

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRED NASSIRI, an individual;
NASSIRI LIVING TRUST, a trust
formed under Nevada law,

Appellant,

vs.

STATE OF NEVADA, on relation of its
Department of Transportation,

Respondent.

Electronically Filed
Oct 02 2018 10:50 a.m.
Elizabeth A. Brown
Clerk of Supreme Court
CASE NO. 76660
Eighth Judicial District Court
Case No.
A-12-672841-C

**MOTION TO WITHDRAW AS
COUNSEL OF RECORD FOR
APPELLANTS, FRED NASSIRI
AND NASSIRI LIVING TRUST**

MOTION TO WITHDRAW AS COUNSEL FOR APPELLANTS

The law firm of Garman Turner Gordon LLP, (“GTG”) and Eric R Olsen, counsel of record for Appellants, FRED NASSIRI AND NASSIRI LIVING TRUST (“Appellants”), hereby moves to withdraw as attorney of record in this matter, pursuant to Nevada Rule of Professional Conduct 1.16(b), SCR 46 and NRAP46(e)(3), on grounds that Appellants have failed to fulfill their obligations to GTG and continued representation of Appellants will result in an unreasonable financial burden on GTG and the undersigned counsel.

This Motion is based on the following Memorandum of Points and

///

///


///

///

Authorities, including the Declaration of Eric R. Olsen, Esq., (the "Olsen Declaration").

Dated this 1st day of October, 2018.

GARMAN TURNER GORDON LLP



ERIC R. OLSEN

Nevada Bar No. 3127
650 White Drive, Suite 100
Las Vegas, Nevada 89119
Tel: (725) 777-3000
Fax: (725) 777-3112

**DECLARATION OF ERIC R. OLSEN, ESQ. IN SUPPORT OF MOTION
TO WITHDRAW AS COUNSEL OF RECORD**

I, Eric R. Olsen, Esq. declare as follows:

1. I am a partner with the law firm of Garman Turner Gordon LLP (“GTG”), licensed to practice law in the State of Nevada, admitted to practice before all Courts within the State of Nevada, and over the age of eighteen.

2. I make this Declaration in support of Motion to Withdraw as Counsel of Record for Appellants, FRED NASSIRI AND NASSIRI LIVING TRUST.

3. I am competent to testify to the matters asserted herein, of which I have personal knowledge, except as to those matters stated upon information and belief.

4. GTG and I are counsel of record for Appellants in the above-referenced matter.

5. Appellants, and their successor in interest LVBBB LLC, have failed to fulfill financial obligations regarding the services of GTG. Appellants have not made a payment for fees and costs since August 2017. Plaintiff has been given more than reasonable warning that the firm and the undersigned will withdraw unless the obligations are fulfilled. Appellants, however, maintain that they have insufficient assets to pay outstanding invoices.

6. Continued representation without payment will result in an unreasonable financial burden on GTG and on the undersigned, as the lawyer, specifically.

8. Withdrawal can be accomplished without material adverse effect on the client.

9. The last known addresses of Appellants are as follows:

Fred Nassiri 2035 Helm Drive Las Vegas NV United States 89119	
--	--

--	--

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing statements are true and correct to the best of my knowledge.

Dated 1st October, 2018.



ERIC R. OLSEN, ESQ.

I.

MEMORANDUM OF POINTS AND AUTHORITIES

A. The Court has Authority to Grant GTG's Motion.

GTG seeks to withdraw as counsel for Defendants pursuant to SCR 46 Withdrawal of attorney, NRAP 46(e)(3), as well as Nevada Rules of Professional Conduct ("NRPC") 1.16(b)

- SCR 46 provides:
- Rule 46. Withdrawal or change of attorney. The attorney in an action or special proceeding may be changed at any time before judgment or final determination as follows:
 1. Upon consent of the attorney, approved by the client.
 2. Upon the order of the court or judge thereof on the application of the attorney or the client.

After judgment or final determination, an attorney may withdraw as attorney of record at any time upon the attorney's filing a withdrawal, with or without the client's consent.

- NRAP46(e)(3) provides in pertinent part:
- RULE 46. ATTORNEYS

(e) Withdrawal, Substitution, or Discharge of Attorney in Civil Appeals. The withdrawal, substitution or discharge of an attorney in a civil appeal pending before the Supreme Court or Court of Appeals shall be governed by this Rule.

(3) Withdrawal. A withdrawal of counsel may be affected only by filing a motion in the court. The withdrawing attorney shall serve a copy of the motion on the attorney's client and any adverse party. The motion shall clearly state the reasons for the attorney's withdrawal consistent with SCR 46 and RPC 1.16. A motion that is filed after judgment or final determination as provided in SCR 46 will only be granted if the Supreme Court or Court of Appeals has issued a final decision in the matter and the time for filing a petition for rehearing has expired.

- NRPC 1.16(b) provides, in pertinent part:

[A] lawyer may withdraw from representing a client if: . . .

- (4) A client insists upon taking action...with which the lawyer has fundamental disagreement;
- (1) The client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled...
- (2) The representation will result in an unreasonable financial burden on the lawyer...or
- (7) Other good cause exists for withdrawal.

As set forth in the declaration above, Appellants have failed to fulfill financial obligations to their attorney of record and his firm. Continued failure to meet these obligations will cause further and unreasonable financial burden on GTG, and the undersigned specifically. In fact, Appellants indicate that they have no ability to meet those financial obligations. Counsel cannot be required, in fact cannot proceed, as counsel of record for Appellants in this matter.

Under SCR 46, NRAP 46(e)(3) and NRPC 1.16(b), the Court is authorized to enter an order granting GTG's motion to withdraw as counsel of record for Appellants only. The undersigned counsel, therefore, respectfully asked for an order granting that motion.

B. Conclusion.

Based on the foregoing, GTG moves the Court to grant GTG's Motion to withdraw as counsel for Appellants.

Dated this 1st day of October, 2018.

GARMAN TURNER GORDON LLP



ERIC R. OLSEN
Nevada Bar No. 3127
650 White Drive, Suite 100
Las Vegas, Nevada 89119
Attorneys for Appellants

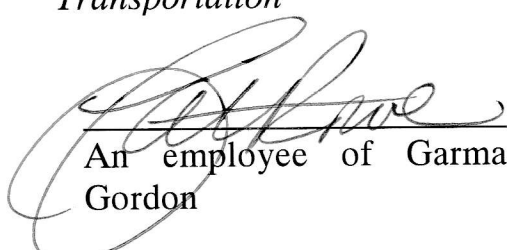
CERTIFICATE OF SERVICE

I certify that on the 5th day of October, 2018, I served a copy of this completed Docketing Statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by E-Service through Nevada Supreme Court; email and/or first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

KEMP, JONES & COULTHARD,
LLP
William L. Coulthard, Esq.
w.coulthard@kempjones.com
Eric M. Pepperman, Esq.
e.pepperman@kempjones.com
3800 Howard Hughes Parkway, 17th
Floor
Las Vegas, Nevada 89169
Co-Counsel for the State of Nevada

OFFICE OF THE ATTORNEY
GENERAL
Adam Paul Laxalt
Attorney General
Dennis V. Gallagher
Chief Deputy Attorney General
Joe Vadala
Special Counsel
Janet L. Merrill
Senior Deputy Attorney General
53014 West Charleston Blvd., Suite
150
Las Vegas, NV 89102
(702) 730-3400
*Attorneys for the State of Nevada, on
relation to its Department of
Transportation*


An employee of Garman Turner
Gordon