District Court has entered an Order that could be interpreted as a judgment or final adjudication because it allows execution against the non-party in the amount of \$490,000. Further, the District Court indicated that it may entertain allowing execution up to an additional \$3,000,000 more against the non-party.

(b) Specify the parties remaining below:

Mike Mona, Jr. There are also other parties to the foreign judgment collection action that have never been served.

(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)):

The Order may be interpreted as a judgment because it allows execution up to \$490,000 against a non-party and, if construed as such, it would be appealable under NRAP 3A(b)(1). Further, under NRAP 3A(b)(8), the appealed from Order affects the rights of Mike Mona and non-party Rhonda Mona and grows out of a final judgment previously entered in California.

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 J. Mona, Jr.
Rhonda Helene Mona

Name of appellant

Terry A. Coffing, Esq.
Tye S. Hanseen, Esq.
James E. Whitmire, Esq.
Robert L. Eisenberg, Esq.

Name of counsel of record

8/11/2016

Date

/s/ Tye S. Hanseen

Signature of counsel of record

Nevada, Clark County

State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 11th day of August, 2016, I served a copy of this completed docketing statement upon all counsel of record:

☒ By electronic service in accordance with the Master Service List as follows:

Robert F. Saint-Aubin
F. Edwards
Robert Eisenberg
James E. Whitmire

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

Andrea Gandara, Esq.
Holley Driggs Walch Fine Wray Puzey & Thompson
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Attorney for Respondent

Dated this 11th day of August, 2016.

/s/ Rosie Wesp

Signature

CIVIL COVER SHEET A - 1 2 - 6 7 0 3 5 2 - F

Clark County, Nevada

I V

Case No. _____
(Assigned by Clerk's Office)**I. Party Information**

Plaintiff(s) (name/address/phone):

Far West Industries

Attorney (name/address/phone):

David S. Lee, Esq.

Lee, Hernandez, Landrum, Garofalo & Blake, APC

7575 Vegas Drive, Suite 150

Las Vegas, Nevada 89128

(702) 880-9750

Defendant(s) (name/address/phone):

Rio Vista Nevada, LLC,

World Development, Inc.,

Bruce Maize,

Michael J. Mona, Jr.

Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
<input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input checked="" type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input checked="" type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

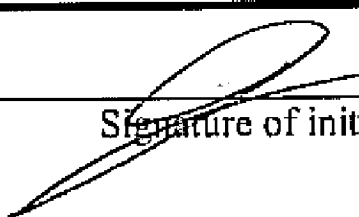
☐ NRS Chapters 78-88
☐ Commodities (NRS 90)
☐ Securities (NRS 90)

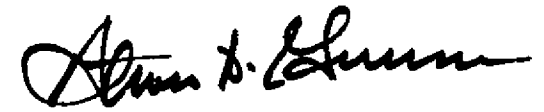
☐ Investments (NRS 104 Art. 8)
☐ Deceptive Trade Practices (NRS 598)
☐ Trademarks (NRS 600A)

☐ Enhanced Case Mgmt/Business
☐ Other Business Court Matters

October 18, 2012

Date


Signature of initiating party or representative



CLERK OF THE COURT

FORJ
John R. Hawley
Nevada Bar No. 001545
LEE, HERNANDEZ, LANDRUM,
GAROFALO & BLAKE
7575 Vegas Drive, Suite 150
Las Vegas, Nevada 89128
(702) 880-9750
Fax; (702) 314-1210
jhawley@leelawfirm.com

Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California
corporation,

Plaintiff,

vs.

RIO VISTA NEVADA, LLC, a Nevada
limited liability company; WORLD
DEVELOPMENT, INC., a California
corporation; BRUCE MAIZE, and individual;
MICHAEL J. MONA, JR., an individual;
DOES I through 100, inclusive,

Defendants.

CASE NO.: A - 12 - 670352 - F

IV

**APPLICAION OF FOREIGN
JUDGMENT**

AFFIDAVIT OF JOHN R. HAWLEY, ESQ.

STATE OF NEVADA)
 : ss.
COUNTY OF CLARK)

COMES NOW, JOHN R. HAWLEY, ESQ., being first duly sworn, and states as follows:

1. That Affiant is an attorney, duly licensed to practice in the State of Nevada and is a
member of the law firm of LEE, HERNANDEZ, LANDRUM, GAROFALO & BLAKE.

LEE, HERNANDEZ, LANDRUM,
GAROFALO & BLAKE
7575 VEGAS DRIVE, SUITE 150
LAS VEGAS, NV 89128
(702) 880-9750

LEE, HERNANDEZ, LANDRUM,
GAROFALO & BLAKE
7575 VEGAS DRIVE, SUITE 150
LAS VEGAS, NV 89128
(702) 880-9750

1 2. That Affiant is counsel of record for FAR WEST INDUSTRIES, a California
2 corporation in the instant matter.

3 3. That the name and last known address of the Judgment Debtors herein are as follows:

4 **Michael J. Mona, Jr.**
5 **2793 Red Arrow Drive**
6 **Las Vegas, NV 89135**

7 **Michael J. Mona, Jr., as trustee of the Mona Family Trust dated February 21,**
8 **2002**
9 **2793 Red Arrow Drive**
10 **Las Vegas, NV 89135**

11 4. That the name and address of the Judgment Creditor herein is as follows:

12 **Far West Industries, a California corporation**
13 **2922 Daimler Street**
14 **Santa Ana, CA 89128**

15 5. That the Judgment herein, a duly exemplified copy of which is attached hereto, is valid
16 and enforceable.

