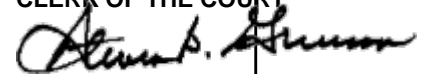


EXHIBIT 2

EXHIBIT 2



1 NOE

2 **BINGHAM SNOW & CALDWELL**

3 Clifford Gravett, Nevada Bar No. 12586

4 Jedediah Bo Bingham, Nevada Bar No. 9511

5 840 Pinnacle Court, Suite 202

6 Mesquite, Nevada 89027

(702) 346-7300 phone

(702) 346-7313 fax

mesquite@binghamsnow.com

Attorneys for the Raridans

DISTRICT COURT

CLARK COUNTY

10 ROCK SPRINGS MESQUITE 2
11 OWNERS' ASSOCIATION, a Nevada
12 domestic non-profit corporation,

13 Plaintiff,
14 v.

15 STEPHEN J. RARIDAN and JUDITH A.
16 RARIDAN, husband and wife, and DOES
17 I through X, inclusive,

Defendants.


NOTICE OF ENTRY OF ORDER

CASE NO. A-18-772425-C
DEPT. NO. XVI

18 PLEASE TAKE NOTICE THAT AN ORDER OF DISMISSAL was entered into
19 the above-captioned matter on the 27th day of August, 2018, a copy of which is attached hereto.

20 DATED this 27th day of August, 2018

22 **BINGHAM SNOW & CALDWELL**

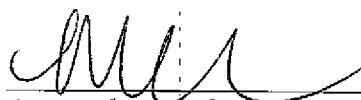
23 
24 An employee of Bingham Snow & Caldwell

CERTIFICATE OF SERVICE

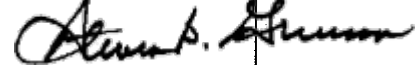
Pursuant to NRCP 5(b) I certify that I am an employee of Bingham Snow & Caldwell, and that on this day; I caused a true and correct copy of the foregoing document to be served, to the following:

ATTORNEYS OF RECORD	PARTIES REPRESENTED	METHOD OF SERVICE
Edward D. Boyack Christopher Anthony 7432 W. Sahara Ave. Las Vegas, NV 89117	Rock Springs II HOA	<input type="checkbox"/> Personal Service <input checked="" type="checkbox"/> Email / E-File <input type="checkbox"/> Facsimile <input type="checkbox"/> Mail

DATED this 27th of August, 2018.



An employee of Bingham Snow & Caldwell



ORDER

BINGHAM SNOW & CALDWELL

Clifford Gravett, Nevada Bar No. 12586
Jedediah Bo Bingham, Nevada Bar No. 9511
840 Pinnacle Court, Suite 202
Mesquite, Nevada 89027
(702) 346-7300 phone
(702) 346-7313 fax
mesquite@binghamsnow.com
Attorneys for the Raridans

DISTRICT COURT

CLARK COUNTY

ROCK SPRINGS MESQUITE 2
OWNERS' ASSOCIATION, a Nevada
domestic non-profit corporation,

Plaintiff,

v.

STEPHEN J. RARIDAN and JUDITH A.
RARIDAN, husband and wife, and DOES I
through X, inclusive,

Defendants.

ORDER OF DISMISSAL

Case No. A-18-772425-C

Dept. No. XVI

THE COURT, having received Defendants' Motion to Dismiss, Plaintiff's Opposition thereto, and Defendants' Reply in Support and oral arguments having been held, does now find, conclude, and order as follows:

FINDINGS OF FACT

1. As stated in the Complaint, Plaintiff and Defendants are adjacent property owners located in Mesquite, Nevada.

2. As also stated in the Complaint, Plaintiff has a series of retaining walls in between it and Defendants' property which are failing and are at risk of collapse.

