

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

Electronically Filed
Jul 18 2016 01:29 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

DAVID DEZZANI and ROCHELLE
DEZZANI,

Plaintiffs,

vs.

Sup. Ct. Case No. 69410
Case No. CV15-00826
Dept. 10

KERN & ASSOCIATES, LTD; GAYLE KERN;
KAREN HIGGINS; JOHN DOES 1-10; JANE
DOES 1-10; DOE BUSINESSES 1-5,

Defendants.

RECORD ON APPEAL

VOLUME 4 OF 4

DOCUMENTS

APPELLANT

David and Rochelle Dezzani
17 Camino Lienzo
San Clemente, CA 92673

RESPONDENT

Gayle A Kern Esq #1620
Attorney for Kern & Associates, Ltd
and Gayle Kern
5421 Kietzke Lane Suite 200
Reno, Nevada 89511

APPEAL INDEX
Case No. CV15-00826
SCN 69410
DAVID DEZZANI AND ROCHELLE DEZZANI
VS
KERN & ASSOCIATES, LTD; GAYLE KERN; KAREN HIGGINS
Date: JULY 18, 2016

PLEADING	DATE FILED	VOL.	PAGE NO.
COMPLAINT	05-04-15	2	1-38
SUMMONS	09-02-15	2	39-42
SUMMONS	09-02-15	2	43-46
DEFENDANTS, KERN & ASSOCIATES LTD AND GAYLE KERN'S MOTION TO DISMISS COMPLAINT	09-17-15	2	47-113
RETURN OF NEF	09-17-15	2	114-115
MEMORANDUM IN DEFENDANTS, KERN AND GAYLE KERN'S MOTION	10-06-15	2	116-119
DEFENDANTS, KERN & ASSOCIATES, LTD AND GAYLE KERN'S REPLY IN SUPPORT OF MOTION TO DISMISS COMPLAINT	10-12-15	2	120-128
RETURN OF NEF	10-13-15	2	129-130
REQUEST FOR SUBMISSION	10-13-15	2	131-132
RETURN OF NEF	10-13-15	2	133-134
MOTION TO POSTPONE AND/TEMPORARILY STAY; AFFIDAVIT OF DAVID; CERTIFICATE OF SERVICE; AFFIRMATION	10-20-15	2	135-139
DEFENDANTS, KERN & ASSOCIATES, LTD AND GAYLE KERN'S OPPOSITION TO MOTION TO POSTPONE AND TEMPORARILY STAY PROCEEDINGS	10-22-15	2	140-144
RETURN OF NEF	10-22-15	2	145-146
NOTICE OF CORRECTION, AFFIDAVIT, CERTIFICATE OF SERVICE; AFFIRMATION	11-03-15	2	147-151
NOTICE OF CORRECTION, AFFIDAVIT, CERTIFICATE OF SERVICE; AFFIRMATION	11-05-15	2	152-156
REPLY IN SUPPORT OF MOTION TO POSTPONE AND/OR TEMPORARILY STAY PROCEEDINGS; CERTIFICATE OF SERVICE; AFFIRMATION	11-05-15	2	157-159
REQUEST FOR SUBMISSION; NOTICE OF ERRATA AND CORRECTION; CERTIFICATE OF SERVICE; AFFIRMATION	11-10-15	2	160-162
ORDER	11-19-15	2	163-167
RETURN OF NEF	11-19-15	2	168-169

APPEAL INDEX
 Case No. CV15-00826
 SCN 69410
 DAVID DEZZANI AND ROCHELLE DEZZANI
 VS
 KERN & ASSOCIATES, LTD; GAYLE KERN; KAREN HIGGINS
 Date: JULY 18, 2016

PLEADING	DATE FILED	VOL.	PAGE NO.
NOTICE OF ENTRY OF ORDER	11-19-15	2	170-176
RETURN OF NEF	11-19-15	2	177-178
MEMORANDUM OF COSTS	11-20-15	2	179-181
RETURN OF NEF	11-20-15	2	182-183
MOTION FOR ATTORNEY'S FEES & COSTS	12-02-15	3	184-312
RETURN OF NEF	12-02-15	3	313-315
MEMORANDUM OF ANSWERING POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR ATTORNEY'S FEES AND COSTS; COUNTER-AFFIDAVIT AND AFFIRMATION	12-14-15	3	316-322
NOTICE OF APPEAL	12-14-15	3	323
PLAINTIFF ROCHELLE DEZZANI'S JOINDER IN MEMORANDUM OF ANSWERING POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR ATTORNEY'S FEES AND COSTS; COUNTER-AFFIDAVIT AND AFFIRMATION	12-14-15	3	324
CASE APPEAL STATEMENT	12-15-15	3	325-326
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	12-15-15	3	327
RETURN OF NEF	12-15-15	3	328-329
REQUEST FOR CORRECTION TO CASE APPEAL STATEMENT	12-21-15	3	330-331
REPLY TO MEMORANDUM OF ANSWERING POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR ATTORNEY'S FEES & COSTS; COUNTER-AFFIDAVIT (SIC) AND PLAINTIFF ROCHELLE DEZZANI'S JOINDER THERETO	12-21-15	3	332-419
RETURN OF NEF	12-21-15	4	420-421
RETURN OF NEF	12-22-15	4	422-423

APPEAL INDEX
 Case No. CV15-00826
 SCN 69410
 DAVID DEZZANI AND ROCHELLE DEZZANI
 VS
 KERN & ASSOCIATES, LTD; GAYLE KERN; KAREN HIGGINS
 Date: JULY 18, 2016

PLEADING	DATE FILED	VOL.	PAGE NO.
SUPPLEMENTAL AFFIDAVIT OF GAYLE A KERN ESQ IN SUPPORT OF REPLY TO MEMORANDUM OF ANSWERING POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR ATTORNEY'S FEES & COSTS; COUNTER-AFFIDAVIT (SIC) AND PLAINTIFF ROCHELLE DEZZANI'S JOINDER THERE TO	12-22-15	4	424-428
REQUEST FOR SUBMISSION	12-22-15	4	429-431
RETURN OF NEF	12-22-15	4	432-433
SUPREME COURT RECEIPT FOR DOCUMENTS	12-22-15	4	434
RETURN OF NEF	12-22-15	4	435-436
ORDER	02-08-16	4	437-441
RETURN OF NEF	02-08-16	4	442-443
NOTICE OF ENTRY OF ORDER	02-09-16	4	444-450
RETURN OF NEF	02-09-16	4	451-452
AMENDED NOTICE OF APPEAL	02-29-16	4	453-454
CERTIFICIATE OF TRANSMITTAL – AMENDED NOTICE OF APPEAL	03-02-16	4	455
RETURN OF NEF	03-02-16	4	456-457
SUPREME COURT RECEIPT FOR DOCUMENTS	03-14-16	4	458
RETURN OF NEF	03-14-16	4	459-460
SUPREME COURT NOTICE TO FILE CASE APPEAL STATEMENT – CIVIL	03-14-16	4	461
RETURN OF NEF	03-14-16	4	462-463
SUPREME COURT RECEIPT FOR DOCUMENTS	03-22-16	4	464
RETURN OF NEF	03-22-16	4	465-466
SUPREME COURT ORDER DIRECTING TRANSMISSION OF RECORD	03-30-16	4	467
RETURN OF NEF	03-30-16	4	468-469