17 6. That no portion of the Judgment herein has been satisfied.

18 FURTHER Affiant sayeth naught.

19 DATED this 18th day of October, 2012.

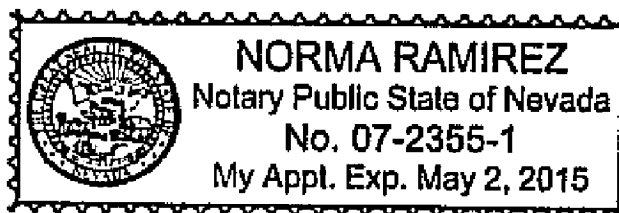
20 _____
21 JOHN R. HAWLEY, ESQ.

22 SUBSCRIBED and SWORN to

23 before me this 18th day of

24 October, 2012.

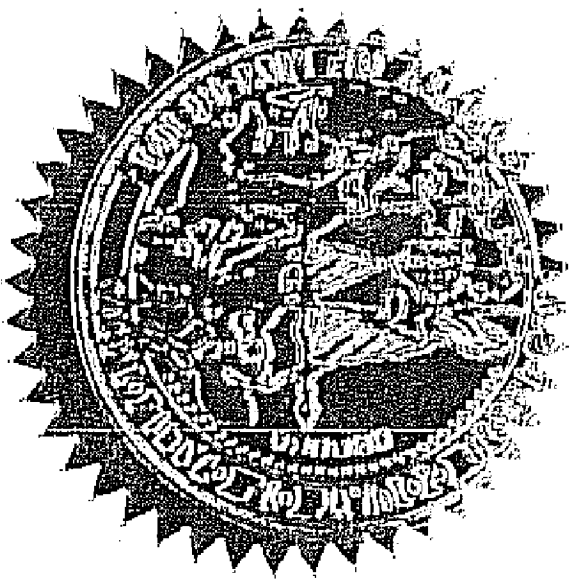
25 _____
26 Norma Ramirez
27 NOTARY PUBLIC



28 (SEAL)

EXEMPLIFICATION CERTIFICATE

The documents to which this certificate is attached are full, true and correct copies of the originals on file and of record in my office. All of which we have caused by these presents to be exemplified, and the seal of our Superior Court of California, County of Riverside to be hereunto affixed.



IN WITNESS WHEREOF, I have hereto set my hand
and affixed the Seal of the said Court,

This 7th day of June
Sherri R. Carter
Sherri R. Carter, Clerk
Superior Court of California, County of Riverside

I, Mac R. Fisher, Judge of the Superior
Court of the State of California, in and for the County of Riverside, do hereby certify that
SHERRI R. CARTER whose name is subscribed to the preceding exemplification, is the
Clerk of the said Superior Court of the State of California, in and for the County of
Riverside, and that full faith and credit are due to her official acts. I further certify, that the
seal affixed to the exemplification is the seal of our said Superior Court and that the
attestation thereof is in due form and according to the form of attestation used in this State.

Date June 7, 2012

Mac R. Fisher
Judge of the Superior Court of California
County of Riverside

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

APR 27 2012

MJV

APR 30 2012

PM

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE, RIVERSIDE COURT

FAR WEST INDUSTRIES, a California
corporation,

Plaintiff,

vs.

RIO VISTA NEVADA, LLC, a Nevada limited
liability company; WORLD DEVELOPMENT,
INC., a California corporation; BRUCE MAIZE,
an individual; MICHAEL J. MONA, JR., an
individual; and DOES 1 through 100, inclusive,

Defendants.

) Case No. RIC495966

) JUDGE: Hon. Jacqueline Jackson

) ~~[PROPOSED] JUDGMENT NUNC PRO TUNC~~

) Action Filed: March 24, 2008

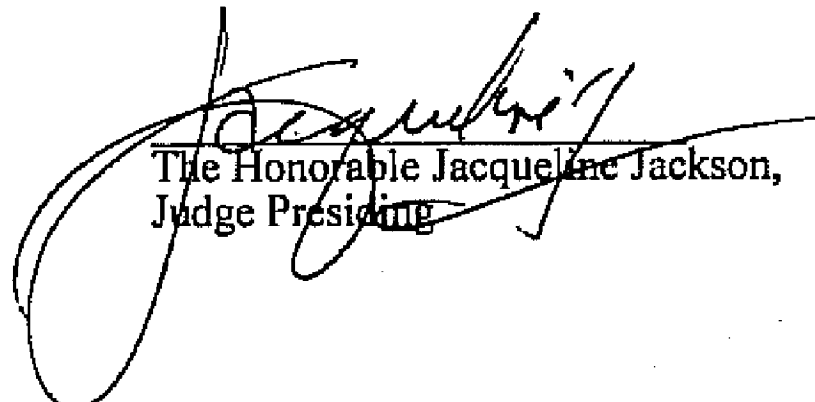
) Trial Date: September 23, 2011

On February 23, 2012, the Honorable Jacqueline Jackson entered Finding of Fact and Conclusion of Law in the above-referenced matter. Based upon those Findings and Conclusion, Judgment is hereby entered in favor of Plaintiff Far West Industries, a California corporation and against the following Defendants, jointly and severally: (1) Michael J. Mona, Jr.; (2) Michael J. Mona, Jr., as Trustee of the Mona Family Trust dated February 21, 2002; (3) Rio Vista Nevada, LLC, a Nevada limited liability company; and (4) World Development, Inc., a California corporation in the amount of \$17,777,562.18. Recoverable court costs of \$25,562.56 and attorney's fees of \$327,548.84 are also awarded to Far West Industries, jointly and severally against all Defendants. The Clerk is hereby directed to enter those amounts on this Judgment following Far West Industries' post-Judgment petition for them. Finally, the Clerk is hereby

