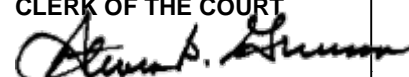


1 **NOAS**
2 G. MARK ALBRIGHT, ESQ.
3 Nevada Bar No. 001394
4 D. CHRIS ALBRIGHT, ESQ.
5 Nevada Bar No. 004904

6 **ALBRIGHT, STODDARD, WARNICK & ALBRIGHT**
7 801 South Rancho Drive, Suite D-4
8 Las Vegas, Nevada 89106
9 Tel: (702) 384-7111
10 Fax: (702) 384-0605
11 gma@albrightstoddard.com
12 dca@albrightstoddard.com
13 *Attorneys for Appellant/Plaintiff*

Electronically Filed
8/22/2017 10:34 AM
Steven D. Grierson
CLERK OF THE COURT



Electronically Filed
Aug 29 2017 09:40 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 BRANCH BANKING & TRUST COMPANY, a
17 North Carolina corporation,

18 Appellant/Plaintiff,

19 vs.

20 DOUGLAS D. GERRARD, ESQ., individually;
21 and GERRARD & COX, a Nevada professional
22 corporation, d/b/a GERRARD COX & LARSEN;
23 JOHN DOE INDIVIDUALS I-X; and ROE
24 BUSINESS ENTITIES XI-XX,

25 Respondents/Defendants.

CASE NO. A-16-744561-C

DEPT NO. XXVII

26 **NOTICE OF APPEAL**

27 NOTICE is hereby given that BRANCH BANKING & TRUST COMPANY, a North
28 Carolina corporation, the Plaintiff in this Case No. A-16-744561-C, hereby appeals to the
Supreme Court of the State of Nevada from the following dispositive Order, entered against it and
in favor of the Defendants DOUGLAS D. GERRARD, ESQ., individually; and GERRARD &
COX, a Nevada professional corporation, d/b/a GERRARD COX & LARSEN, in these
proceedings: "Decision and Order Granting Defendants Douglas D. Gerrard, Esq. and Gerrard
Cox & Larsen's Motion to Dismiss First Amended Complaint and Denying Plaintiff's
Countermotion for Leave to Amend" entered by the District Court on May 25, 2017, with Notice

///

1 of Entry thereon being filed and electronically served on May 26, 2017.

2 DATED this 22nd day of August, 2017.

3 ALBRIGHT, STODDARD, WARNICK & ALBRIGHT

4 

5 G. MARK ALBRIGHT, ESQ.

6 Nevada Bar No. 001394

7 D. CHRIS ALBRIGHT, ESQ.

8 Nevada Bar No. 004904

9 801 South Rancho Drive, Suite D-4

10 Las Vegas, Nevada 89106

11 Tel: (702) 384-7111

12 gma@albrightstoddard.com

13 dca@albrightstoddard.com

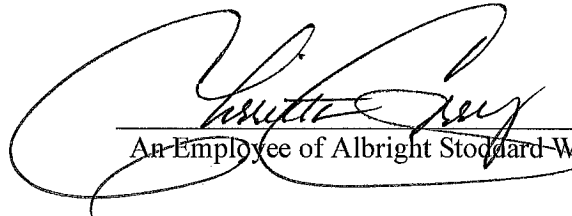
14 Counsel for Appellant/Plaintiff

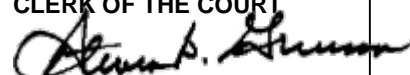
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT and that on this 22ND day of August, 2017, service was made by the following mode/method of a true and correct copy of the foregoing **NOTICE OF APPEAL** to the following person(s):

Craig J. Mariam, Esq., #10926
Robert S. Larsen, Esq., #7785
Wing Yan Wong, Esq., #13622
GORDON & REES LLP
300 South Fourth Street, Suite 1550
Las Vegas, Nevada 89101
Tel: 702.577.9310
Fax: 702.255.2858
cmariam@gordonrees.com
rlarsen@gordonrees.com
wwong@gordonrees.com
Attorney for Defendants

☐ Certified Mail
☒ Electronic Filing/Service
☐ Email
☐ Facsimile
☐ Hand Delivery
☒ Regular U.S. Mail


An Employee of Albright Stoddard Warnick & Albright



1 **ASTA**
2 G. MARK ALBRIGHT, ESQ.
3 Nevada Bar No. 001394
4 D. CHRIS ALBRIGHT, ESQ.
5 Nevada Bar No. 004904
6 **ALBRIGHT, STODDARD, WARNICK & ALBRIGHT**
7 801 South Rancho Drive, Suite D-4
8 Las Vegas, Nevada 89106
9 Tel: (702) 384-7111
10 Fax: (702) 384-0605
11 gma@albrightstoddard.com
12 dca@albrightstoddard.com
13 *Attorneys for Appellant/Plaintiff*

14 **DISTRICT COURT**
15
16 **CLARK COUNTY, NEVADA**

17 **BRANCH BANKING & TRUST COMPANY, a**
18 **North Carolina corporation,**

CASE NO. A-16-744561-C

19 **Appellant/Plaintiff,**

DEPT NO. XXVII

20 **vs.**

21 **DOUGLAS D. GERRARD, ESQ., individually;**
22 **and GERRARD & COX, a Nevada professional**
23 **corporation, d/b/a GERRARD COX & LARSEN;**
24 **JOHN DOE INDIVIDUALS I-X; and ROE**
25 **BUSINESS ENTITIES XI-XX,**

CASE APPEAL STATEMENT

26 **Respondents/Defendants.**

27 1. The name of the Appellant filing this Case Appeal Statement is: **BRANCH**
28 **BANKING & TRUST COMPANY, a North Carolina corporation, qualified and registered to do**
29 **business in Nevada.**

30 2. The following Judge issued the decision and order appealed from: The Honorable
31 **Nancy L. Allf, District Court Judge, Department 27, Clark County, Nevada.**

32 3. The identity of each Appellant and the name and address of counsel for each
33 **Appellant is as follows:**

34 **APPELLANT:** **Branch Banking & Trust Company, a North**
35 **Carolina corporation**

1 APPELLANT'S COUNSEL: G. Mark Albright, Esq.
2 Nevada Bar No. 001394
3 D. Chris Albright, Esq.
4 Nevada Bar No. 004904
5 ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
6 801 South Rancho Drive, Suite D-4
7 Las Vegas, Nevada 89106
8 Tel: 702.384.7111
9 Fax: 702.384.0605
10 gma@albrightstoddard.com
11 dca@albrightstoddard.com

12 4. The identify of each Respondent and the name and address of anticipated appellate
13 counsel, which was also District Court counsel, for each Respondent, is as follows:

14 RESPONDENTS: DOUGLAS D. GERRARD, ESQ.;

15 GERRARD & COX, a Nevada professional
16 corporation, d/b/a GERRARD COX & LARSEN

17 RESPONDENTS' COUNSEL: Craig J. Mariam, Esq., #10926
18 Robert S. Larsen, Esq., #7785
19 Wing Yan Wong, Esq., #13622
20 GORDON & REES LLP
21 300 South Fourth Street, Suite 1550
22 Las Vegas, Nevada 89101
23 Tel: 702.577.9310
24 Fax: 702.255.2858
25 cmariam@gordonrees.com
26 rlarsen@gordonrees.com
27 wwong@gordonrees.com

28 5. All counsel identified in paragraphs 3 and 4 above are licensed to practice law in
the State of Nevada.

