

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC,  
Appellants/Cross-Respondents,

vs.

DANIEL S. SIMON; AND THE LAW  
OFFICE OF DANIEL S. SIMON, A  
PROFESSIONAL CORPORATION,  
Respondents/Cross-Appellants.

EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC,  
Appellants,

vs.

DANIEL S. SIMON; AND THE LAW  
OFFICE OF DANIEL S. SIMON, A  
PROFESSIONAL CORPORATION,  
Respondents.

THE LAW OFFICE OF DANIEL S.  
SIMON,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
TIERRA DANIELLE JONES, DISTRICT  
JUDGE,

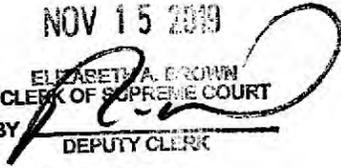
Respondents,  
and

EDGEWORTH FAMILY TRUST; AND  
AMERICAN GRATING, LLC,  
Real Parties in Interest.

No. 77678

**FILED**

NOV 15 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

No. 78176

No. 79821

*ORDER PARTIALLY DISMISSING CROSS-APPEAL, GRANTING  
MOTIONS TO CONSOLIDATE, DIRECTING ANSWER,  
AND REGARDING BRIEFING*

Docket No. 77678 is an appeal from a decision and order on motion to dismiss, an appeal and cross-appeal from a decision and order on motion to adjudicate lien, and a cross-appeal from a decision and order on special motion to dismiss. Initial review of the docketing statements revealed potential jurisdictional defects with respect to the cross-appeal. Accordingly, this court ordered respondents/cross-appellants to show cause why the cross-appeal should not be dismissed for lack of jurisdiction.

First, it appeared that respondents/cross-appellants—former counsel for appellants/cross-respondents—were not parties with standing to appeal from the November 19, 2018, decision and order on motion to adjudicate attorney lien. *See* NRAP 3A(a) (allowing aggrieved parties to appeal). Respondents/cross-appellants contend that they are aggrieved by the lien order and allowing appellants/cross-respondents to appeal from the order, but not respondents/cross-appellants, could result in an asymmetrical result on appeal.

An attorney who is representing a client in a case is not a party to the case and lacks standing to appeal. *Albert D. Massi, Ltd. v. Bellmyre*, 111 Nev. 1520, 1521, 908 P.2d 705, 706 (1995). Thus, even if respondents/cross-appellants are aggrieved by the order, they are not parties with standing to appeal.<sup>1</sup> Accordingly, the cross-appeal from the November 19, 2018, decision and order on motion to adjudicate attorney lien is dismissed.

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<sup>1</sup>Respondents/cross-appellants also suggest that allowing appellants/cross-respondents to appeal, but not allowing respondents/cross-appellants to cross-appeal from the same order offends due process. This court declines to consider this suggestion as it is not supported by cogent argument. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006).

Second, it appeared that respondents/cross-appellants' notice of appeal was prematurely filed from the October 11, 2018, decision and order on special motion to dismiss because a timely tolling motion remained pending in the district court. *See* NRAP 4(a)(6). Respondents/cross-appellants have filed an amended docketing statement containing a copy of a September 17, 2019, amended order that appears to implicitly resolve the tolling motion. Accordingly, the cross-appeal shall proceed with respect to the October 11, 2018, decision and order on special motion to dismiss. *See id.*

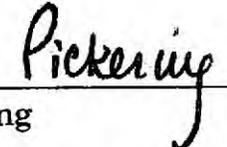
The Law Office of Daniel S. Simon has filed motions to consolidate the writ petition in Docket No. 79821 with the consolidated appeals in Docket Nos. 77678 and 78176. Cause appearing, the motion is granted. NRAP 3(b)(2). Docket Nos. 77678 and 78176 are hereby consolidated with Docket No. 79821.

In the original petition for a writ of mandamus filed in Docket No. 79821, petitioner challenges a district court order adjudicating an attorney lien. Having reviewed the petition, it appears that an answer may assist this court in resolving this matter. Accordingly, briefing in these matters shall proceed as follows. Daniel S. Simon and The Law Office of Daniel S. Simon shall have 30 days from the date of this order to file and serve the combined answering brief on appeal and opening brief on cross-appeal. Edgeworth Family Trust and American Grating, LLC, shall have 30 days from service of the combined answering and opening brief to file and serve a single document containing a reply brief on appeal, an answering brief on cross-appeal, and an answer, including authorities, on behalf of respondents in Docket No. 79821, against issuance of the requested writ. Daniel S. Simon and The Law Office of Daniel S. Simon

shall have 30 days from service of the combined reply brief, answering brief, and answer to file and serve a reply brief on cross-appeal. The Law Office of Daniel S. Simon may include any reply in support of the petition with the reply brief on cross-appeal. No brief shall exceed 40 pages or the equivalent type-volume limitation. Failure to timely file briefs in this matter may result in the imposition of sanctions. NRAP 31(d).

It is so ORDERED.

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Cadish

cc: Hon. Tierra Danielle Jones, District Judge  
Dana Jonathon Nitz, Settlement Judge  
Vannah & Vannah  
James R. Christensen  
Christiansen Law Offices  
Eighth District Court Clerk