~~[PROPOSED] JUDGMENT NUNC PRO TUNC~~

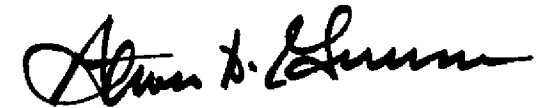
1 directed to release the \$32,846 that was interplead by Defendant Fidelity National Title Company
2 to Far West Industries upon entry of this Judgment.

3 Dated: 4/27/12


The Honorable Jacqueline Jackson,
Judge Presiding

GREEN & HALL
ATTORNEYS AT LAW
OF THE DISTRICT OF COLUMBIA

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CLERK OF THE COURT

1 **NEOJ**
2 F. THOMAS EDWARDS, ESQ.
3 Nevada Bar No. 9549
4 E-mail: tedwards@nevadafirm.com
5 ANDREA M. GANDARA, ESQ.
6 Nevada Bar No. 12580
7 E-mail: agandara@nevadafirm.com
8 HOLLEY DRIGGS WALCH
9 FINE WRAY PUZEY & THOMPSON
10 400 South Fourth Street, Third Floor
11 Las Vegas, Nevada 89101
12 Telephone: 702/791-0308
13 Facsimile: 702/791-1912

14 *Attorneys for Plaintiff Far West Industries*

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 FAR WEST INDUSTRIES, a California
18 corporation,

19 Plaintiff,

20 v.

21 RIO VISTA NEVADA, LLC, a Nevada limited
22 liability company; WORLD DEVELOPMENT,
23 INC., a California corporation; BRUCE MAIZE,
24 an individual, MICHAEL J. MONA, JR., an
25 individual; DOES 1 through 100, inclusive,

26 Defendants.

Case No.: A-12-670352-F
Dept. No.: XV

NOTICE OF ENTRY OF AMENDED
NUNC PRO TUNC ORDER REGARDING
PLAINTIFF FAR WEST INDUSTRIES'
MOTION TO REDUCE SANCTIONS
ORDER TO JUDGMENT

27 YOU, and each of you, will please take notice that an AMENDED *NUNC PRO TUNC*
28 ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE
SANCTIONS ORDER TO JUDGMENT in the above entitled matter was filed and entered by

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1 the Clerk of the above-entitled Court on the 13th day of June, 2016, a copy of which is attached
2 hereto.

3 Dated this 15th day of June, 2016.

4 **HOLLEY DRIGGS WALCH**
5 **FINE WRAY PUZEY & THOMPSON**

6 
7 F. THOMAS EDWARDS, ESQ. (NBN 9549)
8 ANDREA M. GANDARA, ESQ. (NBN 12580)
9 400 South Fourth Street, Third Floor
10 Las Vegas, Nevada 89101
11 *Attorneys for Plaintiff Far West Industries*
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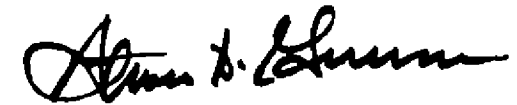
CERTIFICATE OF SERVICE

I certify that I am an employee of Holley Driggs Walch Fine Wray Puzey & Thompson, and that on the 15th day of June, 2016, I served via electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's Odyssey E-File & Serve, a true copy of the foregoing **NOTICE OF ENTRY OF AMENDED NUNC PRO TUNC ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT**, in the above matter, addressed as follows:

James E. Whitmire, Esq.
SANTORO WHITMIRE
10100 West Charleston Boulevard, Suite 250
Las Vegas, Nevada 89135
*Attorneys for Defendants Rhonda Helene Mona,
Michael Mona, III, and
Lundene Enterprises, LLC*

Terry A. Coffing, Esq.
Tye S. Hanseen, Esq.
MARQUIS AURBACH COFFING
1001 Park Run Drive
Las Vegas, NV 89145
*Attorneys for Defendant
Michael J. Mona, Jr.*


An employee of Holley Driggs Walch
Fine Wray Puzey & Thompson



CLERK OF THE COURT

1 AMOR

2
3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 FAR WEST INDUSTRIES,

Case No: A670352

Dept No.: XV

8 Plaintiffs,

9 vs.

