

**NOTICE OF PETITION FOR WRIT OF MANDAMUS OR, IN THE
ALTERNATIVE, FOR WRIT OF PROHIBITION**

TO: The Honorable Michael P. Gibbons, Ninth Judicial District Court
Judge, Department II, 1038 Buckeye Road, P.O. Box 218, Minden,
Nevada 89423

TO: Michael L. Matuska, Esq., Matuska Law Offices, 937 Mica Drive,
Suite 16A, Carson City, Nevada 89705

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE the foregoing
Petition for Writ of Mandamus/Prohibition will be brought before the above-
entitled Court.

Respectfully submitted this 24 day of October 2016.

~~Dubowsky Law Office, Chtd.~~

By: Peter Dubowsky, Esq.
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APPENDIX

(The following documents are attached pursuant to N.R.A.P. 21(a)(4))

| Tab # | Document Description | Date |
|--------------|--|-------------|
| 1 | Second Amended Complaint | 11/27/12 |
| 2 | Default Judgment | 5/14/13 |
| 3 | Response to Claim of Exemption, Request for Hearing AND Request for Issuance of Summons | 9/25/13 |
| 4 | Margaret Rawson's Opposition to and Motion to Quash the Summons to Add Her Name to the Current Judgment Pursuant to NRS 17.060; and Affidavit | 11/7/13 |
| 5 | Response to Margaret Rawson's Opposition to and Motion to Quash Summons | 12/10/13 |
| 6 | Order Granting Motion to Clarify and to Set Aside Default and Setting Hearing for Final Determination on Rawson's Claim of Exemption, Etc., and Margaret Rawson's Motion to Quash Summons on January 2, 2014 at 10:00 A.M. | 12/11/13 |
| 7 | Notice of Entry of Order Denying Rawson's Claim of Exemption and Denying Motion to Quash Summons | 2/10/14 |

1 I. RELIEF SOUGHT

2 This is a Writ challenging an N.R.S. §17.030¹ Judgment in an amount in
3 excess of \$29,000,000.00, entered against a non-party/third-party non-resident
4 who was not named in the pleadings, Petitioner Margaret Rawson (“Margaret”
5 or “Petitioner”). The Petitioner brings this Writ because the statute has been
6 misinterpreted and misapplied, resulting in a \$29,000,000.00 Judgment against
7 her as a result of a show cause hearing. This Court’s intervention on N.R.S.
8 §17.030 is strongly needed in this case and in general. Even the Ninth Circuit,
9 commenting as recently as 2014, has acknowledged that there is no case law
10 interpreting N.R.S. §17.030.² The District Court’s erroneous view of N.R.S.
11 §17.030 et. seq. resulting in a \$29,000,000.00 judgment against a non-party
12 (after a motion to quash hearing where no Answer was filed) demonstrates that
13 this issue of law needs clarification, and granting this writ would serve the
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19 ¹ N.R.S. §17.030 states in pertinent part:

20 When a judgment is recovered against one or more of several
21 persons jointly indebted upon an obligation . . . those who were
22 not originally served with the summons and did not appear to the
23 action may be summoned to show cause why they should not be
24 bound by the judgment in the same manner as though they had
25 been originally served with the summons.

² Meritage Homes of Nev., Inc. v. Fed. Deposit Ins. Corp., 753 F.3d 819, 826
(9th Cir. 2014)

1 public policy of explaining the proper application of N.R.S. §17.030 et. seq.
2 statutory scheme.

3
4 Margaret was named in neither the Second Amended Complaint
5 (“SAC”)(Appendix **Exhibit “1”**), nor the underlying Default Judgment
6 (Appendix **Exhibit “2”**) against DR Rawson (“DR”)³; however, the District
7 Court summarily awarded a \$29,000,000.00⁴ Judgment against Margaret as a
8 non-party/third party, after a “Motion to Quash Summons” show cause
9 hearing⁵ purportedly based on N.R.S. §17.030.

11 The District Court did not provide adequate due process before
12 imposing the \$29,000,000.00 Margaret Judgment, nor did the District Court
13 properly interpret the statute before entering the Margaret Judgment. The
14 hearing on the Motion to Quash Summons did not allow Margaret sufficient
15

16
17 ³ Margaret and DR are spouses.