6. Appellant was represented by retained counsel in the District Court.

7. Appellant is represented by retained counsel on appeal.

8. Appellant has not sought nor has it been granted leave to proceed in forma
pauperis.

9. The proceedings commenced in the District Court on October 5, 2016.

10. A brief description of the nature of the action and result in the District Court,
including the type of order being appealed from and the relief granted by the District Court is as
follows:

1 This action is a legal malpractice suit against attorney Douglas D. Gerrard ("Gerrard") and
2 his law firm Gerrard & Cox, a Nevada professional corporation d/b/a Gerrard Cox & Larsen
3 ("GC&L"), stemming from those Defendants' representation of Plaintiff/Appellant Branch
4 Banking & Trust Company ("BB&T") in an earlier Clark County, Nevada case, which was known
5 as Case Number A-08-574852, consolidated with Case No. A-09-594512 (hereinafter the
6 "underlying priority suit"). The underlying priority suit adjudicated the priority of two competing
7 deeds of trust against commercial real property located in Henderson Nevada. Said suit was tried
8 before the Honorable Elizabeth Gonzalez in 2010. BB&T lost the underlying priority suit, and this
9 loss was appealed to this Nevada Supreme Court (Nev. Sup. Ct. Case No. 56640) which upheld
10 the lower court's decision. Thereafter, the outcome in the underlying priority suit was the subject
11 of a Petition for Writ of Certiorari to the United States Supreme Court (the "Petition"), which
12 ultimately denied that Petition.

13 Within two years of that denial, by the U.S. Supreme Court, of the Petition, this lawsuit
14 was filed. This lawsuit is a legal malpractice claim against the attorneys who represented
15 Plaintiff/Appellant BB&T before the trial court in the underlying priority suit. The loss suffered by
16 BB&T in that suit was, it is alleged herein, not on the merits, but due to procedural and other
17 errors, constituting legal malpractice, by the Defendants/Respondents. The Defendants in this
18 legal malpractice suit filed an NRCP 12(b)(5) Motion to Dismiss, arguing among other
19 contentions that this suit was time-barred under Nevada's statute of limitations for legal
20 malpractice. That Motion was granted and this action has now been dismissed based on a Decision
21 and Order dismissing this suit as barred by the applicable statute of limitations.

22 This is an appeal from that Order of Dismissal, as the Appellant BB&T avers that this suit
23 was timely brought within two years of the U.S. Supreme Court's rejection of the Petition, which
24 should be treated as an appeal for purposes of applying this Court's litigation malpractice appeal
25 tolling and delayed claim accrual rules.

26 11. This instant case has not previously been the subject of an appeal to or original writ
27 proceeding to this Court. (The underlying priority suit was the subject of such a prior proceeding
28 [Case No. 56640], as indicated above, but not this legal malpractice case.)

12. This appeal does not involve child custody or visitation.

13. This appeal may involve the possibility of settlement.

DATED this 22nd day of August, 2017.

ALBRIGHT, STODDARD, WARNICK & ALBRIGHT


G. MARK ALBRIGHT, ESQ.

Nevada Bar No. 001394

D. CHRIS ALBRIGHT, ESQ.

Nevada Bar No. 004904

801 South Rancho Drive, Suite D-4

Las Vegas, Nevada 89106

Tel: (702) 384-7111

gma@albrightstoddard.com

dca@albrightstoddard.com

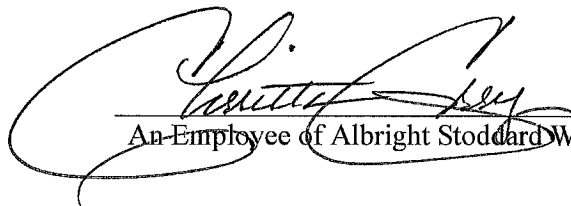
Counsel for Appellant/Plaintiff

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT and that on this 22nd day of August, 2017, service was made by the following mode/method a true and correct copy of the foregoing **CASE APPEAL STATEMENT** to the following person(s):

Craig J. Mariam, Esq., #10926
Robert S. Larsen, Esq., #7785
Wing Yan Wong, Esq., #13622
GORDON & REES LLP
300 South Fourth Street, Suite 1550
Las Vegas, Nevada 89101
Tel: 702.577.9310
Fax: 702.255.2858
cmariam@gordonrees.com
rlarsen@gordonrees.com
wwong@gordonrees.com
Attorneys for Respondents/Defendants

☐ Certified Mail
☒ Electronic Filing/Service
☐ Email
☐ Facsimile
☐ Hand Delivery
☐ Regular Mail


An Employee of Albright Stoddard Warnick & Albright

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-16-744561-C

Branch Banking & Trust Company, Plaintiff(s)
vs.
Douglas Gerrard, ESQ, Defendant(s)

§
§
§
§
§

Location: **Department 27**
Judicial Officer: **Allf, Nancy**
Filed on: **10/05/2016**
Case Number History:
Cross-Reference Case Number: **A744561**

CASE INFORMATION

Case Type: **Legal Malpractice**
Case Flags: **Appealed to Supreme Court**
Jury Demand Filed

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-16-744561-C
Court	Department 27
Date Assigned	02/08/2017
Judicial Officer	Allf, Nancy






PARTY INFORMATION

Plaintiff	Branch Banking & Trust Company	Albright, George Mark <i>Retained</i> 7023847111(W)
Defendant	Gerrard & Cox Gerrard Cox & Larsen Removed: 02/22/2017 Inactive Gerrard, Douglas D., ESQ	Mariam, Craig J. <i>Retained</i> 7025779300(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

10/05/2016	 Summons Filed by: Plaintiff Branch Banking & Trust Company <i>Summons</i>	
10/05/2016	 Summons Filed by: Plaintiff Branch Banking & Trust Company <i>Summons</i>	
10/05/2016	 Complaint Filed By: Plaintiff Branch Banking & Trust Company <i>Complaint</i>	
10/18/2016	 Affidavit of Service Filed By: Plaintiff Branch Banking & Trust Company <i>Affidavit of Service on Defendant Douglas D. Gerrard</i>	
10/18/2016	 Affidavit of Service Filed By: Plaintiff Branch Banking & Trust Company	