3. As also stated in the Complaint, Plaintiff previously carried out litigation against the previous owners of Defendants' real property, Floyd and Gayle Olsen in the Eighth District

☐ Summary Judgment
☐ Stipulated Judgment
☐ Default Judgment
☐ Judgment of Arbitration
☐ Voluntary Dismissal
☐ Involuntary Dismissal
☐ Stipulated Dismissal
☒ Motion to Dismiss by Deft(s)

AUG 13 2018

1 Court (Case No. A-11-64068-C) ("Case #1") wherein Plaintiff alleged various causes of action
2 against the Olsens related to the failure of Plaintiff's retaining wall. Ultimately, Case #1 was
3 resolved in favor of the Olsens by way of a jury verdict in favor of the Olsens.

4 4. As also stated in the Complaint, subsequent to the jury's verdict in Case #1, the
5 Olsens sold their property to the Raridans, Defendants in this case.

6 5. In Case #1, Plaintiff submitted a jury instruction to the trial court which stated,
7 "Plaintiff is under no duty or obligation to provide lateral support for Defendants' property to
8 counteract the force resulting from Defendants' actions." The trial court declined to read the
9 requested instruction to the jury. The trial court's refusal was appealed by Plaintiff to the
10 Nevada Supreme Court but the appeal was voluntarily withdrawn by Plaintiff pursuant to the
11 terms of settlement prior to a decision being issued.

12 6. The rejected jury instruction in Case #1 cited the Nevada Supreme Court case of
13 *Carlson v. Zivot*, 90 Nev. 361, 526 P.2d 1177 (1977) as legal authority, which is the same
14 authority relied on by Plaintiff in its present case.

15 7. As set forth in the Complaint, Plaintiff's current case against Defendants is
16 based on Plaintiff's assertion that Plaintiff does not owe any duty to Defendants to provide
17 support to Defendants' property or any walls located on Defendants' property and that,
18 accordingly Plaintiff may remove its retaining walls without any liability to Defendants for
19 harms to Defendants' property or walls arising thereby.

20 8. Following service of the Complaint, Defendants sought dismissal of the
21 Complaint on the basis that the resolution of Case #1 against Plaintiff precluded Plaintiff from
22 bringing the present litigation against Defendants under the doctrines of issue and claim
23 preclusion.

CONCLUSIONS OF LAW

9. When reviewing a motion to dismiss pursuant to NRCP 12(b)(5), the Court is to accept all allegations in the complaint as true and resolve every inference to be drawn therefrom in favor of the non-moving party.¹ If, after applying this standard of review to the complaint, the Court determines that the non-moving party cannot prove any set of facts which would entitle it to relief, dismissal with prejudice is appropriate.²

10. Although the Court generally limits its review in a NRCP 12(b)(5) motion to dismiss to the averments and allegations set forth in the Complaint, it may take judicial notice of certain matters, including pleadings and papers filed in prior cases in which the parties participated, and therefore includes consideration of pleadings and papers from Case #1 in its decision herein.³

11. Claim preclusion is, "...a policy driven doctrine, designed to promote the finality of judgments and judicial efficiency by requiring a party to bring all related claims against its adversary in a single suit, on penalty of forfeiture."⁴ In order for claim preclusion to apply to a case, the following three factors must be satisfied: "...1) the parties or their privies are the same; 2) the final judgment [in the prior case] is valid; and 3) the subsequent action is based on the same claims or any part of them that were or could have been brought in the first case."⁵

¹ *Buzz Stew v. City of Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008).

² NRCP 12(b)(5) (West 2017); *Buzz Stew*, 124 Nev. at 228.

³ *Occhiuto v. Occhiuto*, 97 Nev. 143, 145, 625 P.2d 568, 569 (1981).

⁴ *Boca Park Marketplace v. Higco*, --- Nev. ---, 407 P.3d 761, 763 (2017).

⁵ *Five Star Capital v. Ruby*, 124 Nev. 1048, 1052, 194 P.3d 709, 711 (2008).

1 12. Plaintiff admits in its Complaint that Defendants purchased the real property that
2 is at issue in this litigation from the Olsens, the Court therefore concludes that Defendants are
3 the Olsens' privities, satisfying the first requirement for claim preclusion.⁶
4

5 13. Additionally, because the jury in Case #1 has given its verdict, judgment has
6 issued, and an appeal made and withdrawn pursuant to settlement, the Court concludes that the
7 judgment in Case #1 is final for purposes of claim preclusion.