18 ⁴ According to the District Court’s February 10, 2014 Order Denying
19 Rawson’s Claim of Exemption and Denying Motion to Quash Summons
20 (“Margaret Judgment”), the original Default Judgment is “in excess of
21 \$29,000,000.00” (Page 2 line 25-26).

22 ⁵ The District Court’s February 10, 2014 Margaret Judgment states in part:

23 The court finds [Margaret] Rawson has failed to show cause why
24 she should not be added to the [in excess of \$29,000,000.00
25 default] judgment and be bound by the Default Judgment in all
respects and as if she had been named in the original complaint
and the Default Judgment.

1 due process to Answer or contest the merits of the independent claim against
2 her.

3
4 Margaret was not originally served because she was never named in the
5 original matter. The District Court's erroneous view of N.R.S. 17.030 ("those
6 who were not originally served with the summons") was to apply the Default
7 Judgment to Margaret, who was never named as a party at all. The District
8 Court's interpretation and application of the statute is incorrect.
9

10 The Nevada Statute, N.R.S. §17.030, was copied from California Code
11 of Civil Procedure §989⁶. The California Court of Appeal expressly
12 interpreted the "not originally summoned" language contained in CCP §989⁷
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17 ⁶ According to the Legislative History, N.R.S. §17.030 was enacted as part of
18 the Civil Practice Act of 1911 (§301), NCL §8799, which expressly states that
19 its language is taken from California Code of Civil Procedure §989.

20 ⁷ California Code of Civil Procedure 989:

21 When a judgment is recovered against one or more of several
22 persons, jointly indebted upon an obligation, by proceeding as
23 provided in Section 410.70, those who were not originally served
24 with the summons, and did not appear in the action, may be
25 summoned to appear before the court in which such judgment is
entered to show cause why they should not be bound by the
judgment, in the same manner as though they had been originally
served with the summons.

1 to mean that the unsummoned party was at least named in the original matter.⁸

2 If the party was not named in the previous pleadings as joint debtor, that party
3 is entitled to an order quashing the joint debtor summons. The California
4 Court stated, “An alleged joint debtor who was not made a party to the action,
5 and against whom no joint liability cause of action was stated, is entitled to an
6 order quashing the joint debtor summons.”⁹

7
8
9 Further, N.R.S. §17.030 applies only to “persons jointly indebted upon
10 an obligation.” Margaret was not “jointly indebted” on any obligation with
11 DR as alleged in either the Second Amended Complaint or the Default
12 Judgment. The Default Judgment against DR was based on the Second
13 Amended Complaint (“SAC”). The Second Amended Complaint alleged
14 causes of action for breach of a Settlement Agreement and Release of All
15 Claims (“Settlement Agreement”), to which Margaret was not a contracting
16 party. As to the other allegations, such as fraud and civil conspiracy, the SAC
17 makes no reference to or allegations about Margaret. The fact that SAC does
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21 ⁸ Meller & Snyder v. R & T PROPERTIES, INC., 73 Cal Rptr. 2d 740, 62 Cal.
22 App. 4th 1303 (Cal. Ct. App. 1998) (emphasis added) *citing* McRae v. Viscose
23 Ambulatorium, 16 Cal.Rptr. 565, 567 (1961) (Post-Judgment Motion to Quash
24 affirmed in favor of the “joint debtor” under CCP §989 where the alleged
25 “joint debtor” was not made a party to the original action).

⁹ Id.

1 not mention Margaret means that it was an erroneous view of the law, and the
2 District Court's summary imposition of a \$29,000,000.00 judgment against
3 Margaret based on the SAC was an improper exercise of jurisdiction.
4

5 In fact, N.R.S. §17.040 states that, "It shall not be necessary to file a
6 new complaint." In other words, in order for N.R.S. §17.030 to apply, the
7 allegation of joint indebtedness in the original pleading must be identical to
8 those against the joint debtor in the §17.030 action. That was not the case here
9 as Margaret is not named in the SAC.
10

