

IN THE SUPREME COURT FOR THE STATE OF NEVADA

JEFFREY D. SPENCER,

Appellant,

vs.

HELMUT KLEMENTI, EGON
KLEMENTI, ELFRIEDE KLEMENTI,
MARY ELLEN KINION, ROWENA
SHAW, and PETER SHAW,

Respondents.

Case No. 77086

Electronically Filed
Jul 19 2019 10:58 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

JEFFREY D. SPENCER,

Appellant,

vs.

HELMUT KLEMENTI, EGON
KLEMENTI, ELFRIEDE KLEMENTI,
MARY ELLEN KINION, ROWENA
SHAW, and PETER SHAW,

Respondents.

Case No. 77711

RESPONDENT HELMUT KLEMENTI'S NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the justices of this court may evaluate possible disqualification or recusal.

1. All parent corporations and publicly-held companies owning 10 percent or more of respondent's stock: None.

2. Names of all law firms whose attorneys have appeared for Respondent Helmut Klementi (including proceedings in the district court) or are expected to appear in this court:

LEMONS, GRUNDY & EISENBERG

LAW FIRM OF LAUB AND LAUB

3. If litigant is using a pseudonym, the litigant's true name: None

DATED: July 19th, 2019.



Douglas R. Brown (NV Bar # 7620)

Sarah M. Molleck (NV Bar #13830)

Lemons, Grundy & Eisenberg

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ATTORNEYS FOR RESPONDENT

HELMUT KLEMENTI

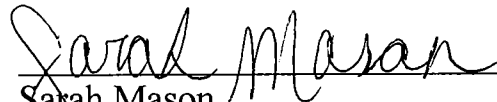
CERTIFICATE OF SERVICE

I hereby certify that the within *Respondent Helmut Klementi's NRAP 26.1 Disclosure* was filed electronically with the Nevada Supreme Court on the 19th day of July, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Kerry S. Doyle, Esq.

Michael A. Pintar, Esq.

Tanika Capers, Esq.



Sarah Mason

IN THE SUPREME COURT FOR THE STATE OF NEVADA

JEFFREY D. SPENCER,

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**MOTION TO TRANSMIT ORIGINAL
EXHIBIT FROM DISTRICT COURT**

Respondent HELMUT KLEMENTI moves this Court for an order pursuant to NRAP 30(d) to direct the Ninth Judicial District Court to transmit the “video exhibit” attached to Appellant JEFFREY SPENCER (“Spencer”)’s *Video Exhibit in*

Support of Responses to Motions for Summary Judgment & to Motion for Sanctions Based on Spoliation of Evidence filed in the Ninth Judicial District Court on or about June 5, 2018. (A copy of the pleading is attached for the Court's convenience as **Exhibit 1**).¹

NRAP 30(d) permits a party to move this Court for an order directing transmission of district court exhibits where the exhibit is "otherwise incapable of being reproduced in the appendix." NRAP 30(d). Transmittal is appropriate "upon a showing that the exhibits are relevant to the issues raised on appeal, and that the court's review of the original exhibits is necessary to the determination of the issues." *Id.*

The "video exhibit" served on all counsel in the district court proceeding was a flash-drive containing video surveillance from Spencer's home camera system on the evening of December 18, 2012. This item is incapable of being reproduced in Respondents' appendix. It is also relevant to the issues raised on appeal. This civil case arose out of a criminal action against Spencer, who was arrested after he violently collided and knocked over his then-78 year old neighbor, Respondent Helmut Klementi, in an attempt to effectuate a "citizen's arrest" on Mr. Klementi. 6 A.App. 1439. Spencer repeatedly contended the video surveillance evidence

¹ Respondent was not served with a file-stamped copy of the *Video Exhibit* paper, but the court docket reflects this paper was filed on June 5, 2019. See 7 A.App. 1711.

validated his version of events in an attempt to defeat summary judgment. 6 A.App. 1253, 1257, 1259. The district court instead found Spencer failed to produce any credible evidence in support of his claims for defamation and malicious prosecution against Mr. Klementi. 6 A.App. 1450-51; 7 A.App. 1470-1471.

