

1                                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2     EDGEWORTH FAMILY TRUST; AND  
3     AMERICAN GRATING, LLC

NO. 77678

Electronically Filed  
Sep 30 2019 02:06 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

4                   Appellants/Cross-Respondents,

5     vs.  
6

7     DANIEL S. SIMON; AND THE LAW  
8     OFFICE OF DANIEL S. SIMON, A  
9     PROFESSIONAL CORPORATION,

10                  Respondents/Cross-Appellants.  
11

12     EDGEWORTH FAMILY TRUST; AND  
13     AMERICAN GRATING, LLC,

14                  Appellants

NO. 78176

15     vs.  
16

17     DANIEL S. SIMON; AND THE LAW  
18     OFFICE OF DANIEL S. SIMON, A  
19     PROFESSIONAL CORPORATION

20                  Respondents.  
21

**RESPONSE TO ORDER TO SHOW CAUSE**

22                   On August 29, 2019, this Court issued an Order to Show Cause  
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24     (OSC) addressing two potential jurisdictional issues. Respondents/cross-  
25  
26     appellants cured one potential issue and believe the second will become  
27     moot with the filing of a petition for extraordinary writ.  
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1           **A.     A-18-767242-C**

2           In A-18-767242-C appellants/cross respondents and  
3 respondents/cross-appellants filed a notice of appeal and a notice of cross  
4 appeal from the District Court decision of October 11, 2018. A jurisdictional  
5 issue arose because while a timely amendment had been sought and  
6 granted, a written Order had apparently not been entered, rendering the  
7 appeal pre-mature.  
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10           The premature appeal issue has been cured by the notice of entry of  
11 a written order by the District Court on September 18, 2019. A file stamped  
12 copy of the notice of entry is attached. An amended docketing statement  
13 has been filed by respondents/cross-appellants.  
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15           NRAP 4(a)(6) states in relevant part that:  
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17           If, however, a written order or judgment, or a written disposition of the  
18 last-remaining timely motion listed in Rule 4(a)(4), is entered before  
19 dismissal of the premature appeal, the notice of appeal shall be  
20 considered filed on the date of and after entry of the order, judgment  
21 or written disposition of the last-remaining timely motion.

22           Accordingly, the premature appeal issue in A-18-767242-C has been  
23 cured.  
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1           **B.     A-16-738444-C**

2           The potential jurisdictional issue in A-16-738444-C is more  
3 complicated. Typically, an attorney may not appeal an attorney lien  
4 adjudication, because the attorney is usually not a named party in the  
5 case.<sup>1</sup> The case before the Court is different from the usual case. In this  
6 case, the client, who is a named party, filed an appeal of the attorney lien  
7 adjudication, only after which the attorney filed a cross appeal.  
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10           There is no question an attorney may be aggrieved by a lien  
11 adjudication; a clear financial interest is at stake. Allowing a client to  
12 appeal a lien adjudication, but not allowing an attorney to file a cross  
13 appeal, could lead to an asymmetrical appeal, and results. Because the  
14 client has triggered the jurisdiction of this Court, allowing the attorney to  
15 pursue/protect their aggrieved interest is simple due process. In  
16 *Settelmeyer & Sons, Inc., v Smith & Harmer, Ltd.*, 124 Nev. 197 P.3d 1051  
17 (2008), this Court found jurisdiction for an unnamed receiver to pursue an  
18 appeal. The subject case is different from *Settelmeyer*; for example, there  
19 is no garnishment proceeding. However, like *Settelmeyer*, there is a clear  
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27 <sup>1</sup> See, e.g. *Albert D. Massi v. Bellmyre*, 111 Nev. 1520, 908 P.2d 705  
28 (1995).

1 aggrieved financial interest; also, the attorney is named in the companion  
2 case, and the attorney filed a cross appeal.

3         Notwithstanding the argument above, respondents/cross-appellants  
4 will file a petition for an extraordinary writ to protect the aggrieved financial  
5 interest. The goal was to file the petition contemporaneously with this  
6 response, but, that goal will not be met. However, the petition will be filed  
7 promptly, and at least before the OSC date set for a reply by  
8 appellants/cross-respondents.  
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11         Once the petition for an extraordinary writ is filed, petitioner will file a  
12 motion to consolidate the petition with the subject appeal. It is hoped that  
13 this procedure will allow the attorney to protect their financial interest while  
14 mooting or avoiding the potential jurisdictional issue.  
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17         Dated this 30<sup>th</sup> day of September, 2019.

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19   
20 JAMES R. CHRISTENSEN, ESQ.  
21 Nevada Bar No. 003861  
22 601 S. 6<sup>th</sup> Street  
23 Las Vegas, NV 89101  
24 Attorney for Petitioner  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 30<sup>th</sup> day of September 2019, I served a copy of the foregoing RESPONSE TO ORDER TO SHOW CAUSE on the all parties by electronic service

  
an employee of  
JAMES R. CHRISTENSEN, ESQ.