11 The Petitioner seeks a Writ of Mandamus compelling the District Court
12 to vacate and set aside the Margaret Judgment because it is based on an
13 erroneous view of the Nevada statutory scheme.
14

15 In the alternative, the Petitioner seeks a Writ of Prohibition, arresting
16 the District Court from enforcing the Margaret Judgment, because it is
17 without, or in excess of, the District Court's jurisdiction.
18

19 **II. ISSUES PRESENTED**

20 Was it a manifest abuse of discretion, an arbitrary or capricious exercise
21 of discretion, or an improper exercise of jurisdiction based on an erroneous
22 view of the law for the District Court to enter a \$29,000,000.00 Judgment,
23 purportedly based on N.R.S. 17.030, where:
24
25

1) Margaret was never named in the action, and therefore does not qualify as a joint debtor “not originally served with the summons”¹¹;

2) Margaret was not given an opportunity to Answer as provided in N.R.S. §§17.060¹² and 17.070¹³;

III. FACTS NECESSARY TO UNDERSTAND THE ISSUES PRESENTED BY THE PETITION

All relevant parts of the Record are included in the Appendix,¹⁴ omitting filings that are unnecessary to the issues raised in this Writ.¹⁵

1. On November 27, 2012, Real Parties in Interest filed a Second Amended Complaint, or SAC (Appendix **Exhibit “1”**) against Defendants in this action including DR. The SAC alleged causes of action for 1) Breach of a

¹¹ Quoting N.R.S. §17.030.

¹² N.R.S. §17.060 states in pertinent part that “Upon such summons, the defendant may answer. . .”

¹³ N.R.S. §17.070 states in pertinent part, “If the defendant, in his or her answer, deny the judgment, or set up any defense. . .”

¹⁴ N.R.A.P. 21(a)(4) and 30(b).

¹⁵ Petitioner also attempted to claim an exemption on levied funds; however, that aspect of the District Court decision is not the subject of this Writ. Therefore, in accordance with N.R.A.P. 30(b), those filings that pertain only to that issue are omitted.

1 Settlement Agreement and Release of Claims; 2) Fraud; 3) Civil Conspiracy;
2 4) Negligence; 5) Conversion; and 6) Constructive Trust.¹⁶
3

4 Margaret was not named in the Second Amended Complaint.

5 2. On May 14, 2013, Default Judgment (Appendix **Exhibit “2”**)
6 was entered against DR and other Defendants on the SAC in the principal
7 amount of \$20,000,000.00.
8

9 Margaret was not named in the Default Judgment.

10 3. On September 25, 2013, Real Parties in Interest filed Request for
11 Issuance of Summons (“Request”) (Appendix **Exhibit “3”**) purportedly
12 pursuant to N.R.S. §§17.030 and 17.040. The Request stated that the Real
13 Parties in Interest “did not have the benefit of Rawson’s bank records [upon
14 filing the SAC].”¹⁷ The Request alleged that Margaret was a bank account
15 holder that received transfers in 2009 and 2010.
16

17 4. Margaret’s Opposition and Affidavit (Appendix **Exhibit “4”**)
18 showed evidence, *inter alia*, that she is not a proper party to the lawsuit
19 because Margaret was never involved in the day to day activities.¹⁸
20
21

22 ¹⁶ The SAC labeled “Constructive Trust” as the “Eighth Claim for Relief”;
23 however, it was the sixth and final claim for relief. (SAC Page 9)

24 ¹⁷ Request for Summons page 3 lines 23-24.

25 ¹⁸ Opposition Page 3 lines 2-3.

1 Margaret's Affidavit stated that during the relevant period she was a full-time
2 employee of Coast Cadillac in Long Beach, California. The Opposition
3 argued that Margaret should be allowed the opportunity to file an Answer
4 pursuant to N.R.S. §17.060.
5

6 5. On December 11, 2013, the District Court entered an Order
7 (Appendix **Exhibit "6"**) setting the Motion to Quash Summons for hearing
8 January 2, 2014.
9

10 6. Following the hearing, the District Court entered an Order
11 Denying Rawson's Claim of Exemption and Denying Motion to Quash
12 Summons (Appendix **Exhibit "7"**). The Order states in pertinent part:
13

14 The court finds Rawson has failed to show cause why she should
15 not be added to the judgment and be bound by its terms. NRS
16 17.030. Her motion to quash is therefore DENIED. Rawson shall
17 be bound by the Default Judgment in all respects and as if she
18 had been named in the original complaint and Default Judgment.