10 RIO VISTA NEVADA, LLC, et al.,

11 Defendants.
12

13
14 **AMENDED NUNC PRO TUNC ORDER REGARDING PLAINTIFF FAR WEST
INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT¹**

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16 The Court held an initial hearing regarding Plaintiff Far West Industries' Motion to Reduce
17 Sanctions Order to Judgment (the "Motion") on March 30, 2016, at 9:00 a.m. (the "Initial Hearing")
18 and, following supplemental briefing, a continued hearing regarding the Motion on May 5, 2016, at
19 9:00 a.m. (the "Second Hearing"). F. Thomas Edwards, Esq. and Andrea M. Gandara, Esq., of the
20 law firm Holley Driggs Walch Fine Wray Puzey & Thompson, appeared on behalf of Plaintiff Far
21 West Industries ("Far West"). Terry A. Coffing, Esq. and Tye S. Hanseen, Esq., of the law firm
22 Marquis Aurbach Coffing, appeared on behalf of Defendant Michael J. Mona, Jr. ("Mr. Mona").
23 James E. Whitmire, Esq. appeared on behalf of Rhonda Helene Mona ("Ms. Mona"). Collectively,
24 Mr. Mona and Ms. Mona are referred to as the "Monas."

25 The Court reviewed all relevant pleadings and papers before it, including, but not limited to:
26 (1) the Motion filed by Far West and Exhibits 1-9; (2) the Opposition to Motion filed by Mr. Mona
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¹ This Amended *Nunc Pro Tunc* Order shall replace and supersede the Order filed herein on May 23, 2016, and shall be treated as if this order had been filed then.

1 ("Mr. Mona's Opposition"); (3) the Opposition to Motion filed by Ms. Mona ("Ms. Mona's
2 Opposition") and Exhibits A-C; (4) the Reply in Support of the Motion filed by Far West and
3 Exhibits 10 and 11; (5) the Errata to Ms. Mona's Opposition to the Motion; (6) the Supplemental
4 Brief filed by Ms. Mona ("Ms. Mona's Supplement") and Exhibits A-C; (7) the Supplemental Brief
5 filed by Far West (the "Far West Supplement") and Exhibits 12-14; and (8) the Supplemental Brief
6 filed by Mr. Mona ("Mr. Mona's Supplement").

7 With no other appearances having been made, the Court having reviewed and examined the
8 papers, pleadings and records on file in the above-entitled matter and heard the argument of counsel,
9 and good cause appearing therefore, the Court enters the following findings of fact and conclusions
10 of law. To the extent any finding of fact should properly be designated a conclusion of law, it shall
11 be deemed a conclusion of law. To the extent any conclusion of law should properly be designated a
12 finding of fact, it shall be deemed a finding of fact.

13 **FINDINGS OF FACT**

14 **A. Judgment Collection Action and Sanctions of the Monas**

15 Far West has a domesticated California Judgment against Mr. Mona and the Mona Family
16 Trust dated February 21, 2002 (the "Mona Family Trust") that is now nearly \$25 million, including
17 interest accruing at a rate of \$4,967.30 per day.² See Application for Foreign Judgment, filed on
18 October 18, 2012, attaching Judgment.

19 On September 13, 2013, after Far West domesticated its Judgment, the Monas executed a
20 Post-Marital Settlement Agreement through which Mr. Mona and Ms. Mona were each transferred
21 \$3,406,601.10 from the sale of the Monas' community property shares of Medical Marijuana, Inc.,
22 for \$6,813,202.20. See Order Regarding Order to Show Cause Why Accounts of Rhonda Mona
23 Should Not Be Subject to Execution and Why the Court Should Not Find Monas in Contempt (the
24 "Sanctions Order"), entered July 15, 2015, at 3:24-28.

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28 ² Pursuant to CAL. CIV. PRO. CODE § 685.010(a), "Interest accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied."

1 During a judgment debtor examination on June 26, 2015, Ms. Mona testified regarding the
2 Post-Marital Settlement Agreement and testified that she had three different bank accounts in her
3 name that contained approximately \$490,000.00 in community property funds. *Id.* at 6:20-7:12.

4 On June 29, 2015, Far West filed an Ex Parte Application for Order To Show Cause Why
5 Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not
6 Find Monas In Contempt (the "OSC Application") seeking sanctions against the Monas for violating
7 Court orders and lying under oath to conceal their fraudulent transfer through the Post-Marital
8 Settlement Agreement and seeking to execute against the three accounts Ms. Mona testified
9 contained community property funds. See OSC Application, filed June 29, 2015. On June 30, 2015,
10 the Court issued the Order to Show Cause Why Accounts of Rhonda Mona Should Not Be Subject
11 to Execution and Why the Court Should Not Find Monas in Contempt (the "Order to Show Cause")
12 scheduling a hearing on July 9, 2015. See Order to Show Cause, entered on June 30, 2015.

13 During the July 9, 2015 hearing on the Order to Show Cause, the Court sanctioned the
14 Monas and stated that "the evidence overwhelmingly support[ed] a finding of fraudulent transfer in
15 regard to the Post-Marital Property Settlement Agreement, and the Court so find[s] that . . . was a
16 fraudulent transfer and that those assets therefore remain community property subject to execution."
17 See Transcript of Show Cause Hearing: Why Accounts Of Rhonda Mona Should Not Be Subject To
18 Execution And Why The Court Should Not Find Monas In Contempt (the "OSC Hearing
19 Transcript"), dated July 9, 2015, attached to the Motion as **Exhibit 3**, at 38:16-18.

20 On July 15, 2015, the Court entered the Sanctions Order, outlining in detail several badges of
21 fraud associated with the Post-Marital Settlement Agreement:

22
23 First, the transfer in the Post-Marital Settlement Agreement was to an
24 insider, Ms. Mona, as she is the wife of Mr. Mona, a judgment debtor,
25 and was at all relevant times the Trustee of the Mona Family Trust, a
judgment debtor.