APPEAL INDEX
 Case No. CV15-00826
 SCN 69410
 DAVID DEZZANI AND ROCHELLE DEZZANI
 VS
 KERN & ASSOCIATES, LTD; GAYLE KERN; KAREN HIGGINS
 Date: JULY 18, 2016

PLEADING	DATE FILED	VOL.	PAGE NO.
CERTIFICATE OF CLERK AND TRANSMITTAL – RECORD ON APPEAL	04-01-16	4	470
RETURN OF NEF	04-01-16	4	471-472
CERTIFICATE OF CLERK AND TRANSMITTAL – RECORD ON APPEAL	04-01-16	4	473
RETURN OF NEF	04-01-16	4	474-475
CASE APPEAL STATEMENT	04-04-16	4	476-477
CERTIFICATE OF CLERK AND TRANSMITTAL	04-04-16	4	478
RETURN OF NEF	04-04-16	4	479-480
SUPREME COURT ORDER DIRECTING TRANSMISSION OF RECORD	06-30-16	4	481
RETURN OF NEF	06-30-16	4	482-483

Return Of NEF**Recipients**

GAYLE KERN, ESQ. - Notification received on 2015-12-21 16:51:00.038.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

12-21-2015:14:43:19

Clerk Accepted:

12-21-2015:16:49:08

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Request

Filed By:

Gayle Kern

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

GAYLE A. KERN, ESQ. for GAYLE A. KERN,
KERN & ASSOCIATES, LTD

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

KAREN HIGGINS

ROCHELLE DEZZANI

DAVID DEZZANI

Return Of NEF

Recipients

GAYLE KERN, ESQ. - Notification received on 2015-12-22 08:39:20.649.

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-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

12-21-2015:16:41:50

Clerk Accepted:

12-22-2015:08:38:50

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Reply to/in Opposition

- **Continuation
- **Continuation
- **Continuation

Filed By:

Gayle Kern

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

GAYLE A. KERN, ESQ. for GAYLE A. KERN,
KERN & ASSOCIATES, LTD

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

KAREN HIGGINS

ROCHELLE DEZZANI

DAVID DEZZANI

1 4105

GAYLE A. KERN, ESQ.
Nevada Bar No. 1620
KERN & ASSOCIATES, LTD.
5421 Kietzke Lane Suite 200
Reno, Nevada 89511
Telephone: (775) 324-5930
Telefax: (775) 324-6173
E-mail: gaylekern@kernltd.com

Attorneys for Kern & Associates, Ltd.
and Gayle Kern

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

DAVID DEZZANI and ROCHELLE CASE NO.: CV15-00826
DEZZANI,

DEPT. NO.: 10

Plaintiffs,

vs.

KERN & ASSOCIATES, LTD; GAYLE KERN;
KAREN HIGGINS; JOHN DOES 1-10; JANE
DOES 1-10; DOE BUSINESSES 1-5,

**SUPPLEMENTAL AFFIDAVIT OF GAYLE
A. KERN, ESQ. IN SUPPORT OF REPLY TO
MEMORANDUM OF ANSWERING POINTS
AND AUTHORITIES IN OPPOSITION TO
MOTION FOR ATTORNEY'S FEES &
COSTS; COUNTER-AFFICAVIT [SIC] AND
PLAINTIFF ROCHELLE DEZZANI'S
JOINDER THERETO**

Defendants.

STATE OF NEVADA)
) : ss.
COUNTY OF WASHOE)

I, Gayle A. Kern, being first duly sworn do hereby swear under penalty of perjury as follows:

1. The fees and costs billed in this matter for preparing the Reply to Memorandum of Answering Points and Authorities in Opposition to Motion for Attorney's Fees & Costs; Counter-Afficavit [Sic] and Plaintiff Rochelle Dezzani's Joinder Thereto are reasonable and appropriate. The time billed from November 26, 2015 through December 21, 2015, was 10.3 hours, with hourly rates of \$300.00 for my services and \$250.00 for Ms. Carter's services, totaling \$2,590.00. Costs through November 30, 2015, are itemized in the amount of \$28.40, for an amount totaling \$2,618.40.

2. These additional fees are reasonable and should be awarded. My hourly rate is reasonable given my experience practicing law in general.

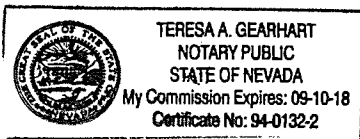
Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding document filed in the above-entitled case does not contain the social security number of any person.

DATED this 22nd day of December, 2015.


GAYLE A. KERN

SUBSCRIBED AND SWORN to before me
this 22nd day of December, 2015.


NOTARY PUBLIC



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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of Kern & Associates, Ltd., 5421 Kietzke Lane, Suite 200, Reno, NV 89511, and that on this date, I served the foregoing document(s) described as follows:

**SUPPLEMENTAL AFFIDAVIT OF GAYLE A. KERN, ESQ. IN SUPPORT OF REPLY TO
MEMORANDUM OF ANSWERING POINTS AND AUTHORITIES IN OPPOSITION TO
MOTION FOR ATTORNEY'S FEES & COSTS; COUNTER-AFFICAVIT [SIC] AND
PLAINTIFF ROCHELLE DEZZANI'S JOINDER THERETO**

On the party(s) set forth below by:

- ☒ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices.
- ☐ Personal delivery.
- ☐ Facsimile (FAX).
- ☐ Federal Express or other overnight delivery.
- ☐ Reno-Carson Messenger Service.

addressed as follows:

David and Rochelle Dezzani
17 Camino Lienzo
San Clemente, CA 92673

DATED this 22nd day of December, 2015.