19 7. Margaret filed bankruptcy in California on February 13, 2015
20 (8:15-bk-10719-ES C.D. Cal.), staying the enforcement.²⁰ The Judgment
21 Denying Discharge was entered on August 18, 2016. The Real Parties in
22 Interest have commenced enforcement of the Margaret Judgment by serving
23 post-judgment discovery, necessitating this Writ.
24

25

20 11 U.S.C. §362(a).

1 IV. REASONS WHY THE WRIT SHOULD ISSUE

2 The circumstances of this case and the interpretation of N.R.S. §17.030
3 in general “reveal urgency or strong necessity”²¹ for this Court’s intervention.
4 The interpretation and application of N.R.S. 17.030 cries out for this Court’s
5 guidance because of cases like this where the statute’s misuse results in
6 substantial injustice. As the Ninth Circuit commented on N.R.S. §17.030:
7

8 As pointed out above . . . there has been “no case law
9 interpreting” this section of the Nevada Revised Statutes.
10 Likewise, we are not aware of any such law.²²

11 Margaret has never appeared in caption of this matter, yet she is now a
12 judgment debtor of a \$29,000,000.00 Judgment²³ purportedly based on a
13 N.R.S. §17.030 hearing. The Petitioner did not have any full due process
14 opportunity to contest the matter before the denial of her Motion to Quash
15 resulted in the \$29,000,000.00 Margaret Judgment. The District Court
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18 ²¹ Quoting Jeep Corp. v. Second Judicial Dist. Court, 98 Nev. 440, 443, 652
19 P.2d 1183, 1185 (1982).

20 ²² Meritage Homes of Nev., Inc. v. Fed. Deposit Ins. Corp., 753 F.3d 819, 825-
21 6 (9th Cir., 2014) (emphasis added)

22 ²³ The Margaret Judgment is dated February 10, 2014. Margaret filed
23 bankruptcy in the Central District of California on February 13, 2015 (8:15-
24 bk-10719-ES C.D. Cal.). The Judgment Denying Discharge was entered on
25 August 18, 2016.

1 erroneously exercised its judgment putatively pursuant to N.R.S. §17.030,
2 which exclusively applies to “joint indebtedness”, and requires joint parties to
3 show cause why they should not be bound by the underlying Judgment on said
4 joint indebtedness. Margaret was not a party to the Settlement Agreement that
5 formed the basis for the Default Judgment and was not named in the SAC.
6 Therefore, Margaret could not be jointly indebted.
7

8
9 The Judgment Creditors are now commencing enforcement against
10 Margaret. The Petitioner requires this Court’s intervention to prevent an
11 improper \$29,000,000.00 Judgment from being enforced against her. The
12 Petitioner has no plain, speedy or adequate remedy at law to contest the
13 Margaret Judgment. The Margaret Judgment was not an appealable
14 determination under N.R.A.P. 3A(b) because Margaret was not a party to the
15 action²⁴ and the Margaret Judgment was not a “final judgment”²⁵ of this case.
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20 ²⁴ Mona v. Eighth Jud. Dist. Ct., 132 Nev. Adv. Op. No. 72 (September 29,
21 2016) (Mona was not a party to the litigation below, so she had no standing to
22 appeal.)

23 ²⁵ [A] final judgment has been described as one ‘that . . . leaves nothing for the
24 future consideration of the court.’ Lee v. GNLV CORP., 116 Nev. 424 (2000).
25 This District Court matter was ongoing as to the other parties and issues at the
time of the Margaret Judgment.