26 Second, Mr. Mona appears to have retained possession and control
27 over some portion of the funds that were purportedly transferred
pursuant to the Post-Marital Settlement Agreement.

28 Third, Mr. Mona concealed the transaction by not producing the Post-
Marital Settlement Agreement as required by the January 2013 Order

1 and October 2013 Order and by not disclosing the transfer during his
2 judgment debtor examination on November 25, 2013. Mr. Mona was
3 not truthful when he was asked during the November 25, 2013
4 examination about what he did with the approximately \$6.8 million
5 dollars.

6 Fourth, prior to effectuating the transfer through the Post-Marital
7 Settlement Agreement, Far West sued and obtained the Judgment
8 against Mr. Mona and the Mona Family Trust.

9 Fifth, the Post-Marital Settlement Agreement, and the related transfers
10 of the proceeds from the sale of the stock, transferred substantially all
11 of Mr. Mona's assets as he was insolvent at the time of the transfers,
12 or rendered Mr. Mona insolvent shortly after they were made.

13 Sixth, Mr. Mona concealed assets by failing to disclose the Post-
14 Marital Settlement Agreement in 2013, by not disclosing the transfer
15 during his judgment debtor examination on November 25, 2013, and
16 by not producing the bank account records for the accounts in Ms.
17 Mona's name.

18 Seventh, at the time of the transfer through the Post-Marital Settlement
19 Agreement, Mr. Mona was insolvent, or the transfer rendered Mr.
20 Mona insolvent shortly after it was made.

21 See Sanctions Order, entered July 15, 2015, at 8:16-9:9; *see also* OSC Hearing Transcript, dated July
22 9, 2015, Ex. 3, at 37:14-38:20 (describing facts demonstrating badges of fraud).

23 The Sanctions Order further stated:

24 **IT IS HEREBY FURTHER ORDERED** that the Monas' purported
25 transfer pursuant to the Post-Marital Property Settlement Agreement is
26 a fraudulent transfer, and the facts proving the fraudulent transfer,
27 including the badges of fraud outlined above, are deemed established;

28 **IT IS HEREBY FURTHER ORDERED** that the facts entitling
Plaintiff to execute upon the bank accounts in the name of Mrs. Mona
are deemed established;

IT IS HEREBY FURTHER ORDERED that the Monas are
prohibited from claiming that any money purportedly transferred
pursuant to the Post-Marital Property Settlement Agreement and any
money in the bank accounts in the name of Mrs. Mona are exempt
from execution;

...

IT IS HEREBY FURTHER ORDERED that Mr. Mona, Mrs. Mona,
and the Monas collectively are prohibited from effectuating any
transfers or otherwise disposing of or encumbering any property not
exempt from execution and until the money in the bank accounts in the
name of Mrs. Mona are applied to Plaintiff's Judgment.

1 See Sanctions Order, entered July 15, 2015, at 10:7-28.

2 B. Writ Petition Regarding Sanctions and Stay Pending Writ

3 The Monas filed a Petition for Writ of Mandamus or Prohibition as to the Sanctions Order on
4 July 17, 2015. Among other arguments, the Monas contended that "a separate action was required
5 before imposing liability against Rhonda Mona." *See* Petition for Writ of Mandamus or Prohibition,
6 filed July 17, 2015, attached to the Motion as **Exhibit 4**, at 16 of 30.

7 On July 20, 2015, the Nevada Supreme Court issued its Order Granting Temporary Stay that
8 stayed the Sanctions Order and proceedings in the above-captioned action. *See* Order Granting
9 Temporary Stay, entered July 20, 2015, attached to the Motion as **Exhibit 5**.

10 On October 16, 2015, this Court issued its Order Regarding Motion on an Order Shortening
11 Time for Bond Pending Appeal (the "Bond Order"), which ordered Mr. Mona and the Mona Family
12 Trust to post a bond of \$24,172,076.16 within seven business days of September 17, 2015 and Ms.
13 Mona to post a bond of \$490,000.00 within 30 calendar days of September 17, 2015. *See* Bond
14 Order, dated October 16, 2015, at 7:6-11.

15 The same date, October 16, 2015, the Nevada Supreme Court issued an Order that stayed the
16 supersedeas bond requirement and maintained the prior stay pending further briefing from the
17 parties. *See* Order, dated October 16, 2015, attached to the Motion as **Exhibit 6**, pp. 1-2.

18 On November 19, 2015, the Nevada Supreme Court issued an Order Denying Motion, which
19 stated:

20
21 This court's stay entered August 31, 2015, and temporary stay entered
22 October 16, 2015, shall expire within 5 business days from the date of
23 this order unless the parties comply with the bond requirements
imposed by the district court in its written order of October 16, 2015,
as a condition of any stay.

24 *See* Order Denying Motion, dated November 19, 2015, attached to the Motion as **Exhibit 7**, at pp. 1-
25 2.

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Pursuant to the Bond Order and Order Denying Motion, the stay of this action and the Sanctions Order pending the writ proceeding terminated on November 30, 2015 when Mr. Mona and Ms. Mona failed to post the required bonds.