TERESA A. GEARHART

12/22/2015
9:03 AMGayle A. Kern, Ltd.
Pre-bill Worksheet

Page 1

Selection Criteria

Clie.Selection Include: Kern/McCloud/Dezzani
 Slip.Transaction Dat 11/26/2015 - 12/21/2015

Nickname Kern/McCloud/Dezzani | Dezzani v.
 Full Name Gayle A. Kern, Ltd. dba Kern & Associates, Ltd.
 Address
 Phone 1 Phone 2
 Phone 3 Phone 4
 In Ref To Dezzani v. Kern & Associates, Ltd./Gayle Kern, et al.
 Case No. CV15-00826
 Fees Arrg. By billing value on each slip
 Expense Arrg. By billing value on each slip
 Tax Profile Exempt
 Last bill
 Last charge 12/21/2015
 Last payment Amount \$0.00

Date ID	Attorney Task	Rate Markup %	Hours DNB Time	Amount DNB Amt	Total
12/15/2015 148904	VAC Services Reviewed Dezzani opposition to motion for attorneys fees and costs; read Kay v. Ehrler, US Supreme Court case cited; conducted research on pro per party recovery of attorneys fees and attorney recovery of attorneys fees and costs.	250.00	2.50	625.00	Billable
12/17/2015 149015	VAC Services Continued research of pro se litigants and attorney's fees and costs; reviewed cases re: availability of award for attorney representing law firm.	250.00	1.50	375.00	Billable
12/18/2015 148974	GAK Services Review Case Appeal Statement, Certificate of Clerk and Transmittal - Notice of Appeal, and Plaintiff Rochelle Dezzani's Joinder on Opposition; prepare Request for Correction to Case Appeal Statement.	300.00	0.30	90.00	Billable
12/21/2015 149016	VAC Services Continued research of award of attorney's fees and costs; researched pro se attorney award of fees and costs in NV cases; researched inherent authority of court to impose attorneys fees as sanctions; drafted reply to opposition to motion for attorneys fees and costs.	250.00	6.00	1,500.00	Billable

12/22/2015
9:03 AMGayle A. Kern, Ltd.
Pre-bill Worksheet

Page 2

Kern/McCloud/Dezzani:Gayle A. Kern, Ltd. dba Kern & Associates, Ltd. (continued)

			Amount	Total
TOTAL	Billable Fees	10.30		<u>\$2,590.00</u>

Date ID	Attorney Expense	Price Markup %	Quantity	Amount	Total
11/30/2015	TAG	0.20	142.000	28.40	Billable
148361	Photocopies Photocopy Charges				

TOTAL	Billable Costs			<u>\$28.40</u>
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Calculation of Fees and Costs

	Amount	Total
Fees Bill Arrangement: Slips By billing value on each slip.		
Total of billable time slips	\$2,590.00	
Total of Fees (Time Charges)		\$2,590.00
Costs Bill Arrangement: Slips By billing value on each slip.		
Total of billable expense slips	\$28.40	
Total of Costs (Expense Charges)		\$28.40
Total new charges		<u>\$2,618.40</u>
New Balance Current	\$2,618.40	
Total New Balance		<u>\$2,618.40</u>

1 **3860**

2 GAYLE A. KERN, ESQ.
3 Nevada Bar No. 1620
4 KERN & ASSOCIATES, LTD.
5 5421 Kietzke Lane Suite 200
6 Reno, Nevada 89511
7 Telephone: (775) 324-5930
8 Telefax: (775) 324-6173
9 E-mail: gaylekern@kernltd.com

10 *Attorneys for Kern & Associates, Ltd.*
11 *and Gayle Kern*

12 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
13
14 IN AND FOR THE COUNTY OF WASHOE

15 DAVID DEZZANI and ROCHELLE CASE NO.: CV15-00826
16 DEZZANI,

17 Plaintiffs,

DEPT. NO.: 10

REQUEST FOR SUBMISSION

vs.

18 KERN & ASSOCIATES, LTD; GAYLE KERN;
19 KAREN HIGGINS; JOHN DOES 1-10; JANE
20 DOES 1-10; DOE BUSINESSES 1-5,

21 Defendants.
22 _____/

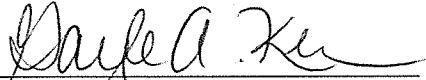
23 Defendants, Kern & Associates, Ltd. and Gayle Kern, filed their Motion for Attorney's Fees &
24 Costs ("Motion") on December 2, 2015. Plaintiff, David Dezzani, filed a Memorandum of Answering
25 Points and Authorities in Opposition to Motion for Attorney's Fees and Costs; Counter-Affidavit [sic] on
26 December 14, 2015. Defendant, Rochelle Dezzani, filed her Joinder in the Memorandum of Answering
27 Points and Authorities in Opposition to Motion for Attorney's Fees and Costs; Counter-Affidavit [sic] on
28 December 14, 2015. Defendants, Kern & Associates, Ltd. and Gayle Kern filed their Reply to
Memorandum of Answering Points and Authorities in Opposition to Motion for Attorney's Fees and Costs;
Counter-Affidavit [sic] on December 21, 2015, and the Supplemental Affidavit of Gayle A. Kern, Esq. In
Support of Reply to Memorandum of Answering Points and Authorities in Opposition to Motion for
Attorney's Fees & Costs; Counter-Affidavit [Sic] and Plaintiff Rochelle Dezzani's Joinder Thereto
simultaneously with this Request for Submission.

1 It is requested that the Motion be submitted to the Court for decision.

2 Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding document filed
3 in the above-entitled case does not contain the social security number of any person.

4 DATED this 22nd day of December, 2015.

5 KERN & ASSOCIATES, LTD.

6 By 
7 GAYLE A. KERN, ESQ.
8 *Attorneys for Kern & Associates, Ltd.*
9 *and Gayle Kern*

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of Kern & Associates, Ltd., 5421 Kietzke Lane, Suite 200, Reno, NV 89511, and that on this date, I served the foregoing document(s) described as follows:

REQUEST FOR SUBMISSION

On the party(s) set forth below by:

- ☒ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices.
- ☐ Personal delivery.
- ☐ Facsimile (FAX).
- ☐ Federal Express or other overnight delivery.
- ☐ Reno-Carson Messenger Service.

addressed as follows:

David and Rochelle Dezzani
17 Camino Lienzo
San Clemente, CA 92673

DATED this 22nd day of December, 2015.


TERESA A. GEARHART

Return Of NEF

Recipients

GAYLE KERN, ESQ. - Notification received on 2015-12-22 14:36:06.575.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

12-22-2015:14:31:26

Clerk Accepted:

12-22-2015:14:35:33

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Supplemental ...
Request for Submission

Filed By:

Gayle Kern

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

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If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

GAYLE A. KERN, ESQ. for GAYLE A. KERN,
KERN & ASSOCIATES, LTD

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

KAREN HIGGINS
ROCHELLE DEZZANI
DAVID DEZZANI

**IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

DAVID DEZZANI; AND ROCHELLE DEZZANI,
Appellants,
vs.
KERN & ASSOCIATES, LTD.; AND GAYLE A.
KERN,
Respondents.

Supreme Court No. 69410
District Court Case No. CV1500826

DID

RECEIPT FOR DOCUMENTS

TO: David Dezzani
Rochelle Dezzani
Kern & Associates, Ltd. \ Gayle A. Kern
Jacqueline Bryant, Washoe District Court Clerk ✓

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

12/18/2015	Filing Fee Paid. \$250.00 from David and Rochelle Dezzani. Money Order no. 23442974561.
12/18/2015	Filed Notice of Appeal/Proper Person. Appeal docketed in the Supreme Court this day.