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-16-744561-C

Affidavit of Service on Defendant Gerrard Cox Larsen

11/21/2016	 Request for Judicial Notice Filed By: Defendant Gerrard, Douglas D., ESQ <i>Request for Judicial Notice In Support of Defendant Douglas D. Gerrard, Esq., and Gerrard Cox & Larsen's Motion to Dismiss Complaint</i>
11/21/2016	 Motion to Dismiss Filed By: Defendant Gerrard, Douglas D., ESQ <i>Defendant Douglas D. Gerrard, Esq. and Gerrard Cox & Larsen's Notice of Motion and Motion to Dismiss Complaint; Memorandum Points and Authorities</i>
11/21/2016	 Initial Appearance Fee Disclosure Filed By: Defendant Gerrard, Douglas D., ESQ <i>Defendant's Initial Appearance Fee Disclosure</i>
12/02/2016	 Demand for Jury Trial Filed By: Plaintiff Branch Banking & Trust Company <i>Demand for Jury Trial</i>
12/02/2016	 Stipulation and Order Filed by: Plaintiff Branch Banking & Trust Company <i>Stipulation and Order to Extend Briefing on Defendants' Motion to Dismiss Complaint and to Reset Hearing Date</i>
12/05/2016	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Branch Banking & Trust Company <i>Notice of Entry of Stipulation and Order to Extend Briefing on Defendants' Motion to Dismiss Complaint and to Reset Hearing Date</i>
12/28/2016	 Opposition Filed By: Plaintiff Branch Banking & Trust Company <i>Plaintiff's Opposition to Motion to Dismiss; and Alternative Countermotion for Leave to Amend</i>
12/28/2016	 Response Filed by: Plaintiff Branch Banking & Trust Company <i>Plaintiff's Response and Partial Opposition to Defendants' Request for Judicial Notice</i>
12/28/2016	 Request for Judicial Notice Filed By: Plaintiff Branch Banking & Trust Company <i>Plaintiff's Request for Judicial Notice in Support of Opposition to Defendants' Motion to Dismiss Complaint</i>
01/17/2017	 Reply in Support Filed By: Defendant Gerrard, Douglas D., ESQ <i>Reply In Support Of Defendants Douglas D. Gerrard, Esq., And Gerrard Cox & Larsen's Motion To Dismiss Complaint And Opposition To Alternative Countermotion For Leave To Amend</i>
01/17/2017	 Request for Judicial Notice Filed By: Defendant Gerrard, Douglas D., ESQ <i>Request for Judicial Notice In Support Of Reply In Support Of Defendants Douglas D. Gerrard, Esq., And Gerrard Cox & Larsen's Motion To Dismiss Complaint</i>
01/17/2017	

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-16-744561-C

	 Reply in Support Filed By: Defendant Gerrard, Douglas D., ESQ <i>Reply In Support Of Request For Judicial Notice In Support Of Defendants Douglas D. Gerrard, Esq., And Gerrard Cox & Larsen's Motion To Dismiss Complaint</i>
01/17/2017	 Response Filed by: Defendant Gerrard, Douglas D., ESQ <i>Response And Partial Objection To Plaintiff Branch Banking & Trust Company's Request For Judicial Notice</i>
01/18/2017	 Stipulation and Order Filed by: Defendant Gerrard, Douglas D., ESQ <i>Stipulation and Order to Continue Hearing on Motion to Dismiss</i>
01/18/2017	 Notice of Entry of Stipulation and Order Filed By: Defendant Gerrard, Douglas D., ESQ <i>Notice of Entry of Stipulation and Order to Continue Hearing on Motion to Dismiss</i>
01/20/2017	 Response Filed by: Plaintiff Branch Banking & Trust Company <i>Response to Defendants' [Second] Request for Judicial Notice Filed in Support of Defendants' Reply Points and Authorities Regarding Defendants' Motion to Dismiss</i>
01/26/2017	 Reply Points and Authorities Filed by: Plaintiff Branch Banking & Trust Company <i>Plaintiff's Reply Points and Authorities in Support of its Request for Judicial Notice</i>
01/27/2017	 Reply in Support Filed By: Plaintiff Branch Banking & Trust Company <i>Plaintiff's Reply in Support of Alternative Countermotion for Leave to Amend Complaint</i>
02/06/2017	 Stipulation and Order for Dismissal With Prejudice Filed By: Plaintiff Branch Banking & Trust Company <i>Stipulation and Order to Dismiss the Second Cause of Action from the Plaintiff's Complaint</i>
02/06/2017	Order of Dismissal With Prejudice (Judicial Officer: Allf, Nancy) Debtors: Douglas D. Gerrard, ESQ. (Defendant), Gerrard Cox & Larsen (Defendant) Creditors: Branch Banking & Trust Company (Plaintiff) Judgment: 02/06/2017, Docketed: 02/13/2017 Comment: Certain Causes
02/07/2017	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Branch Banking & Trust Company <i>Notice of Entry of Stipulation and Order to Dismiss the Second Cause of Action from the Plaintiff's Complaint</i>
02/07/2017	Request (10:00 AM) (Judicial Officer: Kishner, Joanna S.) <i>Request for Judicial Notice In Support of Defendant Douglas D. Gerrard, Esq., and Gerrard Cox & Larsen's Motion to Dismiss Complaint</i>
02/07/2017	Motion to Dismiss (10:00 AM) (Judicial Officer: Kishner, Joanna S.) <i>Defendant Douglas D. Gerrard, Esq. and Gerrard Cox & Larsen's Notice of Motion and Motion to Dismiss Complaint; Memorandum Points and Authorities</i>
02/07/2017	Opposition and Countermotion (10:00 AM) (Judicial Officer: Kishner, Joanna S.) <i>Plaintiff's Opposition to Motion to Dismiss; and Alternative Countermotion for Leave to Amend</i>