8 14. The Court further concludes that when Plaintiff submitted a jury instruction to
9 the trial judge in Case #1 requesting that the jury be instructed that Plaintiff did not owe the
10 Olsens' property (now Defendants' property) any duty of support, Plaintiff raised essentially
11 the same claim it is raising now, i.e. an assertion that it has no obligation to provide support to
12 Defendants' property, thus satisfying the third requirement for claim preclusion, the subsequent
13 action (i.e. this litigation) is based on the same claims which were or could have been raised in
14 the prior litigation (Case #1 here).
15

16 15. the Court further concludes that alternatively, even if Plaintiff's rejected jury
17 instruction did not "raise" the issue of whether Plaintiff is obligated to provide support to
18 Defendants' property, the fact that Plaintiff submitted the jury instruction and that it was
19 considered and rejected by the trial court demonstrates that the issue could have been raised in
20 Case #1, which is sufficient for the application of claim preclusion to bar the present litigation.
21

22 16. Based on the rejected jury instruction in Case #1, of which the Court is permitted
23 to and does take judicial notice, the Court concludes that the sole claim raised by Plaintiff in the
24 present case, a request for judicial declaration that it does not owe a duty of support to
25
26
27

28 ⁶ *Weddell v. Sharp*, 131 Nev. Adv. Op. 28, 350 P.3d 80, 82-83 (2015).

1 Defendants' property, was or could have been raised in Case #1. Plaintiff is therefore barred
2 under the doctrine of claim preclusion from litigating that claim in the present case.

3 17. Accordingly, the Court concludes there is no set of facts demonstrable by Plaintiff
4 which could entitle to relief in the present case and dismissal under 12(b)(5) is appropriate.
5

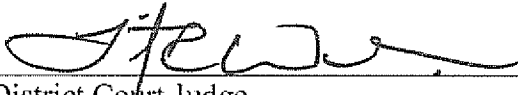

6 18. The Court further concludes that the oral request from Plaintiff to amend its
7 complaint to add a claim for quiet title is denied because such an amendment would be moot and
8 the Court would still grant Defendants' Motion to Dismiss on the basis of claim preclusion.
9

10 ORDER

11 Having so found and concluded, the court does hereby ORDER, ADJUDGE AND
12 DECREE AS FOLLOWS:

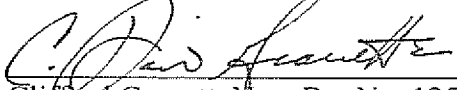
13 1. Pursuant to the provisions of NRCP 12(b)(5), Defendant's Motion to Dismiss is
14 granted and the Complaint is hereby DISMISSED WITH PREJUDICE.

15 By the Court this 16th day of August, 2018,

16
17 
District Court Judge 

18 Submitted By:

19 BINGHAM SNOW & CALDWELL

20 
21 Clifford Gravett, Nev. Bar No. 12586
22 Jedediah Bo Bingham, Nev. Bar No. 9511
23 840 Pinnacle Court, Suite 202
24 Mesquite, Nevada 89027
25
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27
28

Approved as to form:

BOYACK ORME & ANTHONY

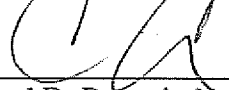
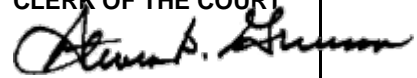
20 
21 Edward D. Boyack, Nev. Bar No. 5229
22 Christopher B. Anthony, Nev. Bar No. 9748
23 7432 W. Sahara Ave., Ste. #101
24 Las Vegas, NV 89117
25
26
27
28

EXHIBIT 1

EXHIBIT 1



COMP
Edward D. Boyack, Esq.
Nevada Bar No. 5229
Christopher B. Anthony, Esq.
Nevada Bar No. 9748
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Las Vegas, Nevada 89117
ted@boyacklaw.com
canthony@boyacklaw.com
702.562.3415
702.562.3570 (fax)

Attorneys for Plaintiff

**EIGHT JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

ROCK SPRINGS MESQUITE 2 OWNERS'
ASSOCIATION, a Nevada domestic non-
profit corporation,

Plaintiff,

vs.