DATE: December 18, 2015

Tracie Lindeman, Clerk of Court
lh

Return Of NEF

Recipients

GAYLE KERN, ESQ. - Notification received on 2015-12-22 14:47:31.761.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

12-22-2015:14:46:24

Clerk Accepted:

12-22-2015:14:47:02

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Supreme Court Receipt for Doc

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

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The following people were served electronically:

GAYLE A. KERN, ESQ. for GAYLE A. KERN,
KERN & ASSOCIATES, LTD

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

KAREN HIGGINS

ROCHELLE DEZZANI

DAVID DEZZANI

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

DAVID DEZZANI and ROCHELLE
DEZZANI,

Plaintiffs,

vs.

Case No.: CV15-00826

Dept. No: 10

KERN & ASSOCIATES, LTD; GAYLE KERN;
KAREN HIGGINS; JOHN DOES 1-10; JANE
DOES 1-10; DOE BUSINESSES 1-5;
Defendants.

ORDER

Presently before the Court is a MOTION FOR ATTORNEY'S FEES & COSTS ("the Motion") filed by Defendants KERN & ASSOCIATES, LTD., and GAYLE KERN ("Kern") on December 2, 2015. Plaintiffs DAVID DEZZANI and ROCHELLE DEZZANI (collectively "the Plaintiffs") filed a MEMORANDUM OF ANSWERING POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR ATTORNEY'S FEES AND COSTS; COUNTER-AFFICAVIT [SIC] AND AFFIRMATION ("the Opposition") on December 14, 2015. Plaintiff Rochelle Dezzani filed PLAINTIFF ROCHELLE DEZZANI'S [SIC] JOINDER IN MEMORANDUM OF ANSWERING POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR ATTORNEY'S FEES AND COSTS; COUNTER-AFFICAVIT [SIC] AND AFFIRMATION ("the Joinder") on December 14, 2015. Kern filed a REPLY TO MEMORANDUM OF ANSWERING POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR ATTORNEY'S FEES &

1 COSTS; COUNTER-AFFICAVIT [SIC] AND PLAINTIFF ROCHELLE DEZZANI'S JOINDER
2 THERETO ("the Reply") on December 21, 2015. Kern filed a SUPPLEMENTAL AFFIDAVIT
3 OF GAYLE A. KERN, ESQ. IN SUPPORT OF REPLY TO MEMORANDUM OF
4 ANSWERING POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR
5 ATTORNEY'S FEES & COSTS; COUNTER-AFFICAVIT [SIC] AND PLAINTIFF ROCHELLE
6 DEZZANI'S JOINDER THERETO ("the Supplement") on December 22, 2015. Kern submitted
7 the matter for the Court's consideration on December 22, 2015.

8 The Plaintiffs filed a COMPLAINT ("the Complaint") on May 4, 2015. The Complaint
9 alleged four causes of action for various violations of Chapter 116 of the Nevada Revised Statutes.
10 The Complaint alleges Kern engaged in retaliatory action against the Plaintiffs. This case arises
11 out of a dispute between the Plaintiffs and the McCloud Condominium Homeowner's Association
12 ("the HOA"). Kern engaged in correspondence between the Plaintiffs and the HOA as the HOA's
13 counsel. Kern's September 9, 2015, letter ("the September Letter"), clearly gave notice and an
14 opportunity to respond to the allegations of the Complaint's deficiencies in compliance with
15 NRCP 11(c). The September Letter gave a thorough and detailed analysis of the deficiencies of
16 the Plaintiffs' claims, namely the inability to institute litigation against the HOA's counsel, Kern.
17 The September Letter went so far as to direct the Plaintiffs to a local case where a plaintiff raised
18 identical issues and a judge found the issues untenable. Though not binding, this case was certainly
19 persuasive.

20 The Court granted DEFENDANTS, KERN & ASSOCIATES, LTD. AND GAYLE
21 KERN'S MOTION TO DISMISS COMPLAINT in its November 19, 2015, ORDER ("November
22 Order"). The Court found NRS 116.3118 does not permit attorneys to be personally liable for
23 actions taken on behalf of an association.

24 The Motion argues the Plaintiffs are liable for attorneys' fees pursuant to NRS
25 18.010(2)(b). "The decision to award attorney's fees is within the sound discretion of the trial
26 court." *Bergmann v. Boyce*, 109 Nev. 670, 674, 856 P.2d 560, 563 (1993). A district court's
27 award of attorney's fees will not be disturbed absent a manifest abuse of discretion. *Nelson v.*
28 *Peckham Plaza Partnerships*, 110 Nev. 23, 26, 866 P.2d 1138, 1139-40 (1994). An action may

1 constitute an abuse of discretion where a district court disregards the applicable legal principles.
2 *Allianz Ins. Co. v. Gagnon*, 109 Nev. 990, 995, 860 P.2d 720, 724 (1993). A district court assesses
3 a motion for attorney's fees under NRS 18.010(2)(b) by determining whether the plaintiff had
4 reasonable grounds for its claims. *Bergmann*, 109 Nev. at 675, 856 P.2d at 563. This analysis is
5 dependent on the actual circumstances of the plaintiff's claim not hypothetical facts. *Id.*

6 The Motion contends the Plaintiffs maintained the above-captioned lawsuit without
7 reasonable grounds. The Opposition argues the Plaintiffs' lawsuit was not rendered groundless
8 solely as a result of the Court's finding that NRS 116.3118 did not support the Complaint. The
9 Court notes the mere granting of a motion to dismiss is not *ipso facto* a finding that attorney's fees
10 are mandated. The Reply asserts the Plaintiffs were informed of the inappropriate application of
11 NRS 116.3118 to this dispute and acted in bad faith by continuing to maintain this lawsuit. The
12 Motion and Reply further argue fees are appropriate as sanctions pursuant to NRCP 11 because
13 there "is no question that Plaintiffs' Complaint was not well grounded in fact or existing law." The
14 Reply 6:2.


15 The Court finds evidence indicating this case was maintained in an effort to harass the
16 Defendants. The Court is unpersuaded by the Opposition's arguments that this suit was
17 maintained with reasonable grounds. Rule 11 sanctions "should be imposed for frivolous actions."
18 *Marshall v. Eighth Judicial Dist. Court In and For County of Clark*, 108 Nev. 459, 465, 836 P.2d
19 47, 52 (1992). "Rule 11 sanctions are not intended to chill an attorney's enthusiasm or creativity
20 in reasonably pursuing factual or legal theories." *Id.* The Court notes Plaintiff David Dezzani
21 ("Mr. Dezzani"), although not licensed to practice in this state, has been an attorney for several
22 years and is aware of the obligation to proceed in good faith in all causes of action. Mr. Dezzani's
23 COUNTER AFFIDAVIT ("Affidavit") attests he filed the Complaint "in good faith, as [the
24 Plaintiffs] believed, that [they] had [been] retaliated against, in violation of Nevada law." The
25 Affidavit ¶ 12. Yet, the Court finds the September Letter clearly placed the Plaintiffs on notice of
26 the absence of legal authority to support the claims against Kern. The September Letter gave a
27 thorough analysis of the issues raised by the Complaint. The September Letter informed the
28 Plaintiffs, should they choose to proceed with litigation, Kern would seek attorney's fees and costs

1 in accordance with NRCP 11(c)(1)(a). Plaintiffs chose to go forward. Mr. Dezzani is an attorney
2 and should have known the consequences of his actions. The Plaintiffs should have done a more
3 thorough job of researching issues and reviewing the applicable law. The fact Mr. Dezzani does
4 not practice in the state of Nevada is not persuasive.