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-16-744561-C

02/07/2017	 All Pending Motions (10:00 AM) (Judicial Officer: Kishner, Joanna S.)
02/08/2017	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>
02/16/2017	 Stipulation and Order Filed by: Plaintiff Branch Banking & Trust Company <i>Stipulation and Order to Withdraw Without Prejudice and Vacate Any Scheduled Hearings on Motion to Dismiss and Requests for Judicial Notice</i>
02/17/2017	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Branch Banking & Trust Company <i>Notice of Entry of Stipulation and Order to Withdraw Without Prejudice and Vacate any Scheduled Hearings on Motion to Dismiss and Requests for Judicial Notice</i>
02/22/2017	 First Amended Complaint Filed By: Plaintiff Branch Banking & Trust Company <i>First Amended Complaint</i>
03/08/2017	 Motion to Dismiss Filed By: Defendant Gerrard, Douglas D., ESQ <i>Notice of Motion and Motion to Dismiss First Amended Complaint; Memorandum of Points and Authorities</i>
03/08/2017	 Request for Judicial Notice Filed By: Defendant Gerrard, Douglas D., ESQ <i>Request for Judicial Notice in Support of Defendants Douglas D. Gerrard, Esq. and Gerrard Cox & Larsen's Motion to Dismiss First Amended Complaint</i>
03/21/2017	 Response Filed by: Plaintiff Branch Banking & Trust Company <i>Plaintiff's Response and Partial Opposition to Defendants' March 8, 2017 Request for Judicial Notice and Counter-Request for Judicial Notice by Plaintiff</i>
03/21/2017	 Opposition Filed By: Plaintiff Branch Banking & Trust Company <i>Plaintiff's Opposition to Motion to Dismiss First Amended Complaint; and Alternative Countermotion for Leave to Amend</i>
04/07/2017	 Reply in Support Filed By: Defendant Gerrard, Douglas D., ESQ <i>Defendants Douglas D. Gerrard, Esq., and Gerrard Cox & Larsen's (1) Reply in Support of Defendants' Request for Judicial Notice; (2) Response and Partial Objection to Plaintiff's Counter-Request for Judicial Notice; and (3) Request for Judicial Notice on Reply</i>
04/07/2017	 Reply in Support Filed By: Defendant Gerrard Cox & Larsen <i>Reply in Support of Defendants Douglas D. Gerrard, Esq., and Gerrard Cox & Larsen's Motion to Dismiss First Amended Complaint and Opposition to Alternative Countermotion for Leave to Amend</i>
04/12/2017	 Reply in Support Filed By: Plaintiff Branch Banking & Trust Company <i>Plaintiff's Reply in Support of its Counter-Requests for Judicial Notice and Response to</i>

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-16-744561-C

Defendnats New Requests

04/12/2017	 Reply in Support Filed By: Plaintiff Branch Banking & Trust Company <i>Plaintiff's Reply in Support of Alternative Countermotion for Leave to Amend Complaint</i>
04/19/2017	Motion to Dismiss (10:00 AM) (Judicial Officer: Allf, Nancy) Events: 03/08/2017 Motion to Dismiss <i>Deft's Motion and Motion to Dismiss First Amended Complaint; Memorandum of Points and Authorities</i>
04/19/2017	Opposition and Countermotion (10:00 AM) (Judicial Officer: Allf, Nancy) Events: 03/21/2017 Opposition <i>Plaintiff's Opposition to Motion to Dismiss First Amended Complaint; and Alternative Countermotion for Leave to Amend</i>
04/19/2017	 All Pending Motions (10:00 AM) (Judicial Officer: Allf, Nancy)
04/28/2017	 Supplemental Brief Filed By: Defendant Gerrard, Douglas D., ESQ <i>Supplemental Briefing of Points and Authorities on Statute of Limitation Issues in Support of Motion to Dismiss First Amended Complaint</i>
04/28/2017	 Supplement Filed by: Plaintiff Branch Banking & Trust Company <i>Supplemental Brief on Statute of Limitations Issues in Opposition to Defendants' Motion to Dismiss First Amended Complaint</i>
05/16/2017	CANCELED Decision (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i> <i>Decision: Defendant's Motion and Motion to Dismiss First Amended Complaint; Memorandum of Points and Authorities; Plaintiff's Opposition to Motion to Dismiss First Amended Complaint; and Alternative Countermotion for Leave to Amend</i>
05/25/2017	 Decision and Order <i>Decision and Order Granting Defendants Douglas D. Gerrard, Esq. and Gerrard Cox & Larsen s Motion to Dismiss First Amended Complaint and Denying Plaintiff s Countermotion for Leave to Amend</i>
05/25/2017	Order of Dismissal With Prejudice (Judicial Officer: Allf, Nancy) Debtors: Douglas D. Gerrard, ESQ. (Defendant) Creditors: Branch Banking & Trust Company (Plaintiff) Judgment: 05/25/2017, Docketed: 06/01/2017
05/26/2017	 Notice of Entry Filed By: Defendant Gerrard, Douglas D., ESQ; Defendant Gerrard & Cox <i>Notice Of Entry Of Decision And Order Granting Defendants Gerard D. Gerrard, Esq. and Gerrard Cox & Larsen s Motion To Dismiss First Amended Complaint And Denying Plaintiff s Countermotion For Leave To Amend</i>
06/05/2017	 Memorandum of Costs and Disbursements Filed By: Defendant Gerrard, Douglas D., ESQ; Defendant Gerrard & Cox <i>Defendants' Memorandum of Costs and Disbursements</i>
06/05/2017	 Motion Filed By: Plaintiff Branch Banking & Trust Company <i>Motion to Alter or Amend, by Vacating, Order of Dismissal, Pursuant to NRCP 59(e)</i>

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-16-744561-C

06/22/2017	 Opposition <i>Defendants Douglas D. Gerrard and Gerrard Cox Larsen's Opposition to Motion to Alter or Amend, by Vacating, Order of Dismissal, Pursuant to NRCP 59(e)</i>
06/26/2017	 Recorders Transcript of Hearing <i>Transcript of Proceedings, Defendant's Motion and Motion to Dismiss First Amended Complaint; Memorandum of Points and Authorities, Plaintiff's Opposition to Motion to Dismiss First Amended Complaint; and Alternative Countermotion for Leave to Amend, Heard on April 19, 2017</i>
06/28/2017	 Reply Points and Authorities Filed by: Plaintiff Branch Banking & Trust Company <i>Reply Points and Authorities in Support of Motion to Alter or Amend, by Vacating, Order of Dismissal, Pursuant to NRCP 59(e)</i>
07/19/2017	 Motion (9:00 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion to Alter or Amend, by Vacating, Order of Dismissal, Pursuant to NRCP 59(e)</i>
08/07/2017	 Order Denying Motion Filed By: Plaintiff Branch Banking & Trust Company <i>Order Denying Plaintiff Branch Banking & Trust Company's Motion to Alter or Amend, by Vacating, Order of Dismissal, Pursuant to NRCP 59(e)</i>
08/08/2017	 Notice of Entry of Order Filed By: Defendant Gerrard, Douglas D., ESQ; Defendant Gerrard & Cox <i>Notice of Entry of Order Denying Plaintiff Branch Banking & Trust Company's Motion to Alter or Amend, By Vacating, Order of Dismissal, Pursuant To NRCP 59(e)</i>
08/22/2017	 Notice of Appeal Filed By: Plaintiff Branch Banking & Trust Company <i>Notice of Appeal</i>
08/22/2017	 Case Appeal Statement Filed By: Plaintiff Branch Banking & Trust Company <i>Case Appeal Statement</i>