C. Execution of Sanctions Order

When Far West was finally able to execute against Ms. Mona's accounts after the stay pending appeal expired, only \$18,739.59 remained, which is less than 1% of the \$3.4 million originally fraudulently transferred to Ms. Mona and less than 4% of the \$490,000.00 that existed when the Sanctions Order was issued. See Answers to Writ of Garnishment from Bank of George, attached to Far West Supplement as **Exhibit 12**, and Answers to Writ of Garnishment from Bank of Nevada, attached to Far West Supplement as **Exhibit 13**.

Based on bank records recently produced by Ms. Mona, she transferred more than \$430,000.00 after Far West moved to execute against the bank accounts in her name, including the following transfers:

06/26/2015	Ms. Mona testifies regarding fraudulent transfer through Post-Marital Settlement Agreement and separate bank accounts		
06/29/2015	Far West files its Ex Parte Application For Order To Show Cause Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not Find The Monas In Contempt		
07/02/2015	\$10,000.00	Check to Lemons, Grundy & Eisenberg	FWSUPBRF-0001
07/02/2015	\$30,000.00	Check to Kainen Law Group	FWSUPBRF-0001
07/02/2015	\$75,000.00	Wire Transfer Out to Marquis Aurbach Coffing Trust	FWSUPBRF-0002
07/02/2015	\$20,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0002
07/02/2015	\$9,500.00	Check to Rhonda Mona	FWSUPBRF-0001
07/06/2015	\$7,708.00	Check 2582 to Ramon Sarti	FWSUPBRF-0003
07/08/2015	\$25,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0002
07/15/2015	The Court enters the Sanctions Order		
07/20/2015	The Nevada Supreme Court enters a temporary stay of the Sanctions Order		
07/22/2015	\$5,080.96	Check 2600 to Clark County Treasurer	FWSUPBRF-0004
08/24/2015	\$1,523.70	Payment to Parkloft Condominium Association	FWSUPBRF-0005
08/24/2015	\$2,570.70	Check 2622 to A-1 Self Storage	FWSUPBRF-0006
08/24/2015	\$22,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0007

09/15/2015 *incorrectly dated as 2014	\$9,500.00	Check to Rhonda Mona	FWSUPBRF-0008
09/22/2015	\$25,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0009
09/24/2015	\$75,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0009
10/23/2015	\$8,938.61	Check 2667 to SDCTTC	FWSUPBRF-0010
11/02/2015	\$25,000.00	Wire Transfer Out to Rhonda Mona	FWSUPBRF-0011
11/30/2015	The temporary stay of the Sanctions Order expires		
12/04/2015	\$45,000.00	Check 1272 to MAC	FWSUPBRF-0012
12/11/2015	\$35,000.00	Wire Transfer Out to Santoro Whitmire Ltd.	FWSUPBRF-0013

See Ms. Mona's Redacted Bank Records, attached to Far West Supplement as **Exhibit 14**.

As reflected in the table above, Ms. Mona violated the Court's explicit prohibition against her effectuating any transfers of non-exempt property until the funds in her bank accounts were applied to Far West's Judgment by paying the law firm of Marquis Aurbach Coffing \$45,000 on December 4, 2015 and the law firm of Santoro Whitmire Ltd. \$35,000 on December 11, 2015, after the stay pending appeal of the Sanctions Order expired. *Id.*; see Sanctions Order, Ex. 1 to the Motion, at 10:25-28.

In sum, the Monas turned \$3.4 million dollars into just \$18,739.59 so they could avoid paying the money towards satisfaction of Far West's Judgment. Ms. Mona in particular continues to show contempt for this Court and its orders by directly violating the Sanctions Order. She is not taking this proceeding seriously. The Court is dumbfounded that Ms. Mona transferred \$80,000 to the law firms of Marquis Aurbach Coffing and Santoro Whitmire Ltd. after the stay pending appeal expired in December 2015 in direct violation of the Sanctions Order, which reflects that she is not an innocent party in this proceeding. The pending writ proceeding does not excuse Ms. Mona's violation of the Sanctions Order, especially in light of the fact that the Ms. Mona posted no bond and any stay of the Sanctions Order terminated on November 30, 2015.

D. Mona Fraudulent Transfer Action

On September 14, 2015, Far West filed a lawsuit, *Far West Industries v. Mona, et al.*, Case No. A-15-724490-C, against the Monas, their son, Michael Mona III ("Michael III"), and Michael III's entity, Lundene Enterprises, LLC, for various fraudulent transfers, including the Post-Marital

1 Settlement Agreement (the "Mona Fraudulent Transfer Action"). The Mona Fraudulent Transfer
2 Action is pending before the Honorable Judge Rob Bare. On December 4, 2015, the Monas filed a
3 Motion to Dismiss the Mona Fraudulent Transfer Action. See Defendants' Motion to Dismiss (the
4 "Motion to Dismiss"), attached to the Motion as **Exhibit 8**. Despite arguing before the Nevada
5 Supreme Court that a separate action was required before imposing liability against Rhonda Mona in
6 post-judgment proceedings, the Monas argued to Judge Bare that Far West's claim should be
7 dismissed because Far West has already successfully obtained a "final order/judgment" that the \$3.4
8 million transfer between the Monas was a fraudulent transfer from this Court. See Motion to
9 Dismiss, filed December 4, 2015, Ex. 8, at 3:6-13 and Defendant Michael J. Mona, Jr.'s Reply in
10 Support of Motion to Dismiss, attached to the Motion as **Exhibit 9**, at 7:13-15. The Monas further
11 argued that "Claim and Issue Preclusion Further Bar the Second Cause of Action for Fraudulent
12 Transfer Because the Court Has Already Ruled on the Issue[.]" referring to the Sanctions Order. See
13 Motion to Dismiss, filed December 4, 2015, Ex. 8, at 9:6-14.