5 IT IS HEREBY ORDERED the MOTION FOR ATTORNEY'S FEES & COSTS is
6 GRANTED. Defendants are hereby entitled to fees and costs in the amount of \$13,550.74.

7 DATED this 8 day of February, 2016.

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ELLIOTT A. SATTLER
District Judge

CERTIFICATE OF MAILING


Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 8 day of February, 2016, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

David and Rochelle Dezzani
17 Camino Lienzo
San Clemente, CA 92673

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the 8 day of February, 2016, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Gayle Kern, Esq.


Sheila Mansfield
Administrative Assistant

Return Of NEF

Recipients

GAYLE KERN, ESQ. - Notification received on 2016-02-08 16:58:46.09.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

02-08-2016:16:57:47

Clerk Accepted:

02-08-2016:16:58:15

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Ord Granting

Filed By:

Judicial Asst. SMansfield

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

GAYLE A. KERN, ESQ. for GAYLE A. KERN,
KERN & ASSOCIATES, LTD

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

KAREN HIGGINS

ROCHELLE DEZZANI

DAVID DEZZANI

1 2540

2 GAYLE A. KERN, ESQ.
3 Nevada Bar No. 1620
4 KERN & ASSOCIATES, LTD.
5 5421 Kietzke Lane Suite 200
6 Reno, Nevada 89511
7 Telephone: (775) 324-5930
8 Telefax: (775) 324-6173
9 E-mail: gaylekern@kernltd.com

10 *Attorneys for Kern & Associates, Ltd.*
11 *and Gayle Kern*

12 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

13 IN AND FOR THE COUNTY OF WASHOE

14 DAVID DEZZANI and ROCHELLE CASE NO.: CV15-00826
15 DEZZANI,

16 DEPT. NO.: 10

17 Plaintiffs,

18 **NOTICE OF ENTRY OF ORDER**

19 vs.

20 KERN & ASSOCIATES, LTD; GAYLE KERN;
21 KAREN HIGGINS; JOHN DOES 1-10; JANE
22 DOES 1-10; DOE BUSINESSES 1-5,

23 Defendants.
24 _____/

25 PLEASE TAKE NOTICE that on the 8th day of February, 2016, an Order (granting Motion for
26 Attorney's Fees & Costs) ("Order"), was entered in the above-captioned matter. A copy of the Order is
27 attached hereto.

28 Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding document filed
in the above-entitled case does not contain the social security number of any person.

DATED this 9th day of February, 2016.

KERN & ASSOCIATES, LTD.

By 
GAYLE A. KERN, ESQ.
Attorneys for Kern & Associates, Ltd.
and Gayle Kern

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of Kern & Associates, Ltd., 5421 Kietzke Lane, Suite 200, Reno, NV 89511, and that on this date, I served the foregoing document(s) described as follows:

NOTICE OF ENTRY OF ORDER

On the party(s) set forth below by:

 X Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices.

 Personal delivery.

 Facsimile (FAX).

 Federal Express or other overnight delivery.

 Reno-Carson Messenger Service.

addressed as follows:

David and Rochelle Dezzani
17 Camino Lienzo
San Clemente, CA 92673

DATED this 9th day of February, 2016.


TERESA A. GEARHART

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

DAVID DEZZANI and ROCHELLE
DEZZANI,

Plaintiffs,

vs.

Case No.: CV15-00826

Dept. No: 10

KERN & ASSOCIATES, LTD; GAYLE KERN;
KAREN HIGGINS; JOHN DOES 1-10; JANE
DOES 1-10; DOE BUSINESSES 1-5;
Defendants.

ORDER

Presently before the Court is a MOTION FOR ATTORNEY'S FEES & COSTS ("the Motion") filed by Defendants KERN & ASSOCIATES, LTD., and GAYLE KERN ("Kern") on December 2, 2015. Plaintiffs DAVID DEZZANI and ROCHELLE DEZZANI (collectively "the Plaintiffs") filed a MEMORANDUM OF ANSWERING POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR ATTORNEY'S FEES AND COSTS; COUNTER-AFFICAVIT [SIC] AND AFFIRMATION ("the Opposition") on December 14, 2015. Plaintiff Rochelle Dezzani filed PLAINTIFF ROCHELLE DEZZANI'S [SIC] JOINDER IN MEMORANDUM OF ANSWERING POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR ATTORNEY'S FEES AND COSTS; COUNTER-AFFICAVIT [SIC] AND AFFIRMATION ("the Joinder") on December 14, 2015. Kern filed a REPLY TO MEMORANDUM OF ANSWERING POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR ATTORNEY'S FEES &

1 COSTS; COUNTER-AFFICAVIT [SIC] AND PLAINTIFF ROCHELLE DEZZANI'S JOINDER
2 THERETO ("the Reply") on December 21, 2015. Kern filed a SUPPLEMENTAL AFFIDAVIT
3 OF GAYLE A. KERN, ESQ. IN SUPPORT OF REPLY TO MEMORANDUM OF
4 ANSWERING POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR
5 ATTORNEY'S FEES & COSTS; COUNTER-AFFICAVIT [SIC] AND PLAINTIFF ROCHELLE
6 DEZZANI'S JOINDER THERETO ("the Supplement") on December 22, 2015. Kern submitted
7 the matter for the Court's consideration on December 22, 2015.

8 The Plaintiffs filed a COMPLAINT ("the Complaint") on May 4, 2015. The Complaint
9 alleged four causes of action for various violations of Chapter 116 of the Nevada Revised Statutes.
10 The Complaint alleges Kern engaged in retaliatory action against the Plaintiffs. This case arises
11 out of a dispute between the Plaintiffs and the McCloud Condominium Homeowner's Association
12 ("the HOA"). Kern engaged in correspondence between the Plaintiffs and the HOA as the HOA's
13 counsel. Kern's September 9, 2015, letter ("the September Letter"), clearly gave notice and an
14 opportunity to respond to the allegations of the Complaint's deficiencies in compliance with
15 NRCP 11(c). The September Letter gave a thorough and detailed analysis of the deficiencies of
16 the Plaintiffs' claims, namely the inability to institute litigation against the HOA's counsel, Kern.
17 The September Letter went so far as to direct the Plaintiffs to a local case where a plaintiff raised
18 identical issues and a judge found the issues untenable. Though not binding, this case was certainly
19 persuasive.

20 The Court granted DEFENDANTS, KERN & ASSOCIATES, LTD. AND GAYLE
21 KERN'S MOTION TO DISMISS COMPLAINT in its November 19, 2015, ORDER ("November
22 Order"). The Court found NRS 116.3118 does not permit attorneys to be personally liable for
23 actions taken on behalf of an association.