1 This Court may still consider important issues of law that need
2 clarification, and grant a writ if review would serve a public policy or judicial
3 economy interest.²⁷
4

5 Without this Court's intervention, the Petitioner will have no speedy
6 adequate remedy at law to stop the enforcement and set aside an improper
7 \$29,000,000.00 Judgment that was entered against her. Margaret, who was not
8 named in the SAC and not given opportunity to file an Answer and defend as
9 required by N.R.S. §17.060, should not be held liable for the \$29,000,000.00
10 Margaret Judgment resulting after the hearing wherein the District Court
11 denied Margaret's Motion to Quash summons.
12
13

14 This Court's intervention is warranted.

15 A. Writ Standard

16 This Court has the power to issue writs of mandamus and prohibition.²⁸
17
18 This Court may issue a writ of mandamus to "a district court or a judge of the
19 district court, to compel the performance of an act which the law especially
20 enjoins as a duty resulting from an office, trust or station."²⁹ A writ of
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22
23 ²⁷ Diaz v. Eighth Judicial Dist. Court, 116 Nev. 88, 93, 993 P.2d 50, 54
24 (2000).

25 ²⁸ Nevada Constitution Article 6 Section 4.

²⁹ N.R.S. §34.160.

mandamus “shall be issued in all cases where there is not a plain, speedy and adequate remedy in the ordinary course of law.”³⁰ “A writ of mandamus is available to . . . control a manifest abuse or arbitrary or capricious exercise of discretion.”³¹ “However, even if an adequate legal remedy exists, this court will consider a writ petition if an important issue of law needs clarification or if review would serve a public policy or judicial economy interest.”³² “A district court would necessarily abuse its discretion if it based its ruling on an erroneous view of the law.”³³ The District Court’s Margaret Judgment is based on erroneous views of the applicable law in regards to N.R.S. 17.030, thus necessitating this Writ.

A writ of prohibition is the appropriate remedy for a district court’s improper exercise of jurisdiction.³⁴ A writ of prohibition “arrests the proceedings of any tribunal . . . when such proceedings are without or in

³⁰ N.R.S. §34.170

³¹ State v. Eighth Judicial Dist. Court of Nevada, 127 Nev. Adv. Op. 84, 267 P.3d 777, 779 (Nev., 2011) *see also* Gumm v. STATE, DEPT. OF EDUCATION, 121 Nev. 371 (2005)

³² Diaz v. Eighth Judicial Dist. Court, 116 Nev. 88, 93, 993 P.2d 50, 54 (2000)

³³ BMW v. Roth, 127 Nev. Adv. Op. 11, 252 P.3d 649 (Nev., 2011)

(quotations omitted)

³⁴ N.R.S §34.320

1 excess of the jurisdiction of such tribunal.”³⁵ A writ of prohibition is also
2 available “where there is not a plain, speedy and adequate remedy in the
3 ordinary course of law.”³⁶ The District Court’s entry of the \$29,000,000.00
4 Margaret Judgment is without or in excess of the District Court’s jurisdiction,
5 necessitating this Writ to prohibit its enforcement.
6

7
8 B. Margaret Does Not Qualify Under NRS 17.030 as a Joint Debtor
9 Not Originally Summoned.

10 Although Margaret never was named as a party in the action, and
11 never appeared in the caption, the District Court imposed liability under
12 N.R.S. §17.030 to the tune of \$29,000,000.00. The District Court’s erroneous
13 interpretation of the language in N.R.S. §17.030 (“those who were not
14 originally served with the summons and did not appear to the action”) cannot
15 be applied to those were never named in the underlying pleading as parties.
16 The statutory scheme of N.R.S. §§17.030 – 17.080 (Parties Not Originally
17 Summoned) was interpreted by the District Court to mean that the Real Parties
18 in Interest could add an entirely new party to the Default Judgment who was
19 never named in the SAC. This cannot be a correct interpretation of the plain
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24 ³⁵ N.R.S. §34.320

25 ³⁶ N.R.S. §34.330.