14 On December 18, 2015, Far West opposed the Monas' Motion to Dismiss and filed a
15 counter-motion seeking judgment against Ms. Mona for \$3,406,601.10 based on the Sanctions Order
16 and fraudulent transfer effectuated through the Post-Marital Settlement Agreement.

17 On February 2, 2016, Judge Bare heard the Monas' Motion to Dismiss and Plaintiff Far West
18 Industries' Counter-motion for Summary Judgment and on March 16, 2016, entered an order denying
19 Far West's counter-motion without prejudice and stating, "[T]his Order in no way prevents Far West
20 from seeking the judgment requested in the Counter-motion from the Honorable Joe Hardy" in this
21 case.

22 **E. The Monas' Inconsistent Positions During Litigation**

23 Now that Far West is seeking to execute upon the Sanctions Order by obtaining an order
24 from this Court, the Monas are taking a contrary position before this Court regarding the finality of
25 the Sanctions Order. In the Mona Fraudulent Transfer Action, the Monas asserted that the first
26 element for claim preclusion was satisfied because there is currently a final judgment on Far West's
27 fraudulent transfer claim against Ms. Mona in the instant case. See Motion to Dismiss, Ex. 8 to the
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1 Motion, at 9:19-20. In identifying the final judgment in this case, the Monas readily indicated that
2 the Sanctions Order is an "Order/Judgment" against them. *Id.* at 8:4-5, 8:9-11. The Monas further
3 argued before Judge Bare that "claim preclusion applies to [Far West's] Complaint because there are
4 two valid and final judgments . . . [,]" clearly referring to the Sanctions Order as one of the valid and
5 final judgments. *Id.* at 9:1-2. They again advocated that "Claim and Issue Preclusion Further Bar
6 the Second Cause of Action for Fraudulent Transfer Because the Court Has Already Ruled on the
7 Issue" and conceded that Far West "has already asserted and obtained an Order/Judgment regarding
8 this same exact claim [for the fraudulent transfer of \$3.4 million by Mr. Mona to Ms. Mona] in Case
9 No. A-12-670352." *Id.* at 9:6-12.

10 Now the Monas are claiming before this Court that the Sanctions Order is not final and
11 accordingly the Motion should be denied. In her Opposition to the Motion, Ms. Mona takes the
12 position that the Sanctions Order is "interlocutory" and suggests that the Sanctions Order is
13 somehow not final because it is on appeal.³ See Ms. Mona's Opposition to the Motion, filed March
14 7, 2016, at 3:10-11, 4:9-10 and 23-25, 6:25-7:2. Mr. Mona takes a similar tone in his Opposition to
15 the Motion when he argues the appeal of Sanctions Order somehow means this Court should not
16 enter judgment in favor of Far West. See Mr. Mona's Opposition to the Motion, filed March 7,
17 2016, at 4:15-24.

18 The Monas also have taken inconsistent positions as to how Far West can seek redress for the
19 Monas' fraudulent transfer through the Post-Marital Settlement Agreement. Before the Nevada
20 Supreme Court, the Monas argued that "[a] separate action was required before imposing liability
21 against Rhonda." See Petition for Writ of Mandamus or Prohibition, Ex. 4 to the Mot., at 16 of 30.
22 However, when Far West instituted the separate action before Judge Bare by bringing the Mona
23 Fraudulent Transfer Action for the Monas' fraudulent transfer through the Post-Marital Settlement
24 Agreement, the Monas then argued "Plaintiff is barred from bringing the exact same claim, which
25 has been decided and is the subject of an appeal." See Motion to Dismiss, Ex. 8 to the Motion, at
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28 ³ Despite arguing in one instance that the Sanctions Order is only interlocutory in her Opposition to the Motion, Ms. Mona goes on to state in the same paper that the Sanctions Order entered "case terminating sanctions[.]" See Ms. Mona's Opposition to the Motion, at 4:14. It strains logic that an order entering case terminating sanctions is not final.

1 9:15-16. The Monas' arguments would leave Far West with no basis or forum to obtain relief from
2 their fraudulent transfer.

3 **Conclusions of Law**

4 Pursuant to NRS 112.210(2) and the Court's powers in equity which are recognized in NRS
5 112.240, the Court orders that Far West may immediately levy execution against Ms. Mona in the
6 amount of \$490,000.00 plus interest at the statutory rate to be calculated from July 15, 2015 (the
7 date of entry of the Sanctions Order). The \$490,000.00 amount reflects the amount that Ms. Mona
8 testified was in her three bank accounts during her judgment debtor examination on June 26, 2015.
9 Far West is precluded from seeking to recover amounts in excess of \$490,000.00 against Ms. Mona,
10 subject to future motion practice.

11 The Court makes its order pursuant to NRS 112.210(2) because Far West is a creditor that
12 has obtained a judgment on a fraud claim against judgment debtor Mr. Mona. Nevada is a
13 community property state, which subjects the entire marital estate to that judgment obtained against
14 Mr. Mona. Therefore, the Court has authority to allow Far West to levy execution on the funds, up
15 to \$490,000, that the Court previously found were fraudulently transferred to Ms. Mona.