24 The Motion argues the Plaintiffs are liable for attorneys' fees pursuant to NRS
25 18.010(2)(b). "The decision to award attorney's fees is within the sound discretion of the trial
26 court." *Bergmann v. Boyce*, 109 Nev. 670, 674, 856 P.2d 560, 563 (1993). A district court's
27 award of attorney's fees will not be disturbed absent a manifest abuse of discretion. *Nelson v.*
28 *Peckham Plaza Partnerships*, 110 Nev. 23, 26, 866 P.2d 1138, 1139-40 (1994). An action may

1 constitute an abuse of discretion where a district court disregards the applicable legal principles.
2 *Allianz Ins. Co. v. Gagnon*, 109 Nev. 990, 995, 860 P.2d 720, 724 (1993). A district court assesses
3 a motion for attorney's fees under NRS 18.010(2)(b) by determining whether the plaintiff had
4 reasonable grounds for its claims. *Bergmann*, 109 Nev. at 675, 856 P.2d at 563. This analysis is
5 dependent on the actual circumstances of the plaintiff's claim not hypothetical facts. *Id.*

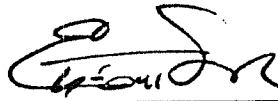
6 The Motion contends the Plaintiffs maintained the above-captioned lawsuit without
7 reasonable grounds. The Opposition argues the Plaintiffs' lawsuit was not rendered groundless
8 solely as a result of the Court's finding that NRS 116.3118 did not support the Complaint. The
9 Court notes the mere granting of a motion to dismiss is not *ipso facto* a finding that attorney's fees
10 are mandated. The Reply asserts the Plaintiffs were informed of the inappropriate application of
11 NRS 116.3118 to this dispute and acted in bad faith by continuing to maintain this lawsuit. The
12 Motion and Reply further argue fees are appropriate as sanctions pursuant to NRCP 11 because
13 there "is no question that Plaintiffs' Complaint was not well grounded in fact or existing law." The
14 Reply 6:2.

15 The Court finds evidence indicating this case was maintained in an effort to harass the
16 Defendants. The Court is unpersuaded by the Opposition's arguments that this suit was
17 maintained with reasonable grounds. Rule 11 sanctions "should be imposed for frivolous actions."
18 *Marshall v. Eighth Judicial Dist. Court In and For County of Clark*, 108 Nev. 459, 465, 836 P.2d
19 47, 52 (1992). "Rule 11 sanctions are not intended to chill an attorney's enthusiasm or creativity
20 in reasonably pursuing factual or legal theories." *Id.* The Court notes Plaintiff David Dezzani
21 ("Mr. Dezzani"), although not licensed to practice in this state, has been an attorney for several
22 years and is aware of the obligation to proceed in good faith in all causes of action. Mr. Dezzani's
23 COUNTER AFFIDAVIT ("Affidavit") attests he filed the Complaint "in good faith, as [the
24 Plaintiffs] believed, that [they] had [been] retaliated against, in violation of Nevada law." The
25 Affidavit ¶ 12. Yet, the Court finds the September Letter clearly placed the Plaintiffs on notice of
26 the absence of legal authority to support the claims against Kern. The September Letter gave a
27 thorough analysis of the issues raised by the Complaint. The September Letter informed the
28 Plaintiffs, should they choose to proceed with litigation, Kern would seek attorney's fees and costs

1 in accordance with NRCP 11(c)(1)(a). Plaintiffs chose to go forward. Mr. Dezzani is an attorney
2 and should have known the consequences of his actions. The Plaintiffs should have done a more
3 thorough job of researching issues and reviewing the applicable law. The fact Mr. Dezzani does
4 not practice in the state of Nevada is not persuasive.

5 IT IS HEREBY ORDERED the MOTION FOR ATTORNEY'S FEES & COSTS is
6 GRANTED. Defendants are hereby entitled to fees and costs in the amount of \$13,550.74.

7 DATED this 8 day of February, 2016.

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10 ELLIOTT A. SATTLER
11 District Judge
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1 CERTIFICATE OF MAILING


2 Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court
3 of the State of Nevada, County of Washoe; that on this 8 day of February, 2016, I deposited in
4 the County mailing system for postage and mailing with the United States Postal Service in Reno,
5 Nevada, a true copy of the attached document addressed to:

6 David and Rochelle Dezzani
7 17 Camino Lienzo
8 San Clemente, CA 92673
9

10 CERTIFICATE OF ELECTRONIC SERVICE

11 I hereby certify that I am an employee of the Second Judicial District Court of the State of
12 Nevada, in and for the County of Washoe; that on the 8 day of February, 2016, I
13 electronically filed the foregoing with the Clerk of the Court by using the ECF system which will
14 send a notice of electronic filing to the following:
15

16 Gayle Kern, Esq.
17
18

19 
20 Sheila Mansfield
21 Administrative Assistant
22
23
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26
27
28

Return Of NEF

Recipients

GAYLE KERN, ESQ. - Notification received on 2016-02-09 11:07:33.956.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

02-09-2016:11:06:30

Clerk Accepted:

02-09-2016:11:07:00

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Notice of Entry of Ord

Filed By:

Gayle Kern

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

GAYLE A. KERN, ESQ. for GAYLE A. KERN,
KERN & ASSOCIATES, LTD

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

KAREN HIGGINS

ROCHELLE DEZZANI

DAVID DEZZANI

David and Rochelle Dezzani
17 Camino Lienzo
San Clemente, CA 92673
(808) 291-2302

FILED

2016 FEB 29 PM 12:24

JACQUELINE DEZANI
CLERK OF THE COURT
BY [Signature]
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

DAVID DEZZANI and
ROCHELLE DEZZANI,
Plaintiffs

vs.

Case No. CV15 00826
Dept. No. 10

KERN & ASSOCIATES, LTD; GAYLE KERN;
KAREN HIGGINS; JOHN DOES 1-10;
JANE DOES 1-10; DOE BUSINESSES 1-5

AMENDED
NOTICE OF APPEAL

Notice is hereby given that David and Rochelle Dezzani, Plaintiffs above named, hereby amend their previously filed NOTICE OF APPEAL in this matter to appeal from both the ORDER by District Judge Elliot Sattler, signed and entered herein on the 19th day of November, 2015 and the ORDER signed and entered on the 8th day of February, 2016, awarding attorney's fees and costs in the amount of \$13,550.74, .

Signed, in San Clemente, California, this 25th day of February, 2016.

[Signature]
David Dezzani, in proper person

[Signature]
Rochelle Dezzani, in proper person

CERTIFICATE OF SERVICE AND COMPLIANCE

I hereby certify that I sent a true copy of the preceding document, on the date indicated below, via United States Mail, in a postage prepaid sealed envelope, to Gayle Kern and Kern & Associates, Ltd., at 5421 Kietzke Lane, Suite 200, Reno, Nevada 89511 and I affirm that the preceding document does not contain the social security number of any person.

