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*Parviz Safari and Mandana Zahedi*

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Elizabeth A. Brown  
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**IN THE SUPREME COURT OF THE STATE OF NEVADA**

PARVIZ SAFARI, an individual;  
MANDANA ZAHEDI, an individual;  
and on behalf of MEDITEX, LLC, a  
Nevada limited liability company,

Appellants,

vs.

HAMID MODJTAHED, individually  
and derivatively on behalf of MEDITEX,  
LLC, a Nevada limited liability  
company; and MOHAMMAD  
MOJTAHED, individually and  
derivatively on behalf of MEDITEX,  
LLC, a Nevada limited liability  
company,

Respondents.

Case No.: 79926

**MOTION TO VOLUNTARILY  
DISMISS APPEAL**

Appeal from the Eighth Judicial District  
Court, The Honorable Mark R. Denton  
Presiding.

## **MOTION TO VOLUNTARILY DISMISS APPEAL**

Pursuant to NRAP 42(b), Appellants, Parviz Safari and Mandana Zahedi (“Appellants”), by and through its counsel of record, Marquis Aurbach Coffing, hereby moves this Court for an order voluntarily dismissing its appeal without prejudice, with all parties to bear their own attorney fees and costs.

On June 13, 2016, Respondents filed an answer and counterclaim against Appellants, seeking among other things the imposition of punitive damages. On September 27, 2019, the District Court issued Findings and Fact and Conclusions of Law and Judgment following a bench trial, with Notice of Entry of Order filed on September 30, 2019. The September 27, 2019 Findings of Fact and Conclusions of Law and Judgment was not a final order and stated subsequent proceedings pursuant to NRS 42.005(3) were necessary to determine punitive damages assessed against Appellants. On October 17, 2019, Respondents filed a Motion for Punitive Damages. On October 24, 2019, Appellants prior counsel, Andrew Scott Flahive, Esq., filed a Notice of Appeal, prior to notice of entry of any final order.

On March 2, 2020, the District Court set a trial for punitive damages to take place on April 1, 2020. On March 19, 2020, the District Court, in light of the Covid-19 pandemic and restrictions imposed on the Eight Judicial District Court, vacated and continued the April 1, 2020 trial to a date on or after July 7, 2020. To

date, no final judgment has been entered in the District Court. Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 445, 874 P.2d 729, 733 (1994) (a final, appealable judgment is “one that disposes of the issues presented in the case ... and leaves nothing for the future consideration of the court.”)

Therefore, because the October 24, 2019 Notice of Appeal did not properly invoke this Court’s subject matter jurisdiction based on the non-existence of a final order, Appellants move to dismiss the appeal without prejudice and will re-file their appeal upon entry of a final judgment by the District Court in the forthcoming months. Therefore, Appellants respectfully requests this Court dismiss this appeal without prejudice.

While Appellants sought a stipulation for dismissal with Respondents prior to filing the instant Motion, Respondents would not agree to dismissal with each party to bear their own fees and costs. This is despite the fact no briefing has been performed relating to this Appeal and the parties have discussed dismissal of the appeal for months based on the forthcoming punitive damages trial. As a result, because the District Court proceedings have actively continued during this time, no final judgment has been entered, and because no party has taken any frivolous or unreasonable action in regards to this Appeal, Appellants respectfully move this

Court for dismissal and an order for all parties to bear their own fees and costs.

*See* NRAP 38(b).

Dated this 27th day of March, 2020.

MARQUIS AURBACH COFFING

By /s/ James A. Beckstrom

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## **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **MOTION TO VOLUNTARILY DISMISS APPEAL** was filed electronically with the Nevada Supreme Court on the 27th day of March, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Kristine Kuzemka  
Jonathan Blum  
Scott Fleming  
Andrew Flahive

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

N/A

/s/ Cheryl Becnel  
An employee of Marquis Aurbach Coffing