DATE	FINANCIAL INFORMATION
	Defendant Gerrard Cox & Larsen Total Charges 33.50 Total Payments and Credits 33.50 Balance Due as of 8/24/2017 0.00
	Defendant Gerrard & Cox Total Charges 14.00 Total Payments and Credits 14.00 Balance Due as of 8/24/2017 0.00
	Defendant Gerrard, Douglas D., ESQ Total Charges 268.50 Total Payments and Credits 268.50 Balance Due as of 8/24/2017 0.00
	Plaintiff Branch Banking & Trust Company Total Charges 297.50 Total Payments and Credits 297.50

DEPARTMENT 27
CASE SUMMARY
CASE NO. A-16-744561-C

Balance Due as of 8/24/2017	0.00
Plaintiff Branch Banking & Trust Company Appeal Bond Balance as of 8/24/2017	500.00

DISTRICT COURT CIVIL COVER SHEET

A - 1 6 - 7 4 4 5 6 1 - C

X X X I

County, Nevada

Case No. _____

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Branch Banking & Trust Company 9555 Hillwood Drive, 2nd Floor Las Vegas, Nevada 89134 Tel: 702-669-4619	Defendant(s) (name/address/phone): Douglas D. Gerrard, Esq. GERRARD COX & LARSEN 2450 S. Rose Pkwy., Suite 200 Henderson, Nevada 89074
Attorney (name/address/phone): G. Mark Albright, Esq. / D. Chris Albright, Esq. ALBRIGHT, STODDARD, WARNICK & ALBRIGHT 801 S. Rancho Drive, Suite D-4, Las Vegas, NV 89106 Tel: 702.384.7111	Attorney (name/address/phone): _____ _____ _____

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

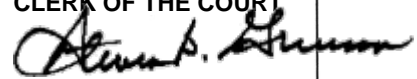
Business Court filings should be filed using the Business Court civil cover sheet.

October 5, 2016

Date

Signature of initiating party or representative

See other side for family-related case filings.



DISTRICT COURT
CLARK COUNTY, NEVADA

BRANCH BANKING & TRUST
COMPANY, a North Carolina
corporation,

Plaintiff(s)

vs

Case No.: A-16-744561-C

DOUGLAS D. GERRARD, ESQ.,
individually; and GERRARD & COX, a
Nevada professional corporation, d/b/a
GERRARD COX & LARSEN; JOHN
DOE INDIVIDUALS I-X; and ROE
BUSINESS ENTITIES XI-XX,
Defendants.

Department 27

**DECISION AND ORDER GRANTING DEFENDANTS DOUGLAS D. GERRARD, ESQ. AND
GERRARD COX & LARSEN'S MOTION TO DISMISS FIRST AMENDED COMPLAINT
AND DENYING PLAINTIFF'S COUNTERMOTION FOR LEAVE TO AMEND**

This is a legal malpractice suit against attorney Douglas D. Gerrard ("Gerrard") and his law firm, Gerrard Cox & Larsen (individually "GCL") (collectively the "Defendants"). This case stems from the Defendants' representation of Plaintiff Branch Banking & Trust Company ("BBT") in an earlier underlying case tried before the Honorable Elizabeth Gonzalez in 2010. The underlying case involved the adjudication of the priority of two deeds of trust encumbering approximately thirty-eight acres of real property in Henderson, Clark County, Nevada. Colonial Bank, N.A. ("Colonial") originally held the beneficial interest under one of the deeds of trust, but its interest was acquired during the underlying litigation by BBT when Colonial was placed into receivership with the FDIC. It should be noted that

1 Defendants were originally retained to represent Colonial, but such representation transferred
2 to BBT as Colonial's successor in interest.

3 In its Findings of Fact and Conclusions of Law entered June 23, 2010, the District
4 Court in the underlying case ruled against BBT on the basis that BBT failed to establish, as a
5 necessary prerequisite to its claims, that it had been assigned and owned the former Colonial
6 Deed of Trust on which the claims it was pursuing were based. *See* Defendants' Request for
7 Judicial Notice in Support of Defendants Motion to Dismiss First Amended Complaint,
8 Exhibit B—Findings of Fact and Conclusions of Law, Case #08-A-574852. BBT asserts
9 that this ruling was based on the District Court's refusal to allow BBT's attorneys, the
10 Defendants, to present evidence at trial relative to the assignment of the Colonial Deed of
11 Trust to BBT due to the Defendants' alleged failure to timely disclose the pertinent
12 documents prior to trial.

13 BBT initiated this legal malpractice suit against Defendants on October 5, 2016.
14 BBT filed its First Amended Complaint on February 22, 2017, asserting a single cause of
15 action for Professional Negligence/Legal Malpractice.

16 Now before the Court is Defendants' Motion to Dismiss First Amended Complaint
17 ("Motion") filed on March 8, 2017 concurrently with Defendants' Request for Judicial
18 Notice, wherein Defendants asked this Court to take judicial notice of numerous documents
19 related to the underlying dispute. BBT filed its Opposition to Defendants' Motion to Dismiss
20 on March 21, 2017, along with a Counter-Request for Judicial Notice. The Court set
21 Defendants' Motion to Dismiss for a hearing on motions calendar on April 19, 2017 at 10:00
22 a.m., wherein this Court denied Defendants' Motion to Dismiss as to standing, but took the
23 issue as to whether the statute of limitations has expired under advisement. The Court
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1 continued the matter to Chambers Calendar on May 16, 2017 for a decision as to the running
2 of the statute of limitations.

3
4 After having read the pleadings and papers on file, including the supplemental briefs
5 filed by both parties, and for good cause appearing therefore:
6

7 **THE COURT FINDS** after review, in Nevada, an action for legal malpractice does
8 not begin to accrue until the “plaintiff’s damages are certain and not contingent upon the
9 outcome of an appeal.” *Semenza v. Nevada Med. Liab. Ins. Co.*, 104 Nev. 666, 668, 765 P.2d
10 184, 186 (1988). “It is only after the underlying case has been affirmed on appeal that it is
11 appropriate to assert injury and maintain a legal malpractice cause of action for damages.” *Id.*
12 The statute of limitations for legal malpractice claims is four years from the damages or two
13 years from when the plaintiff discovers, or could discover, the damages, whichever is earlier.
14 N.R.S. 11.207.
15