DATED this 26th day of February, 2016.


David Dezzani, Plaintiff

Code 1350

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

DAVID DEZZANI and ROCHELLE DEZANNI,

Case No. CV15-00826

Plaintiffs,

Dept. No. 10

vs.

**KERN & ASSOCIATES, LTD; GAYLE KERN;
KAREN HIGGINS; JOHN DOES 1-10; JANE
DOES 1-10; DOE BUSINESSES 1-5;,,**

Defendants.

_____ /

CERTIFICATE OF CLERK AND TRANSMITTAL – AMENDED NOTICE OF APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 2nd day of March, 2016, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 2nd day of March, 2016

Jacqueline Bryant
Clerk of the Court

By /s/ Yvonne Vilorio
Yvonne Vilorio
Deputy Clerk

Return Of NEF

Recipients

GAYLE KERN, ESQ. - Notification received on 2016-03-02 09:23:01.485.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

03-02-2016:09:21:53

Clerk Accepted:

03-02-2016:09:22:30

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Certificate of Clerk

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

GAYLE A. KERN, ESQ. for GAYLE A. KERN,
KERN & ASSOCIATES, LTD

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

KAREN HIGGINS

ROCHELLE DEZZANI

DAVID DEZZANI

**IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

DAVID DEZZANI; AND ROCHELLE DEZZANI,
Appellants,
vs.
KERN & ASSOCIATES, LTD.; AND GAYLE A.
KERN,
Respondents.

Supreme Court No. 69896
District Court Case No. CV1500826

DIO

RECEIPT FOR DOCUMENTS

TO: David Dezzani
Rochelle Dezzani
Kern & Associates, Ltd. \ Gayle A. Kern
Jacqueline Bryant, Washoe District Court Clerk ✓

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

03/04/2016	Filing Fee due for Appeal.
03/04/2016	Filed Notice of Appeal/Proper Person. Appeal docketed in the Supreme Court this day.

DATE: March 04, 2016

Tracie Lindeman, Clerk of Court
lh

Return Of NEF

Recipients

GAYLE KERN, ESQ. - Notification received on 2016-03-14 08:35:22.15.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

03-14-2016:08:34:13

Clerk Accepted:

03-14-2016:08:34:53

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Supreme Court Receipt for Doc

Filed By:

Deputy Clerk ASmith

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

GAYLE A. KERN, ESQ. for GAYLE A. KERN,
KERN & ASSOCIATES, LTD

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

KAREN HIGGINS

ROCHELLE DEZZANI

DAVID DEZZANI

**IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

DAVID DEZZANI; AND ROCHELLE DEZZANI,
Appellants,
vs.
KERN & ASSOCIATES, LTD.; AND GAYLE A.
KERN,
Respondents.

Supreme Court No. 69896
District Court Case No. CV1500826

DID

NOTICE TO FILE CASE APPEAL STATEMENT - CIVIL

TO: Jacqueline Bryant, Washoe District Court Clerk ✓

The notice of appeal was filed without the required Case Appeal Statement. NRAP 3(a)(3). Please refer to NRAP 3(f) and file the Case Appeal Statement with the Supreme Court Clerk's Office within 10 days from the date of this notice.

Your failure to file the Case Appeal Statement may result in the imposition of sanctions, including the dismissal of this appeal. NRAP 3(a)(2).

DATE: March 04, 2016

Tracie Lindeman, Clerk of Court

By: Linda Hamilton
Deputy Clerk

Notification List

Electronic
Kern & Associates, Ltd. \ Gayle A. Kern
Jacqueline Bryant, Washoe District Court Clerk

Paper
David Dezzani
Rochelle Dezzani

Return Of NEF

Recipients

GAYLE KERN, ESQ. - Notification received on 2016-03-14 08:38:02.401.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

03-14-2016:08:36:56

Clerk Accepted:

03-14-2016:08:37:31

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Supreme Court Notice

Filed By:

Deputy Clerk ASmith

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

GAYLE A. KERN, ESQ. for GAYLE A. KERN,
KERN & ASSOCIATES, LTD

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

KAREN HIGGINS

ROCHELLE DEZZANI

DAVID DEZZANI

**IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

DAVID DEZZANI; AND ROCHELLE DEZZANI,
Appellants,
vs.
KERN & ASSOCIATES, LTD.; AND GAYLE A.
KERN,
Respondents.

Supreme Court No. 69896
District Court Case No. CV1500826

DID

RECEIPT FOR DOCUMENTS

TO: David Dezzani
Rochelle Dezzani
Kern & Associates, Ltd. \ Gayle A. Kern
Jacqueline Bryant, Washoe District Court Clerk

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

03/11/2016 Filing Fee Paid. \$250.00 (Cash) from David Dezzani.

DATE: March 11, 2016

Tracie Lindeman, Clerk of Court
rw

Return Of NEF

Recipients

GAYLE KERN, ESQ. - Notification received on 2016-03-22 08:46:16.889.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

03-22-2016:08:45:10

Clerk Accepted:

03-22-2016:08:45:45

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Supreme Court Receipt for Doc

Filed By:

Deputy Clerk ASmith

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

GAYLE A. KERN, ESQ. for GAYLE A. KERN,
KERN & ASSOCIATES, LTD

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

KAREN HIGGINS

ROCHELLE DEZZANI

DAVID DEZZANI

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID DEZZANI; AND ROCHELLE
DEZZANI,

Appellants,

vs.

KERN & ASSOCIATES, LTD.; AND
GAYLE A. KERN,

Respondents.

No. 69896

CV15-00826
D10
FILED
MAR 24 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DIRECTING TRANSMISSION OF RECORD

We have reviewed the documents on file in this proper person appeal and conclude that our review of the complete record is warranted. NRAP 10(a)(1). Accordingly, within 30 days from the date of this order, the clerk of the district court shall transmit to the clerk of this court a certified copy of the trial court record in District Court Case No. CV-15-00826. See NRAP 11(a)(2) (providing that the complete "record shall contain each and every paper, pleading and other document filed, or submitted for filing, in the district court," as well as "any previously prepared transcripts of the proceedings in the district court"). The record shall not include any exhibits filed in the district court. NRAP 11(a)(1).

It is so ORDERED.

Foran, C.J.

cc: David Dezzani
Rochelle Dezzani
Kern & Associates, Ltd.
Washoe District Court Clerk ✓

Return Of NEF**Recipients**

GAYLE KERN, ESQ. - Notification received on 2016-03-30 09:18:52.127.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

03-30-2016:09:17:48

Clerk Accepted:

03-30-2016:09:18:22

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Supreme Ct Order Directing

Filed By:

Deputy Clerk ASmith

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

GAYLE A. KERN, ESQ. for KERN &
ASSOCIATES, LTD, GAYLE A. KERN

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

KAREN HIGGINS

DAVID DEZZANI

ROCHELLE DEZZANI

Code 1350

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

**DAVID DEZZANI and ROCHELLE
DEZZANI,**

Plaintiffs,

vs.