16 It is also fair and equitable to allow Far West to execute against Ms. Mona in the amount of
17 \$490,000 for several reasons:

18 First, the Court previously determined that the Monas fraudulently transferred \$3.4 million to
19 Ms. Mona through the Post-Marital Settlement Agreement. The original July 15, 2015 Sanctions
20 Order arose with the issue with the bank accounts and testimony that at that time there was
21 approximately \$490,000 in the bank accounts. By the time collection was able to be made there was
22 approximately \$18,000 in the bank accounts.

23 Second, the Court is dumbfounded that Ms. Mona transferred funds after the stay pending
24 appeal expired in violation of the Sanctions Order. Her conduct demonstrates that even if she was at
25 one time an innocent party to this proceeding, she is no longer an innocent party and that she is not
26 taking this action seriously.

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1 Third, regardless of whether Ms. Mona was a party to the judgment collection action, she
2 received \$3.4 million to the detriment of Far West. Accordingly, it is fair and equitable to allow Far
3 West to track the \$3.4 million transferred to Ms. Mona through the Post-Marital Settlement
4 Agreement.

5 Fourth, to the extent it is necessary and in the alternative or in addition to the Court's
6 statutory authority pursuant to NRS 112.210(2) and the Court's powers in equity which are
7 recognized in NRS 112.240, the Court considers the judicial estoppel doctrine, as set forth in *Mainor*
8 *v. Nault*, 120 Nev. 750, 765, 101 P.3d 308, 318 (2004) and *Delgado v. Am. Family Ins. Grp.*, 125
9 Nev. 564, 570, 217 P.3d 563, 567 (2009). Judge Bare has not yet ruled on the Monas' Motion to
10 Dismiss, such that the element of successful assertion of the initial position has not technically been
11 met at this time. However, all of the other elements of judicial estoppel have been met. The Court
12 finds that the Monas took two totally inconsistent positions as to the finality of the Sanctions Order
13 in two judicial proceedings – this judgment collection action and the Mona Fraudulent Transfer
14 Action in an attempt to obtain an unfair advantage in litigation including, at a minimum, delay.
15 These positions were not taken as a result of ignorance, fraud, or mistake. In fact, at the Second
16 Hearing, when Ms. Mona's counsel was asked whether she would withdraw her Motion to Dismiss
17 as to the Second Cause of Action in the Mona Fraudulent Transfer Action, which relates to the \$3.4
18 million transfer to her through the Post-Marital Settlement Agreement, counsel could not do that,
19 which leaves a cloud over the Mona Fraudulent Transfer Action.

20 The Court acknowledges that the law is not perfectly clear on the doctrine of judicial
21 estoppel. In *Mainor v. Nault*, the Nevada Supreme Court indicates that judicial estoppel is an
22 extraordinary remedy that should be cautiously applied and that, although not all of the required
23 elements are always necessary, the doctrine generally applies when they are present. Contrastingly,
24 in *Delgado v. Am. Family Ins. Grp.*, 125 Nev. 564, 570, 217 P.3d 563, 567 (2009), the Nevada
25 Supreme Court holds that "judicial estoppel will bar a party from raising an argument only when the
26 following conjunctive test is satisfied," *i.e.*, all the elements are met. Not all of the elements for
27 judicial estoppel have been met here, in particular the element requiring that the party be successful
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1 in asserting the first position (i.e., the tribunal adopted the position or accepted it as true).
2 Nevertheless, the Court finds that through the back and forth, inconsistent positions, and
3 contradictory arguments between this Court, Judge Bare, and the Nevada Supreme Court, the Monas
4 have attempted to obtain an unfair advantage. And, the primary purpose of judicial estoppel "to
5 protect the judiciary's integrity" is met if the Court orders that execution and collection efforts may
6 proceed against Ms. Mona on the \$490,000.00, plus interest. The Court, therefore, invokes the
7 doctrine at its discretion.

8 Fifth, there is no stay in place and no bond has been posted, which gives additional reason
9 for the Court to allow execution up to \$490,000 plus interest.

10 Based on the foregoing, and good cause appearing:


11 **IT IS HEREBY ORDERED** that the relief requested in the Motion is **GRANTED IN**
12 **PART AND DENIED IN PART** as set forth herein;

13 **IT IS HEREBY FURTHER ORDERED** that, pursuant to NRS 112.210(2), the Court's
14 powers in equity which are recognized in NRS 112.240, and the judicial estoppel doctrine, Far West
15 may immediately execute against Ms. Mona up to \$490,000.00, plus statutory interest calculated
16 from July 15, 2015;

17 **IT IS HEREBY FURTHER ORDERED** that this Court may consider allowing Far West to
18 execute against Ms. Mona in excess of \$490,000.00, subject to future motion practice.

19 **IT IS SO ORDERED.**

20 Dated this 13th day of June, 2016.


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23 **JOE HARDY, JR.**
24 **DISTRICT COURT JUDGE**
25 **DEPARTMENT 15**
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CERTIFICATE OF SERVICE

I hereby certify that on or about the date e-filed, I e-served, emailed, faxed, mailed or placed a copy of the AMENDED *NUNC PRO TUNC* ORDER REGARDING PLAINTIFF FAR WEST INDUSTRIES' MOTION TO REDUCE SANCTIONS ORDER TO JUDGMENT in the attorney folder in the Clerk's Office addressed to:

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