STEPHEN J. RARIDAN and JUDITH A.
RARIDAN, husband and wife, and DOES I
through X, inclusive,

Defendants.

CASE NO. A-18-772425-C

DEPT. Department 16

COMPLAINT

Exempt from Arbitration:
Seeking Declaratory Relief

COMPLAINT

Plaintiff Rock Springs Mesquite 2 Owners' Association, by and through its attorneys,
Boyack Orme & Anthony, hereby complains and alleges as follows:

GENERAL ALLEGATIONS

1. At all times relevant herein, Plaintiff is and was domestic non-profit corporation
organized and existing under the laws of the State of Nevada and is and was doing business as
a homeowners' association located in Mesquite, Clark County, Nevada.

2. At all times relevant herein, Defendant Stephen J. Raridan is and was a resident
of Clark County, Nevada.

....

1 3. At all times relevant herein, Defendant Judith A. Raridan is and was a resident
2 of Clark County, Nevada.

3 4. That the true names or capacities, whether individual, corporate, associate or
4 otherwise, of the Defendants named herein as DOES I through X, inclusive, are unknown to the
5 Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff is informed and
6 believes and therefore alleges that each of the Defendants designated herein as DOE is legally
7 responsible in some manner for the events and happenings herein referred to and caused damages
8 proximately to Plaintiff as herein alleged, and Plaintiff will ask leave of the Court to amend the
9 Complaint to insert the true names and capacities of DOES I through X, inclusive, when the
10 same have been ascertained, and to join such Defendants in the action.

11 5. On May 5, 1997, Floyd E. Olsen and Gayle G. Olsen purchased the real property
12 located at 558 Los Altos Circle, Mesquite, Nevada (hereinafter the "Property").

13 6. In or before September, 2010, Floyd E. Olsen and Gayle G. Olsen caused a wall
14 to be erected in the rear yard of their property located at the Property (hereinafter the "Wall").

15 7. The Wall abuts the association property owned by Plaintiff.

16 8. The Wall is in very close proximity to the retaining wall on Plaintiff's property.

17 10. Due to earth movement or other factors, the Wall is moving towards and causing
18 damage to the retaining wall on Plaintiff's property.

19 11. On May 5, 2011, Plaintiff filed a Complaint against Floyd E. Olsen and Gayle G.
20 Olsen in the Eighth Judicial District Court of Clark County, Nevada, Case No. A-11-640682-C,
21 seeking damages arising out of the above-referenced Wall movement.

22 12. On September 13, 2013, the Eighth Judicial District Court granted judgment in
23 favor of Floyd E. Olsen and Gayle G. Olsen with respect to Case No. A-11-640682-C.

24 12. On or about May 27, 2016, Defendants purchased the Property, inclusive of the
25 above-referenced Wall, from Floyd E. Olsen and Gayle G. Olsen.

26 11. Defendants' Wall continues to encroach upon Plaintiff's perimeter wall, causing
27 Plaintiff to incur costs to maintain the structure of the wall and mitigate the both potential and
28 existing safety hazards.

12. Plaintiff has no duty to maintain the integrity of Defendants' Wall.

13. If Plaintiff removes its perimeter wall, it is possible that Defendants' Wall will collapse.

14. Plaintiff seeks a declaration from this Court stating that Plaintiff has no duty to maintain Defendants' Wall, and that Plaintiff may remove the portion of Plaintiff's wall which may be preventing Defendants' Wall from collapsing.

FIRST CAUSE OF ACTION

(Declaratory Relief)

15. Plaintiff repeats and re-alleges the preceding paragraphs as though fully set forth herein and incorporates same by reference.

16. Pursuant to NRS 30.010 *et seq.*, this Court has the power and authority to declare Plaintiff's rights with respect to its ability to remove its own wall.