**KERN & ASSOCIATES, LTD AND GAYLE A KERN,
et al**

,

Defendants.

Case No. CV15-00826

Dept. No. 10

CERTIFICATE OF CLERK AND TRANSMITTAL – RECORD ON APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 1st day of April, 2016, I electronically filed Volumes 1 through 4, of the Record on Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court in accordance NRAP 11(2)(b).

Dated this 1st day of April, 2016.

Jacqueline Bryant
Clerk of the Court

By /s/Annie Smith
Annie Smith
Deputy Clerk

Return Of NEF**Recipients**

GAYLE KERN, ESQ. - Notification received on 2016-04-01 10:11:28.202.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

04-01-2016:10:10:18

Clerk Accepted:

04-01-2016:10:10:56

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Certificate of Clerk

Filed By:

Deputy Clerk ASmith

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

GAYLE A. KERN, ESQ. for KERN &
ASSOCIATES, LTD, GAYLE A. KERN

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

KAREN HIGGINS

DAVID DEZZANI

ROCHELLE DEZZANI

Code 1350

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

**DAVID DEZZANI and ROCHELLE
DEZZANI,**

Plaintiffs,

vs.

**KERN & ASSOCIATES, LTD AND GAYLE A KERN,
et al**

,

Defendants.

Case No. CV15-00826

Dept. No. 10

CERTIFICATE OF CLERK AND TRANSMITTAL – RECORD ON APPEAL

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I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court in accordance NRAP 11(2)(b).

Dated this 1st day of April, 2016.

Jacqueline Bryant
Clerk of the Court

By /s/Annie Smith
Annie Smith
Deputy Clerk

Return Of NEF**Recipients**

GAYLE KERN, ESQ. - Notification received on 2016-04-01 10:37:30.222.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

04-01-2016:10:35:04

Clerk Accepted:

04-01-2016:10:36:52

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Certificate of Clerk

Filed By:

Deputy Clerk ASmith

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

GAYLE A. KERN, ESQ. for KERN &
ASSOCIATES, LTD, GAYLE A. KERN

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

KAREN HIGGINS

DAVID DEZZANI

ROCHELLE DEZZANI

Code 1310

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

DAVID DEZZANI and ROCHELLE DEZZANI,

Plaintiffs,

Case No. CV15-00826

vs.

Dept. No. 10

**KERN & ASSOCIATES, LTD; GAYLE KERN;
KAREN HIGGINS; JOHN DOES 1-10; JANE
DOES 1-10; DOE BUSINESSES 1-5,**

Defendants.

CASE APPEAL STATEMENT

This case appeal statement is filed pursuant to NRAP 3(f).

1. Appellants are David and Rochelle Dezzani.
2. This appeal is from an order entered by the Honorable Judge Elliott Sattler.
3. Appellants are representing themselves in Proper Person on appeal, the Appellant's address is:

David and Rochelle Dezzani

17 Camino Lienzo

San Clemente, CA 92673

4. Respondents are Kern & Associates, Ltd and Gayle Kern;. Respondents were represented in District Court by:

Gayle A Kern Esq #1260

Kern & Associates, LTD

5421 Kietzke Lane Suite 200

Reno, Nevada 89511

5. Respondent's attorney is not licensed to practice law in Nevada: n/a

6. Appellants were not represented by counsel in District Court.
7. Appellants are not represented by counsel on appeal.
8. Appellants were not granted leave to proceed in forma pauperis in the District Court/
9. Proceeding commenced by the filing of a Civil Complaint filed on May 4, 2015.
10. This is a civil proceeding and the Appellants are appealing the Order filed on February 8, 2016.
11. The case has been the subject of a previous appeals to the Supreme Court: Supreme Court No. 69410 and 69896.
12. This case does not involve child custody or visitation.
13. It is unknown if the case involves the possibility of a settlement.

Dated this 4th day of April, 2016.

Jacqueline Bryant
Clerk of the Court

By: /s/ Yvonne Vilorio
Yvonne Vilorio
Deputy Clerk

Code 1350

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

DAVID DEZZANI and ROCHELLE DEZZANI,

Case No. CV15-00826

Plaintiffs,

Dept. No. 10

vs.

**KERN & ASSOCIATES, LTD; GAYLE KERN;
KAREN HIGGINS; JOHN DOES 1-10; JANE
DOES 1-10; DOE BUSINESSES 1-5,**

Defendants.

CERTIFICATE OF CLERK AND TRANSMITTAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe. On the 4th day of April, 2016, I electronically filed to the Supreme Court the Case Appeal Statement. The Case Appeal Statement is transmitted pursuant to the Supreme Court's Notice filed March 14, 2016.

I further certify that the transmitted record is a copy of the original pleadings on file with the Second Judicial District Court.

Dated this 4th day of April, 2016.

Jacqueline Bryant
Clerk of the Court

By /s/Yvonne Vilorio
Yvonne Vilorio
Deputy Clerk

Return Of NEF

Recipients

GAYLE KERN, ESQ. - Notification received on 2016-04-04 08:58:50.689.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

04-04-2016:08:57:40

Clerk Accepted:

04-04-2016:08:58:19

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Case Appeal Statement
Certificate of Clerk

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

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-

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DAVID DEZZANI
ROCHELLE DEZZANI

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID DEZZANI; AND ROCHELLE
DEZZANI,

Appellants,

vs.

KERN & ASSOCIATES, LTD.; AND
GAYLE A. KERN,

Respondents.

CV15-00826
No. 69410 DD

FILED

JUN 28 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DIRECTING TRANSMISSION OF RECORD

We have reviewed the documents on file in this proper person appeal and conclude that our review of the complete record is warranted. NRAP 10(a)(1). Accordingly, within 30 days from the date of this order, the clerk of the district court shall transmit to the clerk of this court a certified copy of the trial court record in District Court Case No. CV-15-00826. See NRAP 11(a)(2) (providing that the complete "record shall contain each and every paper, pleading and other document filed, or submitted for filing, in the district court," as well as "any previously prepared transcripts of the proceedings in the district court"). The record shall not include any exhibits filed in the district court. NRAP 11(a)(1).

It is so ORDERED.

[Signature], C.J.

cc: David Dezzani
Rochelle Dezzani
Kern & Associates, Ltd.
Washoe District Court Clerk ✓

Return Of NEF**Recipients**

GAYLE KERN, ESQ. - Notification received on 2016-06-30 09:51:53.611.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CV15-00826

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

06-30-2016:09:50:10

Clerk Accepted:

06-30-2016:09:50:58

Court:

Second Judicial District Court - State of Nevada
Civil

Case Title:

DAVID DEZZANI ETAL VS. KERN & ASSOC
(D10)

Document(s) Submitted:

Supreme Ct Order Directing

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

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-

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KERN & ASSOCIATES, LTD

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KAREN HIGGINS

ROCHELLE DEZZANI