Consequently, the only issue before this Court is whether the district court erred in granting summary judgment in Mr. Klementi's favor. The video surveillance exhibit is necessary and relevant for this Court's review, as review of summary judgment is *de novo*.

Accordingly, Mr. Klementi respectfully requests this Court direct the district court to transmit the original video exhibit referenced herein pursuant to NRAP 30(d).

DATED: July 19th, 2019.



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HELMUT KLEMENTI*

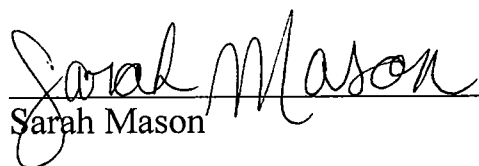
CERTIFICATE OF SERVICE

I hereby certify that the within *Motion to Transmit Original Exhibit from District Court* was filed electronically with the Nevada Supreme Court on the 19th day of July, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Kerry S. Doyle, Esq.

Michael A. Pintar, Esq.

Tanika Capers, Esq.



Sarah Mason

INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION OF EXHIBITS	No. of Pages
1.	2018-06-05 Video Exhibit in Support of Responses to Motions for Summary Judgment & to Motion for Sanctions Based on Spoliation of Evidence	4

EXHIBIT 1

EXHIBIT 1

1 CASE NO. 14-CV-0260

2 Dept. No. II

3

4

5 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF DOUGLAS

7

8 HELMUT KLEMENTI,

9 Plaintiff,

10 vs.

11 JEFFREY D. SPENCER

12 Defendant.

13

14 JEFFREY D. SPENCER,

15 Counterclaimant,

16 vs.

17 HELMUT KLEMENTI, an individual, EGON
18 KLEMENTI, an individual, ELFRIEDE
19 KLEMENTI, an individual, MARY ELLEN
KINION, an individual, ROWENA SHAW,
an individual, PETER SHAW, an individual,
& DOES 1-5,

20 Counterdefendant &
21 Third Party Defendants.

22

23 Counterclaimant JEFFREY SPENCER, by and through his attorneys WILLIAM J. ROUTSIS
24 II, Esq. and LYNN G. PIERCE, Esq., hereby submits an Exhibit of a video relevant to and
25 mentioned in the Responses to Motions for Summary Judgment and to Motion for Sanctions Based
on Spoilation of Evidence, which video was previously produced by his counsel David Zaniel, Esq.

26 ///

27 ///

28 ///

**VIDEO EXHIBIT IN SUPPORT
OF RESPONSES TO MOTIONS
FOR SUMMARY JUDGMENT &
TO MOTION FOR SANCTIONS
BASED ON SPOILATION OF
EVIDENCE**

1 The undersigned affirms pursuant to NRS §239B.030 that this pleading does not contain the
2 social security number of any person.

3 DATED this 1st day of June, 2018.

4
5 /s/
6 WILLIAM J. ROUTSIS, II, Esq.
7 Nevada State Bar No. 5474
8 1070 Monroe Street
9 Reno, Nevada 89509
10 Phone 775-337-2609/Fax 775-737-9321
11 *Attorneys for Counterclaimant/Third Party Plaintiff Jeffrey D. Spencer*

12
13 
14 LYNN G. PIERCE, Esq.
15 Nevada State Bar No. 3567
16 515 Court Street, Suite 2f
17 Reno, Nevada 89501
18 Phone 775-785-9100/Fax 775-785-9110

RECEIVED

JUN 4 2018

LEMONS GRUNDY & EISENBERG

CERTIFICATE OF SERVICE

Pursuant to NRCF Rule 5(b), I certify that on this date I served a true and correct copy of the foregoing pleading vis email and depositing into the U.S. Postal Service, first class postage fully pre-paid, addressed to the following:

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Reno, NV 89501
Attorney for Jeffrey D. Spencer

DATED this 1st day of June, 2018.