17. Upon information and belief, Defendants refuse to repair, maintain or otherwise remedy the current condition of their Wall such that it will not impact Plaintiff's perimeter wall or continue to pose a safety hazard. Further upon information and belief, Defendants maintain that Plaintiff has an obligation to continue to support Defendants' Wall.

18. Plaintiff asserts that it has no obligation to support Defendants' Wall.

19. In light of the allegations herein, a justiciable controversy exists between Plaintiff and Defendants.

20. Further in light of the allegations herein, Plaintiff and Defendants have adverse interests in the maintenance of Defendants' Wall.

21. Further, because Plaintiff seeks a declaration of its rights as it pertains to its own wall, wholly owned by Plaintiff, Plaintiff has a legally protectible interest in the fate of its perimeter wall.

22. Because Plaintiff is currently maintaining its perimeter wall and, by proximity, the Defendants' Wall, Plaintiff is currently undergoing harm in the form of unnecessary wall maintenance. Further, because Defendants' Wall poses a safety concern, Plaintiff is in imminent danger of facing liability for any accident which may occur as a result of Defendants' unstable

1 Wall. Accordingly, this matter is ripe for declaratory relief.

2 **PRAYER FOR RELIEF**

3 Plaintiff requests the Court grant the following relief:

4 (a) A declaration establishing that Plaintiff has the right to tear down its own
5 perimeter wall, notwithstanding the fact that may impact the structural integrity of Defendants'
6 Wall.

7 (b) For such other and further relief the Court deems proper.

8 DATED this 5th day of April, 2018.

9 **BOYACK ORME & ANTHONY**

10
11 By: /s/ Christopher B. Anthony
12 EDWARD D. BOYACK, ESQ.
13 Nevada Bar No. 5229
14 CHRISTOPHER B. ANTHONY, ESQ.
15 Nevada Bar No. 9748
16 7432 W. Sahara Ave.
17 Las Vegas, Nevada 89117
18 *Attorneys for Plaintiff*
19
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1 **IAFD**
Edward D. Boyack, Esq.
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Christopher B. Anthony, Esq.
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Las Vegas, Nevada 89117
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6 702.562.3415
702.562.3570 (fax)

7 *Attorneys for Plaintiff*

8 **EIGHT JUDICIAL DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10
11 **ROCK SPRINGS MESQUITE 2 OWNERS'**
12 **ASSOCIATION, a Nevada domestic non-**
profit corporation,

13 **Plaintiff,**

14 **vs.**

15 **STEPHEN J. RARIDAN and JUDITH A.**
16 **RARIDAN, husband and wife, and DOES I**
through X, inclusive,

17 **Defendants.**

CASE NO.

DEPT. NO.

INITIAL APPEARANCE
FEE DISCLOSURE

18
19 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted
20 for the parties joining in the above-entitled action as indicated below:

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Rock Springs Mesquite 2 Owners' Association..... \$270.00
TOTAL REMITTED..... \$270.00
DATED this 5th day of April, 2018.

BOYACK ORME & ANTHONY

By: /s/ Christopher B. Anthony
EDWARD D. BOYACK, ESQ.
Nevada Bar No. 5229
CHRISTOPHER B. ANTHONY, ESQ.
Nevada Bar No. 9748
7432 W. Sahara Ave.
Las Vegas, Nevada 89117
Attorneys for Plaintiff

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

ROCK SPRINGS MESQUITE II OWNERS'
ASSOCIATION

Appellant,

v.