16 **THE COURT FURTHER FINDS** after review that on March 31, 2013, the Nevada
17 Supreme Court affirmed the district court’s ruling in the underlying case, and issued its
18 remittitur. “The reversal and remittitur comprise the judgment by which the parties and the
19 district court are thereafter bound.” *In re Estate & Living Trust of Miller*, 125 Nev. 550, 553,
20 216 P.3d 239, 242 (2009). The remittitur “terminated the case below as to all issues settled
21 by the judgment” and formally informs the district court of appellate court’s final resolution
22 of the appeal. *Cerminara v. Eighth Jud. Distr. Ct.*, 104 Nev. 663, 665, 765 P.2d 182, 184
23 (1988); *Dickerson v. State*, 114 Nev. 1084, 1087, 967 P.2d 1132, 1134 (1998).
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1 **THE COURT FURTHER FINDS** after review, that Nevada Rules of Appellate
2 Procedure 41(a)(3)(A) provides that “[a] party may file a motion to stay the remittitur
3 pending application to the Supreme Court of the United States for a writ of certiorari.”
4

5 **THE COURT FURTHER FINDS** after review, that a writ of certiorari is separate
6 and distinct from an appeal. While an appeal to an appellate court is a matter of right, a writ
7 of certiorari is not a matter of right, but of judicial discretion. Sup. Ct. R. 10.

8 **THE COURT FURTHER FINDS** after review that because BBT did not have a
9 right to a writ of certiorari to the United States Supreme Court, and because BBT failed to
10 file a motion to stay the remittitur under NRAP 41(a)(3)(A), the Nevada Supreme Court’s
11 May 31, 2013 decision to affirm the district court’s ruling and its remittitur to the district
12 court, constitutes an final adverse appellate ruling for BBT. Therefore, the statute of
13 limitations was not tolled when BBT filed a petition for a writ of certiorari to the United
14 States Supreme Court. Accordingly, the statute of limitations began to run on or about May
15 31, 2013, making BBT’s deadline under the statute of limitations for its legal malpractice
16 claim two years later on or about May 31, 2015.
17

18 **THE COURT FURTHER FINDS** after review BBT filed its Complaint in this case
19 on October 5, 2016, some 493 days past the expiration of the statute of limitations.
20

21 **THEREFORE, THE COURT ORDERS** for good cause appearing and for the
22 reasons stated above, Defendants Motion to Dismiss First Amended Complaint is
23 **GRANTED** as the statute of limitations ran on or about May 31, 2015.

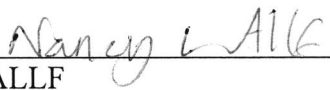
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1
2 **COURT FURTHER ORDERS** for good cause appearing and after review that
3 Plaintiff's Counter-motion for Leave to Amend is likewise **DENIED. HEARING** set for
4 **CHAMBERS CALENDAR** on May 16, 2017, **VACATED.**

5
6 Dated: May 23, 2017

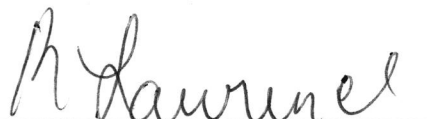
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8 
9 NANCY ALLF
District Court Judge, Department 27

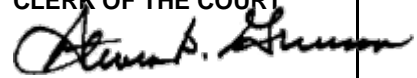
10
11 **Certificate of Service**

12 I hereby certify that on or about the date signed I caused the foregoing document to be
13 electronically served pursuant to EDCR 8.05(a) and 8.05(f), through the Eighth Judicial
14 District Court's electronic filing system, with the date and time of the electronic service
substituted for the date and place of deposit to: *anb by email to:*

15 Albright, Stoddard, Warnick & Albright
16 G. Mark Albright, Esq. – gma@albrightstoddard.com
D. Chris Albright, Esq. – dca@albrightstoddard.com

17 Gordon & Rees LLP
18 Craig J. Mariam, Esq. – cmariam@gordonrees.com
19 Robert S. Larsen, Esq. – rlarsen@gordonrees.com
Wong Yan Wong, Esq. – wwong@gordonrees.com

20
21 
22 Karen Lawrence
23 Judicial Executive Assistant



NEO
CRAIG J. MARIAM, ESQ.,
Nevada Bar No. 10926
ROBERT S. LARSEN, ESQ.
Nevada Bar No. 7785
WING YAN WONG, ESQ.
Nevada Bar No. 13622
GORDON & REES LLP
300 South Fourth Street, Suite 1550
Las Vegas, Nevada 89101
Telephone: (702) 577-9300
Direct: (702) 577-9301
Facsimile: (702) 255-2858
E-Mail: cmariam@gordonrees.com
rlarsen@gordonrees.com
wwong@gordonrees.com

*Attorneys for Defendants Douglas D.
Gerrard, Esq. and Gerrard Cox & Larsen*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

BRANCH BANKING & TRUST COMPANY, a) Case No.: A-16-744561-C
North Carolina corporation,) Dept. No.: ~~27~~ XXVII

Plaintiff,

vs.

DOUGLAS D. GERRARD, ESQ., individually; and)
GERRARD COX & LARSEN, a Nevada)
professional corporation, JOHN DOES I-X; and)
ROE BUSINESS ENTITIES XI-XX,)

Defendant.

**NOTICE OF ENTRY OF
DECISION AND ORDER
GRANTING DEFENDANTS
GERARD D. GERRARD, ESQ.
AND GERRARD COX &
LARSEN'S MOTION TO DISMISS
FIRST AMENDED COMPLAINT
AND DENYING PLAINTIFF'S
COUNTERMOTION FOR LEAVE
TO AMEND**

PLEASE TAKE NOTICE that, on May 25, 2017, the Court entered the DECISION
AND ORDER GRANTING DEFENDANTS GERARD D. GERRARD, ESQ. AND GERRARD
COX & LARSEN'S MOTION TO DISMISS FIRST AMENDED COMPLAINT AND
DENYING PLAINTIFF'S COUNTERMOTION FOR LEAVE TO AMEND in this matter.

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A copy of the Court’s Decision and Order is attached hereto as Exhibit “1.”
DATED this 26th day of May, 2017.