1 meaning³⁷ of the statute.³⁸ In fact, N.R.S. §17.040 states that “It shall not be
2 necessary to file a new complaint.” The plain meaning of N.R.S. §17.030 is
3 that the joint debtor was already named in the complaint for the joint
4 indebtedness, but was not served prior to obtaining the judgment co-joint
5 debtors.
6

7 The fact that Margaret cannot be brought in under N.R.S. §17.030
8 where she is not named in the SAC is supported by California’s interpretation
9 of their identical statute, California Code of Civil Procedure 989³⁹ (“CCP
10

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13 ³⁷ Biscay v. MGM Resorts Int’l, Corp., 131 Nev. Adv. Op. 46, 352 P.3d 1148
14 (Nev., 2015) citing MGM Mirage v. Nev. Ins. Guar. Ass’n, 125 Nev. 223, 226
15 (2009) (“This court has established that when it is presented with an issue of
16 statutory interpretation, it should give effect to the statute's plain meaning. . . .
17 Thus, when the language of a statute is plain and unambiguous, such that it is
18 capable of only one meaning, this court should not construe that statute
19 otherwise.”

20 ³⁸ “Statutory interpretation is a question of law that we review de novo, even
21 in the context of a writ petition.” International Game Technology v. Dist. Ct.,
22 124 Nev. 193, 179 P.3d 556 (Nev., 2008) citing D.R. Horton v. Dist. Ct., 123
23 Nev. 468 (2007).

24 ³⁹ California Code of Civil Procedure 989:

25 When a judgment is recovered against one or more of several
persons, jointly indebted upon an obligation, by proceeding as
provided in Section 410.70, those who were not originally served

§989”), from which N.R.S. §17.030 is duplicated. In Meller & Snyder v. R & T Properties, Inc.,⁴¹ the California Appellate Court made it clear that if a party was not originally named in the underlying case, they are entitled to a motion to quash the new summons:

Section 989 et seq. applies only when the alleged joint debtor was named or joined as a party and a joint liability cause of action was stated against it, but it was not served with summons. (§§ 989, 410.70; Brenelli Amedeo, S.P.A. v. Bakara Furniture, Inc. (1994) 29 Cal.App.4th 1828, 1840, 35 Cal.Rptr.2d 348; Vincent v. Grayson, *supra*, 30 Cal.App.3d at p. 905, 106 Cal.Rptr. 733; McRae v. Bates, *supra*, 196 Cal.App.2d at p. 512; , 16 Cal.Rptr. 565 8 Witkin, Cal. Procedure (4th ed. 1997) Enforcement of Judgment, § 389, p. 389; Ahart, Cal. Practice Guide: Enforcing Judgments and Debts (Rutter 1997) § 6:1547, rev. # 1, 1995.) **An alleged joint debtor who was not made a party to the action, and against whom no joint liability cause of action was stated, is entitled to an order quashing the joint debtor summons.** (McRae v. Bates, *supra*, 196 Cal.App.2d at pp. 512-513, 16 Cal.Rptr. 565; see Vincent v. Grayson, *supra*, 30 Cal.App.3d at p. 905, 106 Cal.Rptr. 733.) (emphasis added)

with the summons, and did not appear in the action, may be summoned to appear before the court in which such judgment is entered to show cause why they should not be bound by the judgment, in the same manner as though they had been originally served with the summons.

⁴¹ 62 Cal.App.4th 1303, 73 Cal.Rptr.2d 740 (Cal.App. 1998).

1 The California Court has also held that “Under Code of Civil Procedure
 2 section 989, joint debtors who were named but not served may be ordered to
 3 show cause why they should not be bound by a judgment on the obligation.”⁴²
 4
 5 In Brenelli Amedeo, S.P.A. v. Bakara Furniture, Inc., 35 Cal. Rptr. 2d 348, 29
 6 Cal. App. 4th 1828, 1840, (Cal. App. 2 Dist. 1994) the Court explained:

7 This [Section 989] proceeding is useful in cases
 8 where more than one party is indebted upon an
 9 obligation and the plaintiff names all of the parties as
 10 defendants but is unable to effect personal service of
 11 summons, e.g., because one of the parties is a
 12 nonresident. Section 989 permits the trial court that
 13 heard and decided the case to bring the joint debtor
 14 before that court to show cause why he or she should
 15 not be bound by the judgment. (emphasis added)

16 In Vincent v. Grayson⁴³, the California appeals court stated that to enter a
 17 judgment against a joint debtor under CCP §989 that was not named “would
 18 be to permit a new lawsuit against a defendant without affording him the
 19 protection of the normal rules of procedure available in a plenary action.”

22 ⁴² DKN HOLDINGS LLC v. FAERBER, 61 Cal.4th 813, 352 P.3d 378 n.4
 23 (2015)

24 ⁴³ 106 Cal.Rptr. 733, 742 (1973) (Such an act would also render the statutory
 25 scheme for joint debtor proceedings “incomprehensible”)

1 Margaret was not named in the SAC. Therefore, the District Court
2 may not exercise jurisdiction over her under N.R.S. §17.030 and enter the
3 \$29,000,000.00 Judgment.
4

5 C. The District Court Violated the Statute By Not Allowing
6 Margaret to File an Answer

7 In addition to the fact that Margaret was not named in the SAC, she
8 was not even given the opportunity to Answer the N.R.S. 17.030 action
9 against her. N.R.S. §17.060 states that "Upon such summons, the defendant
10 may answer. . ." Further, §17.070 states, "If the defendant, in his or her
11 answer, deny the judgment, or set up any defense . . ."

12
13 In response to the Summons Margaret, who was not named in the
14 original action, filed a Motion to Quash (Appendix **Exhibit "4"**) in
15 accordance with Meller & Snyder v. R & T Properties, Inc., which states that
16 she "is entitled to an order quashing the joint debtor summons."⁴⁴ However,
17 the District Court denied the Motion of Quash. Compounding that error,
18 instead of following the Nevada statutory scheme and allowing Margaret the
19 opportunity to file an Answer, the District Court immediately entered the
20 \$29,000,000.00 Judgment simply upon denying her Motion to Quash.⁴⁵ The
21
22
23

24
25 ⁴⁴ 62 Cal.App.4th 1303 (1998) (emphasis added).

⁴⁵ Appendix **Exhibit "7"**.

1 District Court's ruling, resulting in the Margaret Judgment, is an erroneous
2 view of N.R.S. 17.030 et seq.

3
4 **CONCLUSION**

5 Based on the foregoing, the Petitioner respectfully requests that this
6 Honorable Court intervene in the Petitioner's District Court case and issue a
7 Writ of Mandamus, compelling the District Court to set aside the Margaret
8 Judgment as void. In the alternative, Petitioner seeks a Writ of Prohibition,
9 arresting the District Court from any enforcement of the Margaret Judgment.
10

11 Dated: October 21, 2016

12
13 DUBOWSKY LAW OFFICE, CHTD.

14 By: 

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17 300 South Fourth Street
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20 (702) 360-3500
21 Fax (702) 360-3515
22 Attorney for Petitioner
23 Margaret Rawson
24
25

VERIFICATION PURSUANT TO N.R.A.P. 21(A)(5)

STATE OF NEVADA)
)
 COUNTY OF CLARK)

SS:

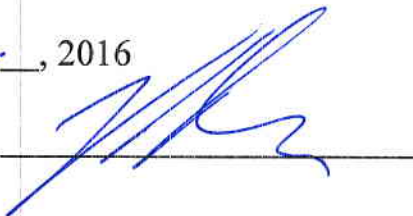
I, Peter Dubowsky, being duly sworn, deposes and says:

That he is the counsel of record for the Petitioner, Margaret Rawson, in the above-entitled matter, has read the forgoing Petition for Writ of Mandamus or, in the Alternative, for Writ of Prohibition and knows the content thereof; that the same is true of his own knowledge except for those matters therein stated upon information and belief, and as to those matters he believes the same to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 4 day of October, 2016

By



CERTIFICATE OF SERVICE

The undersigned, an employee of Dubowsky Law Office, Chtd., hereby certifies that on the 21st day of October, 2016, I deposited in the United States Mail, postage prepaid, a true and correct copy of the foregoing Petition for Writ of Mandamus or, in the Alternative, for Writ of Prohibition, addressed as follows:

The Honorable Michael P. Gibbons
Ninth Judicial District Court Judge
Department II
1038 Buckeye Road
P.O. Box 218
Minden, Nevada 89423

Michael L. Matuska, Esq.
Matuska Law Offices
937 Mica Drive, Suite 16A
Carson City, Nevada 89705

By: Amanda Naylor
An employee of Dubowsky Law Office, Chtd.