STEPHEN J. RARIDAN and JUDITH A.
RARIDAN,

Respondents

No. 77085

DOCKETING

CIVIL APPEALS

Electronically Filed
Oct 19 2018 04:49 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

GENERAL INFORMATION

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

WARNING

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

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

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

1. Judicial District Eighth Department XVI
County Clark Judge Timothy Williams
District Ct. Case No. A-18-772425-C

2. Attorney filing this docketing statement:

Attorney Edward D. Boyack #5229 Telephone 702.562.3415
Firm Boyack Orme & Anthony
Address 7432 W. Sahara Ave.
Las Vegas, NV 89117

Client(s) ROCK SPRINGS MESQUITE II OWNERS' ASSOCIATION

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

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

Attorney Clifford D. Gravett, Esq. #12586 Telephone 702.346.7300
Firm Bingham Snow & Caldwell
Address 840 Pinnacle Court, #202
Mesquite, NV 89027

Client(s) Stephen J. Raridan and Judith A. Raridan

Attorney _____ Telephone _____
Firm _____
Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

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

- | | |
|---|---|
| <input type="checkbox"/> Judgment after bench trial | <input checked="" type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input checked="" 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 type="checkbox"/> Other (specify): _____ |
| <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?

- ☐ 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:

Rock Springs Mesquite 2 Owners' Association v. Olsen, Nevada Supreme Court Case No. 64227 (District Court Case No. A-11-640682-C) - In the instant case, the District Court referred to this case as its basis for granting Respondent's Motion to Dismiss below on the basis of claim preclusion.

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:

N/A

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

Appellant brought the declaratory relief action below to obtain the court's guidance as to one issue: whether Appellant (whose property is situated adjacent to Respondent) is obligated to provide lateral support to Respondents' land and the fixtures thereon, in light of the fact that Respondents' predecessors in interest have previously been found not responsible to Appellant HOA for damages after a jury verdict, and further in light of the fact that if Appellant HOA removes its own wall, it is likely that Respondents' adjacent wall will collapse. Appellant HOA seeks to tear down its wall due to ongoing maintenance costs and safety hazards, as the wall is constantly in danger of collapse. The court below granted Respondents' Motion to Dismiss on the grounds of claim preclusion based upon the prior jury trial.

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

Appellant maintains that its claim for declaratory relief (no damages sought) is not subject to the legal mechanism of claim preclusion, and should be allowed to proceed before the lower court for a determination of the issue set forth in No. 8 above.

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

No such proceedings are known.

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

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

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

☒ A substantial issue of first impression

☐ An issue of public policy

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

☐ A ballot question

If so, explain: Based upon the research of counsel, the narrow issue of whether a declaratory relief action is subject to claim preclusion, when the declaratory relief action comes after an action for coercive relief based upon a similar set of facts and circumstances (but deals with a question of law that Appellant maintains could not have been previously brought) is a matter of first impression before this court.

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

This matter would appear to presumptively be retained by the Supreme Court pursuant to NRAP 17(a)(10). While Appellant believes interpretation of NRS 30.030 expressly provides that Appellant's declaratory relief claim cannot be barred by issue preclusion, judicial interpretation of common law surrounding this issue is a matter of first impression.

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

Was it a bench or jury trial? _____

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from Aug 27, 2018

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 Aug 27, 2018

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

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

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

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

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed Sep 26, 2018

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

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

NRAP 4(a)(1) (thirty days)

SUBSTANTIVE APPEALABILITY

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

(a)

- | | |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:
The District Court's Order of Dismissal was a final order that disposed of all claims between all parties.

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

(a) Parties:

Rock Springs Mesquite II Owners' Association, Appellant
Stephen J. Raridan and Judith A. Raridan, Respondent

(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:

N/A

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.

Appellant - declaratory relief - disposed of by court order on 8/27/18.

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

☒ Yes

☐ No

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

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

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

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

VERIFICATION


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

Rock Springs Mesquite II Owners' Assn
Name of appellant

Oct 19, 2018
Date

Nevada, County of Clark
State and county where signed

Edward D. Boyack
Name of counsel of record


Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 19th 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 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.)

Clifford D. Gravett, Esq.
Bingham Snow & Caldwell
840 Pinnacle Court, #202
Mesquite, NV 89027

Dated this 19th day of October, 2018

Carmen Eassa
Signature

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EXHIBIT LIST

1. Rock Springs Mesquite 2 Owners' Association's Complaint
Case No. A-18-772425-C
2. Notice of Entry of Order of Dismissal