Respectfully submitted,
GORDON & REES, LLP

/s/ Robert S. Larsen
Craig J. Mariam, Esq.
Nevada Bar No. 10926
Robert S. Larsen, Esq.
Nevada Bar No. 7785
Wing Yan Wong, Esq.
Nevada Bar No. 13622
300 South Fourth Street, Suite 1550
Las Vegas, Nevada 89101

*Attorneys for Defendants Douglas D.
Gerrard, Esq. and Gerrard Cox & Larsen*

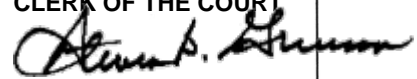
CERTIFICATE OF SERVICE

Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure, I hereby certify under penalty of perjury that I am an employee of GORDON & REES LLP, and that on the 26th day of May, 2017, the foregoing **NOTICE OF ENTRY OF DECISION AND ORDER GRANTING DEFENDANTS GERARD D. GERRARD, ESQ. AND GERRARD COX & LARSEN'S MOTION TO DISMISS FIRST AMENDED COMPLAINT AND DENYING PLAINTIFF'S COUNTERMOTION FOR LEAVE TO AMEND** was served upon those persons designated by the parties in the E-Service Master List in the Eighth Judicial District court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-1 and the Nevada Electronic Filing and Conversion Rules, upon the following:

G. Mark Albright, Esq.
D. Chris Albright, Esq.
ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
801 South Rancho Drive, Suite D-4
Las Vegas, Nevada 89106

/s/ Gayle Angulo
An Employee of GORDON & REES, LLP

EXHIBIT “1”



DISTRICT COURT
CLARK COUNTY, NEVADA

BRANCH BANKING & TRUST
COMPANY, a North Carolina
corporation,

Plaintiff(s)

vs

Case No.: A-16-744561-C

DOUGLAS D. GERRARD, ESQ.,
individually; and GERRARD & COX, a
Nevada professional corporation, d/b/a
GERRARD COX & LARSEN; JOHN
DOE INDIVIDUALS I-X; and ROE
BUSINESS ENTITIES XI-XX,
Defendants.

Department 27

**DECISION AND ORDER GRANTING DEFENDANTS DOUGLAS D. GERRARD, ESQ. AND
GERRARD COX & LARSEN'S MOTION TO DISMISS FIRST AMENDED COMPLAINT
AND DENYING PLAINTIFF'S COUNTERMOTION FOR LEAVE TO AMEND**

This is a legal malpractice suit against attorney Douglas D. Gerrard ("Gerrard") and his law firm, Gerrard Cox & Larsen (individually "GCL") (collectively the "Defendants"). This case stems from the Defendants' representation of Plaintiff Branch Banking & Trust Company ("BBT") in an earlier underlying case tried before the Honorable Elizabeth Gonzalez in 2010. The underlying case involved the adjudication of the priority of two deeds of trust encumbering approximately thirty-eight acres of real property in Henderson, Clark County, Nevada. Colonial Bank, N.A. ("Colonial") originally held the beneficial interest under one of the deeds of trust, but its interest was acquired during the underlying litigation by BBT when Colonial was placed into receivership with the FDIC. It should be noted that

1 Defendants were originally retained to represent Colonial, but such representation transferred
2 to BBT as Colonial's successor in interest.

3 In its Findings of Fact and Conclusions of Law entered June 23, 2010, the District
4 Court in the underlying case ruled against BBT on the basis that BBT failed to establish, as a
5 necessary prerequisite to its claims, that it had been assigned and owned the former Colonial
6 Deed of Trust on which the claims it was pursuing were based. *See* Defendants' Request for
7 Judicial Notice in Support of Defendants Motion to Dismiss First Amended Complaint,
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9 that this ruling was based on the District Court's refusal to allow BBT's attorneys, the
10 Defendants, to present evidence at trial relative to the assignment of the Colonial Deed of
11 Trust to BBT due to the Defendants' alleged failure to timely disclose the pertinent
12 documents prior to trial.

13 BBT initiated this legal malpractice suit against Defendants on October 5, 2016.
14 BBT filed its First Amended Complaint on February 22, 2017, asserting a single cause of
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16 Now before the Court is Defendants' Motion to Dismiss First Amended Complaint
17 ("Motion") filed on March 8, 2017 concurrently with Defendants' Request for Judicial
18 Notice, wherein Defendants asked this Court to take judicial notice of numerous documents
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20 on March 21, 2017, along with a Counter-Request for Judicial Notice. The Court set
21 Defendants' Motion to Dismiss for a hearing on motions calendar on April 19, 2017 at 10:00
22 a.m., wherein this Court denied Defendants' Motion to Dismiss as to standing, but took the
23 issue as to whether the statute of limitations has expired under advisement. The Court
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1 continued the matter to Chambers Calendar on May 16, 2017 for a decision as to the running
2 of the statute of limitations.

3
4 After having read the pleadings and papers on file, including the supplemental briefs
5 filed by both parties, and for good cause appearing therefore:
6

7 **THE COURT FINDS** after review, in Nevada, an action for legal malpractice does
8 not begin to accrue until the “plaintiff’s damages are certain and not contingent upon the
9 outcome of an appeal.” *Semenza v. Nevada Med. Liab. Ins. Co.*, 104 Nev. 666, 668, 765 P.2d
10 184, 186 (1988). “It is only after the underlying case has been affirmed on appeal that it is
11 appropriate to assert injury and maintain a legal malpractice cause of action for damages.” *Id.*
12 The statute of limitations for legal malpractice claims is four years from the damages or two
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17 Supreme Court affirmed the district court’s ruling in the underlying case, and issued its
18 remittitur. “The reversal and remittitur comprise the judgment by which the parties and the
19 district court are thereafter bound.” *In re Estate & Living Trust of Miller*, 125 Nev. 550, 553,
20 216 P.3d 239, 242 (2009). The remittitur “terminated the case below as to all issues settled
21 by the judgment” and formally informs the district court of appellate court’s final resolution
22 of the appeal. *Cerminara v. Eighth Jud. Distr. Ct.*, 104 Nev. 663, 665, 765 P.2d 182, 184
23 (1988); *Dickerson v. State*, 114 Nev. 1084, 1087, 967 P.2d 1132, 1134 (1998).
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11 May 31, 2013 decision to affirm the district court’s ruling and its remittitur to the district
12 court, constitutes an final adverse appellate ruling for BBT. Therefore, the statute of
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14 States Supreme Court. Accordingly, the statute of limitations began to run on or about May
15 31, 2013, making BBT’s deadline under the statute of limitations for its legal malpractice
16 claim two years later on or about May 31, 2015.
17

18 **THE COURT FURTHER FINDS** after review BBT filed its Complaint in this case
19 on October 5, 2016, some 493 days past the expiration of the statute of limitations.
20

21 **THEREFORE, THE COURT ORDERS** for good cause appearing and for the
22 reasons stated above, Defendants Motion to Dismiss First Amended Complaint is
23 **GRANTED** as the statute of limitations ran on or about May 31, 2015.

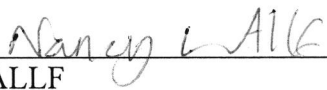
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2 **COURT FURTHER ORDERS** for good cause appearing and after review that
3 Plaintiff's Countermotion for Leave to Amend is likewise **DENIED. HEARING** set for
4 **CHAMBERS CALENDAR** on May 16, 2017, **VACATED.**

5
6 Dated: May ²⁵23, 2017 ^{MLA}


7
8 
9 NANCY ALLF
District Court Judge, Department 27

10
11 **Certificate of Service**

12 I hereby certify that on or about the date signed I caused the foregoing document to be
13 electronically served pursuant to EDCR 8.05(a) and 8.05(f), through the Eighth Judicial
14 District Court's electronic filing system, with the date and time of the electronic service
substituted for the date and place of deposit to: *anb by email to:*

15 Albright, Stoddard, Warnick & Albright
16 G. Mark Albright, Esq. – gma@albrightstoddard.com
D. Chris Albright, Esq. – dca@albrightstoddard.com

17 Gordon & Rees LLP
18 Craig J. Mariam, Esq. – cmariam@gordonrees.com
19 Robert S. Larsen, Esq. – rlarsen@gordonrees.com
Wong Yan Wong, Esq. – wwong@gordonrees.com

20
21 
22 Karen Lawrence
23 Judicial Executive Assistant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Legal Malpractice

COURT MINUTES

February 07, 2017

A-16-744561-C Branch Banking & Trust Company, Plaintiff(s)
vs.
Douglas Gerrard, ESQ, Defendant(s)

February 07, 2017 10:00 AM All Pending Motions

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Kory Schlitz

RECORDER: Rachelle Hamilton

REPORTER:

PARTIES

PRESENT:	Albright, D. Chris	Attorney
	Albright, George Mark	Attorney
	Larsen, Robert S.	Attorney
	Mariam, Craig J.	Attorney
	Wong, Wing Yan	Attorney

JOURNAL ENTRIES

- DEFENDANT DOUGLAS D. GERRARD, ESQ. AND GERRARD COX & LARSEN'S NOTICE OF MOTION AND MOTION TO DISMISS COMPLAINT; MEMORANDUM POINTS AND AUTHORITIES... PLAINTIFF'S OPPOSITION TO MOTION TO DISMISS; AND ALTERNATIVE COUNTERMOTION FOR LEAVE TO AMEND... REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANT DOUGLAS D. GERRARD, ESQ., AND GERRARD COX & LARSEN'S MOTION TO DISMISS COMPLAINT...

Although the Court could and would rule fairly and without bias, recusal is appropriate in the present case in accordance with Canon 2.11(A)(3) of the Nevada Code of Judicial Conduct in order to avoid the appearance of impartiality or implied bias as the Court disclosed IN OPEN COURT. Thus, the Court recuses itself from the matter and requests that it be randomly reassigned in accordance with appropriate procedures.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Legal Malpractice**COURT MINUTES****April 19, 2017**

A-16-744561-C Branch Banking & Trust Company, Plaintiff(s)
 vs.
 Douglas Gerrard, ESQ, Defendant(s)

April 19, 2017 10:00 AM All Pending Motions

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT:	Albright, D. Chris	Attorney
	Albright, George Mark	Attorney
	Larsen, Robert S.	Attorney
	Mariam, Craig J.	Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION AND MOTION TO DISMISS FIRST AMENDED COMPLAINT;
 MEMORANDUM OF POINTS AND AUTHORITIES...PLAINTIFF'S OPPOSITION TO MOTION TO
 DISMISS FIRST AMENDED COMPLAINT; AND ALTERNATIVE COUNTERMOTION FOR LEAVE
 TO AMEND

Upon inquiry of the Court whether or not Mr. Mark Albright intended to speak to day, Mr. Mark Albright stated he did not. Arguments by Mr. Mariam and Mr. Chris Albright regarding the merits of and opposition to the pending motions. Mr. Chris Albright stated with regard to the U.S. Supreme Court rule 13 which is not in his briefs he could provide a supplement for. COURT ORDERED, Defendant s Motion and Motion to Dismiss First Amended Complaint; Memorandum of Points and Authorities, as to Standing motion is DENIED, Statute of limitation TAKEN UNDER SUBMISSION and CONTINUED TO CHAMBERS CALENDAR for determination as to whether or not the matter can go forward, both parties may submit supplemental briefs no later than April 28, 2017; Plaintiff s Opposition to Motion to Dismiss First Amended Complaint; and Alternative Countermotion for Leave to Amend CONTINUED TO CHAMBERS for decision.

5/16/2016 (CHAMBERS) DECISION: DEFENDANT'S MOTION AND MOTION TO DISMISS FIRST AMENDED COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES; PLAINTIFF'S OPPOSITION TO MOTION TO DISMISS FIRST AMENDED COMPLAINT; AND ALTERNATIVE COUNTERMOTION FOR LEAVE TO AMEND

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Legal Malpractice

COURT MINUTES

July 19, 2017

A-16-744561-C Branch Banking & Trust Company, Plaintiff(s)
vs.
Douglas Gerrard, ESQ, Defendant(s)

July 19, 2017 9:00 AM Motion

HEARD BY: Allf, Nancy **COURTROOM:** RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn Griffiths

REPORTER:

PARTIES

PRESENT: Albright, George Mark Attorney
 Larsen, Robert S. Attorney
 Wong, Wing Yan Attorney

JOURNAL ENTRIES

- Arguments by counsel regarding the merits of and opposition to the pending motion. Court stated its findings and ORDERED, Plaintiff's Motion to Alter or Amend, by Vacating, Order of Dismissal, Pursuant to NRCP 59(e) DENIED. Mr. Larsen to prepare the order and submit it to opposing counsel for approval as to form.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

G. MARK ALBRIGHT, ESQ.
801 S. RANCHO DR., SUITE D-4
LAS VEGAS, NV 89106

DATE: August 24, 2017
CASE: A-16-744561-C

RE CASE: BRANCH BANKING & TRUST COMPANY vs. DOUGLAS D. GERRARD, ESQ.;
GERRARD & COX dba GERRARD COX & LARSEN

NOTICE OF APPEAL FILED: August 22, 2017

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☐ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

***Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.*

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; DECISION AND ORDER GRANTING DEFENDANTS DOUGLAS D. GERRARD, ESQ. AND GERRARD COX & LARSEN'S MOTION TO DISMISS FIRST AMENDED COMPLAINT AND DENYING PLAINTIFF'S COUNTERMOTION FOR LEAVE TO AMEND; NOTICE OF ENTRY OF DECISION AND ORDER GRANTING DEFENDANTS GERARD D. GERRARD, ESQ. AND GERRARD COX & LARSEN'S MOTION TO DISMISS FIRST AMENDED COMPLAINT AND DENYING PLAINTIFF'S COUNTERMOTION FOR LEAVE TO AMEND; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

BRANCH BANKING & TRUST COMPANY,

Plaintiff(s),

vs.

DOUGLAS D. GERRARD, ESQ.; GERRARD
& COX dba GERRARD COX & LARSEN,

Defendant(s),

Case No: A-16-744561-C

Dept No: XXVII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 24 day of August 2017.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk