

## IN THE SUPREME COURT OF THE STATE OF NEVADA

### INDICATE FULL CAPTION:

RAJWANT KAUR,

Appellant / Cross-Respondent,

v.

JASWINDER SINGH,

Respondent / Cross-Appellant

No. 80090

Electronically Filed  
Dec 16 2019 11:47 a.m.

Elizabeth A. Brown  
Clerk of Supreme Court  
DOCKETING STATEMENT  
CIVIL APPEALS

### GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

### WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District EIGHTH Department P  
County CLARK Judge SANDRA POMRENZE  
District Ct. Case No. 04D323977

**2. Attorney filing this docketing statement:**

Attorney F. PETER JAMES Telephone 702-256-0087

Firm LAW OFFICES OF F. PETER JAMES, ESQ., PLLC

Address 3821 WEST CHARLESTON BLVD.  
SUITE 250  
LAS VEGAS, NEVADA 89102

Client(s) RESPONDENT / CROSS-APPELLANT, JASWINDER SINGH

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

**3. Attorney(s) representing respondents(s):**

Attorney ANDREW KYNASTON, ESQ. Telephone 702-823-4900

Firm KAINEN LAW GROUP

Address 3303 NOVAT STREET  
SUITE 200  
LAS VEGAS, NEVADA 89129

Client(s) APPELLANT / CROSS-RESPONDENT, RAJWANT KAUR

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_

Firm \_\_\_\_\_

Address \_\_\_\_\_

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

- |   |   |
|---|---|
| <input type="checkbox"/> Judgment after bench trial                   | <input type="checkbox"/> Dismissal:                                     |
| <input type="checkbox"/> Judgment after jury verdict                  | <input type="checkbox"/> Lack of jurisdiction                           |
| <input type="checkbox"/> Summary judgment                             | <input type="checkbox"/> Failure to state a claim                       |
| <input type="checkbox"/> Default judgment                             | <input type="checkbox"/> Failure to prosecute                           |
| <input checked="" type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____                         |
| <input type="checkbox"/> Grant/Denial of injunction                   | <input type="checkbox"/> Divorce Decree:                                |
| <input type="checkbox"/> Grant/Denial of declaratory relief           | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination               | <input type="checkbox"/> Other disposition (specify): _____             |

**5. Does this appeal raise issues concerning any of the following?**

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

SINGH V. KAUR, 79591 / 79591-COA

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

THE UNDERLYING MATTER, SINGH V. KAUR, 04D323977.

THE DECREE WAS ENTERED SEPTEMBER 8, 2004.

THE ORDER DENYING THE MOTION TO SET ASIDE WAS ENTERED OCTOBER 22, 2019.

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

THIS CASE WAS RE-OPENED AFTER NEARLY 14.5 YEARS ON A MOTION TO SET ASIDE. THE INITIAL DECREE WAS ENTERED IN SEPTEMBER 2004.

THE DISTRICT COURT GRANTED AN EVIDENTIARY HEARING ON THE MOTION TO SET ASIDE. AFTER TAKING EVIDENCE, THE DISTRICT COURT GRANTED A MOTION FOR JUDGMENT ON THE EVIDENCE AS APPELLANT DID NOT ESTABLISH A MANDATORY ELEMENT OF HER CASE.

APPELLANT APPEALED. RESPONDENT CROSS-APPEALED.

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

WHETHER THE DISTRICT COURT ERRED IN DENYING THE OPPOSITION TO THE MOTION TO SET ASIDE AS TO THE UNTIMELINESS ISSUE WHEREIN THE DISTRICT COURT STATED THE TIME LIMITATIONS PERIOD DID NOT YET BEGIN TO RUN AS THE STATE OF NEVADA WAS THE INJURED PARTY.

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

N/A

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

**12. Other issues.** Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

THIS MATTER IS PRESUMPTIVELY ASSIGNED TO THE COURT OF APPEALS AS THIS IS A MATTER ARISING OUT OF FAMILY COURT THAT IS NOT A TERMINATION OF PARENTAL RIGHTS / 432B PROCEEDING.

CROSS-APPELLANT IS NOT REQUESTING THAT THE SUPREME COURT RETAIN THE CASE.

**14. Trial.** If this action proceeded to trial, how many days did the trial last? 2

Was it a bench or jury trial? BENCH

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?  
N/A.

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** Oct 22, 2019

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

**17. Date written notice of entry of judgment or order was served** Oct 22, 2019

Was service by:

☐ Delivery

☒ Mail/electronic/fax

**18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59      Date of filing \_\_\_\_\_

**NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_, 245 P.3d 1190 (2010).**

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_

(c) Date written notice of entry of order resolving tolling motion was served \_\_\_\_\_

Was service by:

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** Nov 29, 2019

---

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:  
APPELLANT FILED HER NOTICE OF APPEAL ON NOVEMBER 19, 2019.  
RESPONDENT CROSS APPEALS.

**20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other**

NRAP 4(a)(2)

---

**SUBSTANTIVE APPEALABILITY**

**21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

(a)

- |  |                                       |
|--|---------------------------------------|
| <input type="checkbox"/> NRAP 3A(b)(1)                                   | <input type="checkbox"/> NRS 38.205   |
| <input type="checkbox"/> NRAP 3A(b)(2)                                   | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3)                                   | <input type="checkbox"/> NRS 703.376  |
| <input checked="" type="checkbox"/> Other (specify) <u>NRAP 3A(b)(8)</u> |                                       |
- 

(b) Explain how each authority provides a basis for appeal from the judgment or order:  
NRAP 3A(b)(8) PERMITS AN APPEAL FROM A SPECIAL ORDER AFTER FINAL JUDGMENT. AN ORDER RESOLVING A MOTION TO SET ASIDE QUALIFIES. RESPONDENT COULD NOT APPEAL SOONER AS AN ORDER DENYING A MOTION TO SET ASIDE PER THIS RULE IS NOT APPEALABLE UNTIL THE ORDER RESOLVING THE MOTION IS ENTERED.



**22. List all parties involved in the action or consolidated actions in the district court:**

(a) Parties:

APPELLANT / CROSS-RESPONDENT / DEFENDANT, RAJWANT KAUR  
RESPONDENT / CROSS-APPELLANT / PLAINTIFF, JASWINDER SINGH

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

APPELLANT FILED TO SET ASIDE THE DECREE. RESPONDENT OPPOSED THIS. THE ORDER RESOLVING THE MOTION TO SET ASIDE WAS ENTERED OCTOBER 22, 2019.

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☒ Yes

☐ No

**25. If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

## VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

JASWINDER SINGH

Name of appellant

F. PETER JAMES

Name of counsel of record

12-16-2019

Date

/s/ F. Peter James

Signature of counsel of record

CLARK COUNTY, NEVADA

State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Signature

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0

Racheal H. Mastel, Esq.  
Co-Counsel for Appellant

I certify that on this 16 day of December, 2019, I caused the above and  
 ing document to be served by placing same to be deposited for mailing in  
 nited States Mail, in a sealed envelope upon which first class postage was  
 d in Las Vegas, Nevada to the attorney(s) / party(ies) listed below at the  
 s(es) indicated below:

Andrew Kynaston, Esq.  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
Co-Counsel for Appellant

An employee of the Law Offices of F. Peter James, Esq., PLLC

FILED

AUG 27 3 33 PM '04

Shirley L. Ruggione  
CLERK

PSDD

(Your name) Jaswinder Singh(Address) 2916 Jansen AveLas Vegas NV 89101(Telephone) (702)281-2373

In Proper Person

DISTRICT COURT  
CLARK COUNTY, NEVADAIn the Matter of the  
Joint Petition of(Name) Jaswinder Singhand (Name) Rajwant Kaur

Petitioners.

CASE NO.

D323977

DEPT. NO.:

K**JOINT PETITION FOR SUMMARY DECREE OF DIVORCE**

Petitioners, Jaswinder Singh and Rajwant Kaur hereby petition this Court, pursuant to the terms of Chapter 125 of the Nevada Revised Statutes, to grant them a divorce. Petitioners respectfully show, and under oath, state to the Court as follows:

1. That Petitioner, Jaswinder Singh, is now, and for more than six weeks preceding the commencement of this action has been, an actual, bona fide resident of the County of Clark, State of Nevada, and during all said period of time has been actually, physically and corporeally present, residing and domiciled in the State of Nevada.

2. That the Petitioners are incompatible in marriage.

3. That the Petitioners have no minor children who are the issue of this marriage, have no adopted minor children, and Petitioner Rajwant Kaur is not now pregnant.

CE64

152.00

COUNTY CLERK

AUG 27 2004

RECEIVED



1 WHEREFORE, Petitioners pray that the Court enter a Decree of Divorce restoring them to  
2 the status of single, unmarried persons.

3  
4 DATED this (day) 27 day of  
5 (month) August, (year) 2004.

DATED this (day) 27 day of  
(month) August, (year) 2004.

6  
7 Jaswinder Singh  
8 (Your Signature)  
9 Petitioner

Rekhat Kaur  
(Spouse's Signature)  
Petitioner

10  
11 VERIFICATION

12 STATE OF NEVADA }  
13 COUNTY OF CLARK } ss:

14 Jaswinder Singh, under penalties of perjury, being first duly sworn, deposes  
15 and says:

16 That I am the Petitioner in the above-entitled action; that I have read the foregoing Joint  
17 Petition for Summary Decree of Divorce and know the contents thereof; that the same is true of  
18 my own knowledge, except for those matters therein contained stated upon information and belief,  
19 and as to those matters, I believe them to be true.

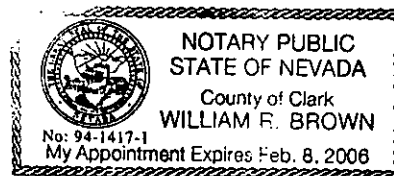
20 DATED this 27 day of (month) Aug, (year) 2004.

21 By:

22 (Your signature) Jaswinder Singh  
23 Jaswinder Singh

24 SUBSCRIBED and SWORN to before  
25 me this 27 day of  
26 (month) Aug, (year) 2004.

27 William R. Brown  
NOTARY PUBLIC



**ACKNOWLEDGMENT**

STATE OF NEVADA }  
COUNTY OF CLARK } ss:

On this 27 day of (month) August, (year) 2004, before me, the undersigned Notary Public in and for the said County and State, personally appeared Jaswinder Singh, known to me to be the person described in and who executed the foregoing Joint Petition for Summary Decree of Divorce, and who acknowledged to me that (check one) [x] he/ [ ] she did so freely and voluntarily and for the uses and purposes therein mentioned.

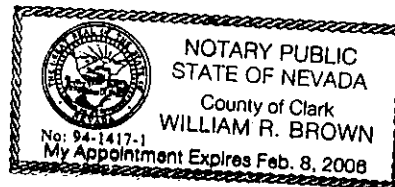
WITNESS my hand and official seal.

William R. Brown

NOTARY PUBLIC

**VERIFICATION**

STATE OF NEVADA }  
COUNTY OF CLARK } ss:



Rajwant Kaur, under penalties of perjury, being first duly sworn, deposes and says:

That I am the Petitioner in the above-entitled action; that I have read the foregoing Joint Petition for Summary Decree of Divorce and know the contents thereof; that the same is true of my own knowledge, except for those matters therein contained stated upon information and belief, and as to those matters, I believe them to be true.

DATED this 27 day of (month) Aug., (year) 2004.

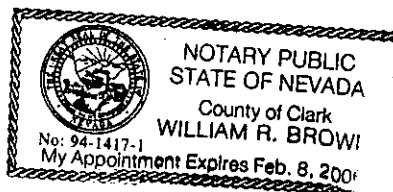
By:

(Spouse's signature) Rajwant Kaur

Rajwant Kaur

SUBSCRIBED and SWORN to before me this 27 day of (month) Aug., (year) 2004.

William R. Brown  
NOTARY PUBLIC



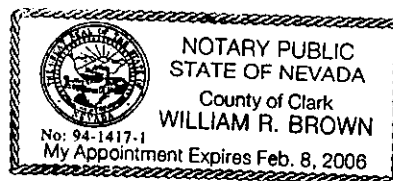


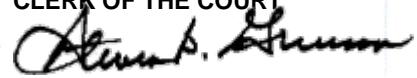
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8

On this 27 day of (month) August, (year) 2004, before me, the undersigned Notary Public in and for the said County and State, personally appeared Rajwant Kaur, known to me to be the person described in and who executed the foregoing Joint Petition for Summary Decree of Divorce, and who acknowledged to me that (check one) [ ☐ ] he/ [ ☒ ] she did so freely and voluntarily and for the uses and purposes therein mentioned.

WITNESS my hand and official seal.

William A. Brown  
NOTARY PUBLIC

[illegible]


**ORDR**

Andrew L. Kynaston, Esq.  
 Nevada Bar No. 8147  
 KAINEN LAW GROUP, PLLC  
 3303 Novat Street, Suite 200  
 Las Vegas, Nevada 89129  
 Telephone: (702) 823-4900  
 Facsimile: (702) 823-4488  
 service@KainenLawGroup.com  
 Attorneys for Defendant

DISTRICT COURT  
 CLARK COUNTY, NEVADA

JASWINDER SINGH,

Plaintiff,

vs.

RAJWANT KAUR,

Defendant.

CASE NO: 04D323977  
 DEPT NO: P

Date of Hearing: February 13, 2019  
 Time of Hearing: 10:00 a.m.

**ORDER FROM HEARING HELD FEBRUARY 13, 2019**

THIS MATTER having come on for hearing this 13<sup>th</sup> day of February, 2019, before the Honorable Sandra Pomrenze, Defendant, RAJWANT KAUR, ("Defendant"), not present but represented by ANDREW L. KYNASTON, ESQ., of the law firm of KAINEN LAW GROUP, PLLC, and Plaintiff, JASWINDER SINGH ("Plaintiff"), present and represented by F. PETER JAMES, ESQ., of the LAW OFFICE OF F. PETER JAMES, ESQ., the Court having reviewed the papers and pleadings on file herein, the court having heard oral argument of counsel, and good cause appearing, enters the following Findings and Orders:

THE COURT HEREBY FINDS that there is evidence to be deduced, the first of which goes to the validity of residency. (Video Cite 10:26:48)

...

RECEIVED

MAR 13 2019

FAMILY COURT  
 DEPARTMENT P

1 THE COURT FURTHER FINDS that second piece of evidence needed is  
2 regarding the issue of voluntary participation. (Video Cite 10:27:00)

3 THE COURT FURTHER FINDS that if there is no residency then a fraud  
4 has been perpetrated on the State of Nevada. (Video Cite 10:27:11)

5 THE COURT FURTHER FINDS that given that the facts at issue are in  
6 dispute, findings are necessary, therefore the Court will set an evidentiary hearing. (Video  
7 Cite 10:28:45)

8 THE COURT FURTHER FINDS that if the alleged fraud regarding  
9 residency has been committed, the injured party in this case is the State of Nevada. The  
10 State of Nevada does not know that a fraud has been committed until it is brought to the  
11 Court's attention. (Video Cite 10:29:49)

12 THE COURT FURTHER FINDS that in determining whether or not there  
13 has been a fraud, Plaintiff has a burden to prove that he was a bona-fide resident of the  
14 State of Nevada at the time of filing of the Complaint for Divorce. (Video Cite 10:32:00)

15 Therefore, good cause appearing;

16 THE COURT HEREBY ORDERS that an Evidentiary Hearing regarding  
17 voiding the Decree of Divorce is hereby set for June 13, 2019, at 1:30 p.m., and June 14,  
18 2019, at 9:30 a.m. The parties shall be present at the time of the Evidentiary Hearing.  
19 There shall be no telephonic appearances allowed.

20 THE COURT FURTHER ORDERS that Pre-hearing Briefs, citing  
21 applicable law and applying the law to the facts of the case shall be exchanged and filed,  
22 with courtesy copies to chambers no later than June 6, 2019. Briefs may be emailed or  
23 faxed to chambers if less than thirty (30) pages. If more than thirty (30) pages, counsel  
24 shall provide a hard copy of the brief to chambers before the close of business on June  
25 6, 2019. In the event either of the parties does not timely submit their brief, the non-  
26 complying party will be subject to monetary sanctions. Trial Exhibits shall not be  
27 attached to the brief that is filed.

28 ...



1 THE COURT FURTHER ORDERS that discovery is open and shall remain  
2 open until May 30, 2019, at the close of business. Written discovery shall be served one  
3 month and one week prior to the close of discovery and in a fashion that allows the other  
4 party 30 days to respond. There shall be no written discovery requests, no responses  
5 required and no depositions taken after the discovery closing date.

6 THE COURT FURTHER ORDERS that the parties shall exchange lists of  
7 witnesses and exhibits, as well as copies of their proposed Exhibits, no later than May 1,  
8 2019, by the close of business. Any discovery produced or obtained after this date but  
9 prior to the May 30, 2019, discovery deadline, may be supplemented to the list of  
10 Witnesses and Exhibits. Counsel shall provide the witness and exhibit disclosures for  
11 Trial separately from the discovery disclosures and in a fashion that allows time for any  
12 needed depositions. Any witnesses not identified in advance of the hearing who is  
13 presented at the hearing, will not be permitted to testify at the hearing absent compelling  
14 circumstances. Any exhibits not identified prior to the time set for hearing will not be  
15 admitted absent compelling circumstances. The Trial Exhibits shall not be filed.

16 THE COURT FURTHER ORDERS that counsel shall make arrangements  
17 for the interpreters prior to the Trial.

18 DATED this 13 day of March, 2019.

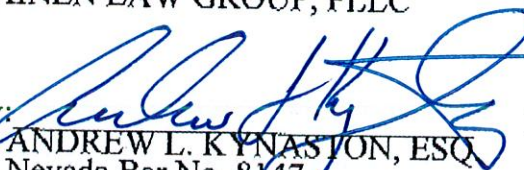
19  
20  
21   
DISTRICT COURT JUDGE


22 Submitted by:

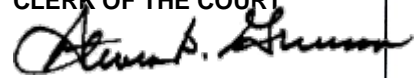
23 KAINEN LAW GROUP, PLLC

Approved as to form and content:

LAW OFFICE OF F. PETER JAMES

24  
25 By:   
26 ANDREW L. KYNASTON, ESQ.  
27 Nevada Bar No. 8147  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
Attorneys for Defendant

28 By:   
F. PETER JAMES, ESQ.  
Nevada Bar No. 10091  
3821 W. Chareleston Blvd. #250  
Las Vegas, Nevada 89102  
Attorneys for Plaintiff



1 **NOE**  
2 Andrew L. Kynaston, Esq.  
3 Nevada Bar No. 8147  
4 KAINEN LAW GROUP, PLLC  
5 3303 Novat Street, Suite 200  
6 Las Vegas, Nevada 89129  
7 Telephone: (702) 823-4900  
8 Facsimile: (702) 823-4488  
9 service@KainenLawGroup.com  
10 Attorneys for Defendant

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9  
10 JASWINDER SINGH,

11 Plaintiff,

12 vs.

13 RAJWANT KAUR,

14 Defendant.  
15  
16

CASE NO: 04D323977

DEPT NO: P

Date of Hearing: February 13, 2019

Time of Hearing: 10:00 a.m.

17 **NOTICE OF ENTRY OF ORDER FROM HEARING HELD**  
18 **FEBRUARY 13, 2019**

19 TO: JASWINDER SINGH, Plaintiff; and

20 TO: F. PETER JAMES, ESQ., Attorney for Plaintiff:

21 PLEASE TAKE NOTICE that on the 14<sup>th</sup> day of March, 2019, the  
22 Honorable Sandra Pomrenze entered an Order from Hearing Held February 13, 2019, a  
23 copy of which is attached hereto.

24 DATED this 19<sup>th</sup> day of March, 2019.

25 KAINEN LAW GROUP, PLLC

26 By:   
27 ANDREW L. KYNASTON, ESQ.

28 Nevada Bar No. 8147  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
Attorneys for Defendant



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 19<sup>th</sup> day of March, 2019, I caused to be served the *Notice of Entry of Order from Hearing Held February 13, 2019*, to all interested parties as follows:

\_\_\_ BY MAIL: Pursuant to NRCP 5(b), I caused a true copy thereof to be placed in the U.S. Mail, enclosed in a sealed envelope, postage fully prepaid thereon, addressed as follows:

\_\_\_ BY CERTIFIED MAIL: I caused a true copy thereof to be placed in the U.S. Mail, enclosed in a sealed envelope, certified mail, return receipt requested, postage fully paid thereon, addressed as follows:

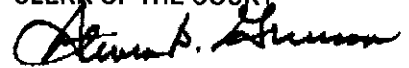
\_\_\_ BY FACSIMILE: Pursuant to EDCR 7.26, I caused a true copy thereof to be transmitted, via facsimile, to the following number(s):

X BY ELECTRONIC MAIL: Pursuant to EDCR 7.26 and NEFCR Rule 9, I caused a true copy thereof to be served via electronic mail, via Wiznet, to the following e-mail address(es):

*Counsel for Plaintiff:*

Peter@peterjameslaw.com  
Courtney@peterjameslaw.com  
Colleen@peterjameslaw.com

  
An Employee of  
KAINEN LAW GROUP, PLLC

**1 ORDER**

2 Andrew L. Kynaston, Esq.  
3 Nevada Bar No. 8147  
4 KAINEN LAW GROUP, PLLC  
5 3303 Novat Street, Suite 200  
6 Las Vegas, Nevada 89129  
7 Telephone: (702) 823-4900  
8 Facsimile: (702) 823-4488  
9 service@KainenLawGroup.com  
10 Attorneys for Defendant

11 DISTRICT COURT  
12 CLARK COUNTY, NEVADA

13 JASWINDER SINGH,

14 Plaintiff,

15 vs.

16 RAJWANT KAUR,

17 Defendant.

CASE NO: 04D323977  
DEPT NO: P

Date of Hearing: February 13, 2019  
Time of Hearing: 10:00 a.m.

KAINEN LAW GROUP, PLLC  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
702.823.4900 • Fax 702.823.4488  
www.KainenLawGroup.com

18 **ORDER FROM HEARING HELD FEBRUARY 13, 2019**

19 THIS MATTER having come on for hearing this 13<sup>th</sup> day of February, 2019,  
20 before the Honorable Sandra Pomrenze, Defendant, RAJWANT KAUR, ("Defendant"),  
21 not present but represented by ANDREW L. KYNASTON, ESQ., of the law firm of  
22 KAINEN LAW GROUP, PLLC, and Plaintiff, JASWINDER SINGH ("Plaintiff"),  
23 present and represented by F. PETER JAMES, ESQ., of the LAW OFFICE OF F. PETER  
24 JAMES, ESQ., the Court having reviewed the papers and pleadings on file herein, the  
25 court having heard oral argument of counsel, and good cause appearing, enters the  
26 following Findings and Orders:

27 THE COURT HEREBY FINDS that there is evidence to be deduced, the  
28 first of which goes to the validity of residency. (Video Cite 10:26:48)

...

RECEIVED

FAMILY COURT  
DEPARTMENT 5

1 THE COURT FURTHER FINDS that second piece of evidence needed is  
2 regarding the issue of voluntary participation. (Video Cite 10:27:00)

3 THE COURT FURTHER FINDS that if there is no residency then a fraud  
4 has been perpetrated on the State of Nevada. (Video Cite 10:27:11)

5 THE COURT FURTHER FINDS that given that the facts at issue are in  
6 dispute, findings are necessary, therefore the Court will set an evidentiary hearing. (Video  
7 Cite 10:28:45)

8 THE COURT FURTHER FINDS that if the alleged fraud regarding  
9 residency has been committed, the injured party in this case is the State of Nevada. The  
10 State of Nevada does not know that a fraud has been committed until it is brought to the  
11 Court's attention. (Video Cite 10:29:49)

12 THE COURT FURTHER FINDS that in determining whether or not there  
13 has been a fraud, Plaintiff has a burden to prove that he was a bona-fide resident of the  
14 State of Nevada at the time of filing of the Complaint for Divorce. (Video Cite 10:32:00)

15 Therefore, good cause appearing;

16 THE COURT HEREBY ORDERS that an Evidentiary Hearing regarding  
17 voiding the Decree of Divorce is hereby set for June 13, 2019, at 1:30 p.m., and June 14,  
18 2019, at 9:30 a.m. The parties shall be present at the time of the Evidentiary Hearing.  
19 There shall be no telephonic appearances allowed.

20 THE COURT FURTHER ORDERS that Pre-hearing Briefs, citing  
21 applicable law and applying the law to the facts of the case shall be exchanged and filed,  
22 with courtesy copies to chambers no later than June 6, 2019. Briefs may be emailed or  
23 faxed to chambers if less than thirty (30) pages. If more than thirty (30) pages, counsel  
24 shall provide a hard copy of the brief to chambers before the close of business on June  
25 6, 2019. In the event either of the parties does not timely submit their brief, the non-  
26 complying party will be subject to monetary sanctions. Trial Exhibits shall not be  
27 attached to the brief that is filed.

28 ...



1 THE COURT FURTHER ORDERS that discovery is open and shall remain  
2 open until May 30, 2019, at the close of business. Written discovery shall be served one  
3 month and one week prior to the close of discovery and in a fashion that allows the other  
4 party 30 days to respond. There shall be no written discovery requests, no responses  
5 required and no depositions taken after the discovery closing date.

6 THE COURT FURTHER ORDERS that the parties shall exchange lists of  
7 witnesses and exhibits, as well as copies of their proposed Exhibits, no later than May 1,  
8 2019, by the close of business. Any discovery produced or obtained after this date but  
9 prior to the May 30, 2019, discovery deadline, may be supplemented to the list of  
10 Witnesses and Exhibits. Counsel shall provide the witness and exhibit disclosures for  
11 Trial separately from the discovery disclosures and in a fashion that allows time for any  
12 needed depositions. Any witnesses not identified in advance of the hearing who is  
13 presented at the hearing, will not be permitted to testify at the hearing absent compelling  
14 circumstances. Any exhibits not identified prior to the time set for hearing will not be  
15 admitted absent compelling circumstances. The Trial Exhibits shall not be filed.

16 THE COURT FURTHER ORDERS that counsel shall make arrangements  
17 for the interpreters prior to the Trial.

18 DATED this 13 day of March, 2019.

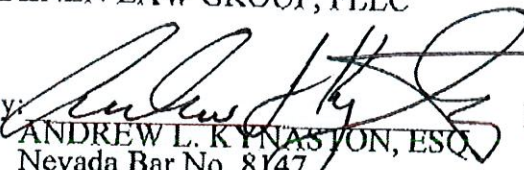
19  
20  
21   
DISTRICT COURT JUDGE


22 Submitted by:

23 KAINEN LAW GROUP, PLLC

Approved as to form and content:

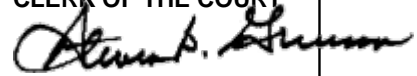
LAW OFFICE OF F. PETER JAMES

24 By:   
25 ANDREW L. KYNASTON, ESQ.  
26 Nevada Bar No. 8147  
27 3303 Novat Street, Suite 200  
28 Las Vegas, Nevada 89129  
Attorneys for Defendant

By:   
F. PETER JAMES, ESQ.  
Nevada Bar No. 10091  
3821 W. Chareleston Blvd. #250  
Las Vegas, Nevada 89102  
Attorneys for Plaintiff

ORIGINAL

Electronically Filed  
10/22/2019 10:51 AM  
Steven D. Grierson  
CLERK OF THE COURT



**FFCL**  
LAW OFFICES OF F. PETER JAMES, ESQ.  
F. Peter James, Esq.  
Nevada Bar No. 10091  
3821 West Charleston Boulevard, Suite 250  
Las Vegas, Nevada 89102  
Peter@PeterJamesLaw.com  
702-256-0087  
702-256-0145 (fax)  
Counsel for Plaintiff

**DISTRICT COURT, FAMILY DIVISION  
CLARK COUNTY, NEVADA**

JASWINDER SINGH,  
  
Plaintiff,

vs.

RAJWANT KAUR,  
  
Defendant.

CASE NO. : 04D323977  
DEPT. NO. : P

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
ORDER**

This matter came before the Court on the 12<sup>th</sup> of September, 2019 and the 13<sup>th</sup> of September, 2019 for an Evidentiary Hearing on Defendant's Motion to Set Aside Decree of Divorce, which was filed on January 7, 2019, and on Plaintiff's Opposition thereto filed January 23, 2019. Also being heard was Plaintiff's Motion in Limine, which was filed August 30, 2019, and on Defendant's Opposition and Countermotion thereto, which was filed on September 6, 2019. F. Peter James, Esq. appeared with Plaintiff, Jaswinder

Non-Trial Dispositions:  
☐ Other  
☐ Dismissed - Want of Prosecution  
☐ Involuntary (Statutory) Dismissal  
☐ Default Judgment  
☐ Transferred  
☐ Disposed After Trial  
  
Settled/Withdrawn:  
☐ Without Judicial Conf/Hrg  
☒ With Judicial Conf/Hrg  
☐ By ADR  
  
Trial Dispositions:  
☒ Judgment Rendered  
☐ Judgment Rejected  
☐ Trial by Jury  
☐ Trial by Court

RECEIVED

OCT 18 2019

FAMILY COURT  
DEPARTMENT P

1 Singh. Andrew L. Kynaston, Esq. appeared with Defendant, Rajwant Kaur.  
2 Nevada registered Punjabi interpreter, Muir Qureshi, was also present to interpret  
3 for Plaintiff and Defendant. The Honorable Sandra Pomrenze presided over the  
4 matter.

5 Testimony and exhibits were presented. There was argument and  
6 discussion regarding the relative issues for this hearing. Testimony and exhibit  
7 presentation resumed. There was argument and discussion regarding the Court  
8 taking judicial notice that entry of a Decree of Divorce ends a marriage and that  
9 being the issue before the Court in these proceedings. Court advised counsel it  
10 was taking judicial notice that a Decree of Divorce was entered on September 04,  
11 2004. Testimony and exhibit presentation resumed. There was colloquy at the  
12 bench. Testimony and exhibit presentation resumed. The matter was trialed and  
13 then recalled with all present as before.

14 Court advised counsel it received documents (Plaintiff's Petition for writ  
15 relief filed in the Nevada Supreme Court) in chambers and it conferred with the  
16 Presiding Judge and it was agreed the documents did not divest this Court of  
17 jurisdiction and the matters would proceed. Counsel concurred with the Court.  
18 Testimony and exhibit presentation resumed. Upon Court's inquiry both counsel  
19 agreed to conduct a conference with the Court. The matter was trailed for the  
20 Court to conduct a conference with counsel off the record and outside of the

1 courtroom. The matter was recalled with all present as before. Testimony and  
2 exhibit presentation resumed.

3 Defendant testified. Mr. Kynaston finished his examination and passed  
4 the witness. Mr. James moved the Court for Judgment on the Evidence. Court  
5 observed it questioned *Vaile v. Eighth Judicial District Court*, 118 Nev. 262, 44  
6 P.3d 512 (2002), as it seemed to be illogical and it seemed to say it was okay to  
7 “pull a scam and get away with it” but it was Nevada law.

8 The Court further observed the testimony of the Defendant is not a far  
9 distance from the facts of the *Vaile* case. There was argument and discussion  
10 regarding the fraudulent divorce, both parties’ testimony about the divorce, the  
11 *Vaile* case decision, the facts of the *Vaile* case, and Mr. Kynaston appealing this  
12 case to have the Supreme Court review of the *Vaile* case. There was argument  
13 and discussion regarding neither party understanding what they were doing,  
14 Plaintiff's beliefs about getting a Nevada divorce, the California requirements for  
15 divorce, and Nevada divorce law. There was argument and discussion regarding  
16 the decision regarding the fraudulent divorce, Defendant not receiving any  
17 benefits after the last 15 years with Plaintiff, California making the decision, and  
18 the Court's discretion under the *Vaile* case. Mr. Kynaston requested the Court  
19 exercise its discretion and rule on the facts of the case.

1       There was discussion regarding the Court's obligation to rule on the facts  
2 and the law. There was argument and discussion regarding the provisions of Rule  
3 60(b), the provisions of the *Vaile* case, Defendant's testimony, and counsel  
4 appealing this case. Court advised counsel it would be exceeding its obligation  
5 if it did not rule on Plaintiff's motion for judgment based on the evidence  
6 presented, and Defendant's deposition was not published so it could not review  
7 the deposition. There was argument and discussion regarding the facts presented  
8 today being on point with the *Vaile* case and Defendant not meeting her burden  
9 of proof.

10       The Court, having read the papers and pleadings on file herein, being well  
11 advised in the premises, having heard the testimony, having considered the  
12 evidence, being well advised in the premises, and for sufficient cause shown,  
13 hereby finds and orders as follows:

14       **THE COURT HEREBY FINDS** that Plaintiff was not credible in any  
15 portion of his testimony. Based on the evidence presented Defendant was more  
16 credible; therefore, the Court does find that the parties perpetrated a fraud on the  
17 State of Nevada by entering into a Decree of Divorce without the requisite  
18 residency. Were that to be the end of the inquiry, but because of the *Vaile vs.*  
19 *Eighth Judicial District* case, it was not the end of the inquiry. If sufficient time  
20 has passed, the Court is obligated to make a decision on the merits as to how the

1 fraudulent divorce was implemented and what the parties' roles were. In the  
2 *Vaile* case, both spouses were willing participants and they both knew that they  
3 did not have residency. They both knew they wanted a divorce sooner rather than  
4 later. It is not uncommon, unfortunately, because we have such generous divorce  
5 laws, that people take advantage of those divorce laws and they come here  
6 thinking they will get a quick divorce and they pretend to be residents. The  
7 Courts see that on a regular basis. Sometimes they get away with it, sometimes  
8 they do not, but certainly, in this instance, the presiding judge had no reason to  
9 question the validity of the documents that were submitted and, therefore,  
10 executed the Decree. What *Vaile* says is, if they make a distinction where there  
11 is a very old divorce and one party seeks to set it aside based on fraud, that party  
12 must prove they were free from fault. You have 2 parties at fault and the Court  
13 in *Vaile* applied an equitable standard that they were not going to reward a  
14 "wrong doer" and that is why there is a requirement of some equitable reason  
15 why a "co-wrong doer" should be permitted relief even though they are equally  
16 as much of a wrong doer as the other party. So, they set the standard that there  
17 has to be some threat, duress, or coercion or an equitable reason why that party  
18 is free from fault. In the instant case the Court finds the Defendant to be very  
19 credible, unlike the Plaintiff. However, what is missing from Defendant's  
20 testimony is that she was forced to sign those papers and, in fact in this instance,

1 she knew there was a divorce in Nevada whether Plaintiff told her it was a piece  
2 of paper or not. This is a person who is a competent adult and who knew there  
3 was a divorce in Nevada until such time as she became upset with the Plaintiff,  
4 upon his allegation he had married someone else. She was content to “let  
5 sleeping dogs lie” and live together with the Plaintiff. Ironically, they are still  
6 living together and, ironically, Plaintiff has not remarried. But it requires, in this  
7 instance, evidence of an unequal bargaining position at a minimum. There was  
8 nothing in Defendant’s testimony that was evidence of an unequal bargaining  
9 position between the Plaintiff and Defendant. Plaintiff said, “we’re going to  
10 Nevada, we’re going to sign some paperwork, it is going to be a divorce, it is  
11 going to be a paper divorce, we’re going to continue to live together.” This was  
12 not a person with a mental defect or an inability to understand what was being  
13 told to her. Defendant knew it, and in fact at his request, not a demand according  
14 to her own testimony, she in fact went to India to marry Plaintiff’s brother. Was  
15 it a “sham” marriage? Of course it was. Did it assist the parties in their “end  
16 game”? No, because Plaintiff’s brother never got a Visa and did not come to the  
17 U.S. But at the end of the day, there is simply insufficient evidence that the  
18 Defendant acted under duress. So as much as the Court finds the facts of this  
19 case offensive, it cannot rule on what it finds offensive—it has to rule on the law  
20 and precedent and *Vaile* is still precedent in this state. Should the Supreme Court

1 choose to take a second look on appeal, they are free to do so, and, if in fact, they  
2 say that *Vaile* is not good law then the Court is happy to have the parties come  
3 back and the Court will even set a second hearing. On the testimony and the  
4 evidence, the Court is compelled to grant the motion for judgment on the  
5 evidence and it is compelled to deny the motion to set aside.

6       **THE COURT FURTHER FINDS** that, because neither party comes to  
7 this court with clean hands, neither party shall receive an award of attorney's fees  
8 against the other. The Plaintiff is not entitled to an award of attorney's fees. He  
9 is equally, if not greater, at fault than the Defendant, so he may be the prevailing  
10 party, but the Court will not reward someone with extremely unclean hands with  
11 an award of attorney's fees. The Defendant is not the prevailing party here and  
12 as much as there is some sympathy here, the Court does not rule on sympathy. It  
13 must rule on the law and insofar as Defendant is not the prevailing party the Court  
14 cannot award her any attorney's fees either. The Court was surprised when  
15 Defendant rested, but counsel did, and did not get to the heart of the *Vaile* case  
16 standard. It is not a criticism of counsel. The Court believes that Defendant was  
17 honest and candid with the Court, and counsel was left with the case he had.  
18 Defendant knew what her husband wanted her to do, and she went ahead and did  
19 it. There is no evidence that she refused or that he demanded or that he threatened  
20 her or anything else, just like the parties did in the *Vaile* case. Because of that,



1 and the *Vaile* precedent, the Court is compelled to deny the motion to set aside.  
2 There is an appealable issue there. The Court does not know what the Supreme  
3 Court will do. It is a question that has been answered in a way that most of us  
4 might not appreciate, but it is the question that has been answered and  
5 Defendant's testimony does not rise to the level for the Court to set aside the  
6 Decree of Divorce. Counsel need to decide what they wish to do, because the  
7 Court does believe there is an issue here. This Court does not have the ability to  
8 "jump over" the Supreme Court and decide.

9 Therefore,

10 **IT IS HEREBY ORDERED** that the Motion for Judgment on the  
11 Evidence is GRANTED.

12 **IT IS FURTHER ORDERED** that Defendant's Motion to Set Aside the  
13 Decree of Divorce is DENIED.

14 **IT IS FURTHER ORDERED** that, as neither party is the prevailing  
15 party, there shall be no award of attorney's fees to either party.

16 ///

17 ///

18 ///

19 ///

20 ///

1           **IT IS FURTHER ORDERED** that Mr. James shall prepare the Findings  
2 of Fact, Conclusions of Law with Mr. Kynaston to review the same and  
3 countersign.

4           **IT IS SO ORDERED.**

5 Dated this 21 day of October, 2019.

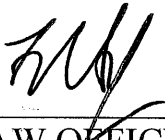


DISTRICT COURT JUDGE

SANDRA L. POMRENZE

8 Respectfully submitted by:

Approved as to form and content by:



10 LAW OFFICES OF F. PETER JAMES

KAINEN LAW GROUP

F. Peter James, Esq.

Andrew L. Kynaston, Esq.

Nevada Bar No. 10091

Nevada Bar No. 8147

3821 W. Charleston Blvd., Suite 250

3303 Novat Street, Suite 200

Las Vegas, Nevada 89102

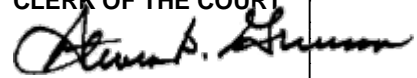
Las Vegas, Nevada 89129

702-256-0087

702-823-4900

Counsel for Plaintiff

Counsel for Defendant



1 **NEOJ**  
2 LAW OFFICES OF F. PETER JAMES, ESQ.  
3 F. Peter James, Esq.  
4 Nevada Bar No. 10091  
5 3821 West Charleston Boulevard, Suite 250  
6 Las Vegas, Nevada 89102  
7 Peter@PeterJamesLaw.com  
8 702-256-0087  
9 702-256-0145 (fax)  
10 Counsel for Plaintiff

11 **DISTRICT COURT, FAMILY DIVISION**  
12 **CLARK COUNTY, NEVADA**

13 JASWINDER SINGH,  
14  
15 Plaintiff,

16 vs.

17 RAJWANT KAUR,  
18  
19 Defendant.

CASE NO. : 04D323977  
DEPT. NO. : P

**NOTICE OF ENTRY OF FINDINGS  
OF FACT, CONCLUSIONS OF  
LAW, AND ORDER**

20 ///

///

///

///


///

///

///

1 Please take notice that the attached Findings of Fact, Conclusions of Law,  
2 and Order was entered on October 22, 2019.

3 Dated this 22 day of October 2019

4   
5 LAW OFFICES OF F. PETER JAMES  
F. Peter James, Esq.  
6 Nevada Bar No. 10091  
3821 W. Charleston Blvd., Suite 250  
7 Las Vegas, Nevada 89102  
702-256-0087  
8 Counsel for Plaintiff

1 **CERTIFICATE OF SERVICE**

2 I certify that on this 22 day of October, 2019, I caused the above and  
3 foregoing document entitled **NOTICE OF ENTRY OF FINDINGS OF FACT,**  
4 **CONCLUSIONS OF LAW, AND ORDER** to be served as follows:

5 ☒ pursuant to EDCR 8.05(A), EDCR 8.05(F), NRCP 5(b)(2)(D)  
6 and Administrative Order 14-2 captioned "In the Administrative  
7 Matter of Mandatory Electronic Service in the Eighth Judicial  
8 District Court," by mandatory electronic service through the  
9 Eighth Judicial District Court's electronic filing system;

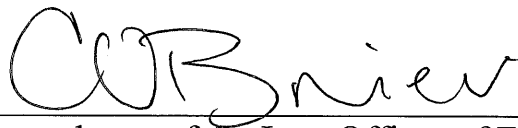
8 ☐ by placing same to be deposited for mailing in the United States  
9 Mail, in a sealed envelope upon which first class postage was  
10 prepaid in Las Vegas, Nevada;

10 ☐ pursuant to EDCR 7.26 / NEFCR 9, to be sent via facsimile /  
11 email;

12 to the attorney(s) / party(ies) listed below at the address(es), email address(es),  
13 and/or facsimile number(s) indicated below:

14 Andrew L. Kynaston, Esq.  
15 Kainen Law Group  
16 3303 Novat Street, Suite 200  
17 Las Vegas, Nevada 89129  
18 702-823-4488 (fax)  
19 Service@KainenLawGroup.com  
20 Counsel for Defendant

18  
19 By:



An employee of the Law Offices of F. Peter James, Esq., PLLC

ORIGINAL

Electronically Filed  
10/22/2019 10:51 AM  
Steven D. Grierson  
CLERK OF THE COURT

*Steven D. Grierson*

FFCL  
LAW OFFICES OF F. PETER JAMES, ESQ.  
F. Peter James, Esq.  
Nevada Bar No. 10091  
3821 West Charleston Boulevard, Suite 250  
Las Vegas, Nevada 89102  
Peter@PeterJamesLaw.com  
702-256-0087  
702-256-0145 (fax)  
Counsel for Plaintiff

**DISTRICT COURT, FAMILY DIVISION  
CLARK COUNTY, NEVADA**

JASWINDER SINGH,  
  
Plaintiff,

vs.

RAJWANT KAUR,  
  
Defendant.

CASE NO. : 04D323977  
DEPT. NO. : P

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
ORDER**

This matter came before the Court on the 12<sup>th</sup> of September, 2019 and the 13<sup>th</sup> of September, 2019 for an Evidentiary Hearing on Defendant's Motion to Set Aside Decree of Divorce, which was filed on January 7, 2019, and on Plaintiff's Opposition thereto filed January 23, 2019. Also being heard was Plaintiff's Motion in Limine, which was filed August 30, 2019, and on Defendant's Opposition and Countermotion thereto, which was filed on September 6, 2019. F. Peter James, Esq. appeared with Plaintiff, Jaswinder

RECEIVED

OCT 18 2019

FAMILY COURT  
DEPARTMENT P

Non-Trial Dispositions:  
☐ Other  
☐ Dismissed - Want of Prosecution  
☐ Involuntary (Statutory) Dismissal  
☐ Default Judgment  
☐ Transferred  
☐ Disposed After Trial  
☒ Judgment Reached by Trial  
☐ Settled/Withdrawn:  
☐ Without Judicial Conf/Hrg  
☒ With Judicial Conf/Hrg  
☐ By ADR

1 Singh. Andrew L. Kynaston, Esq. appeared with Defendant, Rajwant Kaur.  
2 Nevada registered Punjabi interpreter, Muir Qureshi, was also present to interpret  
3 for Plaintiff and Defendant. The Honorable Sandra Pomrenze presided over the  
4 matter.

5 Testimony and exhibits were presented. There was argument and  
6 discussion regarding the relative issues for this hearing. Testimony and exhibit  
7 presentation resumed. There was argument and discussion regarding the Court  
8 taking judicial notice that entry of a Decree of Divorce ends a marriage and that  
9 being the issue before the Court in these proceedings. Court advised counsel it  
10 was taking judicial notice that a Decree of Divorce was entered on September 04,  
11 2004. Testimony and exhibit presentation resumed. There was colloquy at the  
12 bench. Testimony and exhibit presentation resumed. The matter was trialed and  
13 then recalled with all present as before.

14 Court advised counsel it received documents (Plaintiff's Petition for writ  
15 relief filed in the Nevada Supreme Court) in chambers and it conferred with the  
16 Presiding Judge and it was agreed the documents did not divest this Court of  
17 jurisdiction and the matters would proceed. Counsel concurred with the Court.  
18 Testimony and exhibit presentation resumed. Upon Court's inquiry both counsel  
19 agreed to conduct a conference with the Court. The matter was trailed for the  
20 Court to conduct a conference with counsel off the record and outside of the

1 courtroom. The matter was recalled with all present as before. Testimony and  
2 exhibit presentation resumed.

3 Defendant testified. Mr. Kynaston finished his examination and passed  
4 the witness. Mr. James moved the Court for Judgment on the Evidence. Court  
5 observed it questioned *Vaile v. Eighth Judicial District Court*, 118 Nev. 262, 44  
6 P.3d 512 (2002), as it seemed to be illogical and it seemed to say it was okay to  
7 “pull a scam and get away with it” but it was Nevada law.

8 The Court further observed the testimony of the Defendant is not a far  
9 distance from the facts of the *Vaile* case. There was argument and discussion  
10 regarding the fraudulent divorce, both parties’ testimony about the divorce, the  
11 *Vaile* case decision, the facts of the *Vaile* case, and Mr. Kynaston appealing this  
12 case to have the Supreme Court review of the *Vaile* case. There was argument  
13 and discussion regarding neither party understanding what they were doing,  
14 Plaintiff’s beliefs about getting a Nevada divorce, the California requirements for  
15 divorce, and Nevada divorce law. There was argument and discussion regarding  
16 the decision regarding the fraudulent divorce, Defendant not receiving any  
17 benefits after the last 15 years with Plaintiff, California making the decision, and  
18 the Court’s discretion under the *Vaile* case. Mr. Kynaston requested the Court  
19 exercise its discretion and rule on the facts of the case.



1       There was discussion regarding the Court's obligation to rule on the facts  
2 and the law. There was argument and discussion regarding the provisions of Rule  
3 60(b), the provisions of the *Vaile* case, Defendant's testimony, and counsel  
4 appealing this case. Court advised counsel it would be exceeding its obligation  
5 if it did not rule on Plaintiff's motion for judgment based on the evidence  
6 presented, and Defendant's deposition was not published so it could not review  
7 the deposition. There was argument and discussion regarding the facts presented  
8 today being on point with the *Vaile* case and Defendant not meeting her burden  
9 of proof.

10       The Court, having read the papers and pleadings on file herein, being well  
11 advised in the premises, having heard the testimony, having considered the  
12 evidence, being well advised in the premises, and for sufficient cause shown,  
13 hereby finds and orders as follows:

14       **THE COURT HEREBY FINDS** that Plaintiff was not credible in any  
15 portion of his testimony. Based on the evidence presented Defendant was more  
16 credible; therefore, the Court does find that the parties perpetrated a fraud on the  
17 State of Nevada by entering into a Decree of Divorce without the requisite  
18 residency. Were that to be the end of the inquiry, but because of the *Vaile vs.*  
19 *Eighth Judicial District* case, it was not the end of the inquiry. If sufficient time  
20 has passed, the Court is obligated to make a decision on the merits as to how the

1 fraudulent divorce was implemented and what the parties' roles were. In the  
2 *Vaile* case, both spouses were willing participants and they both knew that they  
3 did not have residency. They both knew they wanted a divorce sooner rather than  
4 later. It is not uncommon, unfortunately, because we have such generous divorce  
5 laws, that people take advantage of those divorce laws and they come here  
6 thinking they will get a quick divorce and they pretend to be residents. The  
7 Courts see that on a regular basis. Sometimes they get away with it, sometimes  
8 they do not, but certainly, in this instance, the presiding judge had no reason to  
9 question the validity of the documents that were submitted and, therefore,  
10 executed the Decree. What *Vaile* says is, if they make a distinction where there  
11 is a very old divorce and one party seeks to set it aside based on fraud, that party  
12 must prove they were free from fault. You have 2 parties at fault and the Court  
13 in *Vaile* applied an equitable standard that they were not going to reward a  
14 "wrong doer" and that is why there is a requirement of some equitable reason  
15 why a "co-wrong doer" should be permitted relief even though they are equally  
16 as much of a wrong doer as the other party. So, they set the standard that there  
17 has to be some threat, duress, or coercion or an equitable reason why that party  
18 is free from fault. In the instant case the Court finds the Defendant to be very  
19 credible, unlike the Plaintiff. However, what is missing from Defendant's  
20 testimony is that she was forced to sign those papers and, in fact in this instance,

1 she knew there was a divorce in Nevada whether Plaintiff told her it was a piece  
2 of paper or not. This is a person who is a competent adult and who knew there  
3 was a divorce in Nevada until such time as she became upset with the Plaintiff,  
4 upon his allegation he had married someone else. She was content to “let  
5 sleeping dogs lie” and live together with the Plaintiff. Ironically, they are still  
6 living together and, ironically, Plaintiff has not remarried. But it requires, in this  
7 instance, evidence of an unequal bargaining position at a minimum. There was  
8 nothing in Defendant’s testimony that was evidence of an unequal bargaining  
9 position between the Plaintiff and Defendant. Plaintiff said, “we’re going to  
10 Nevada, we’re going to sign some paperwork, it is going to be a divorce, it is  
11 going to be a paper divorce, we’re going to continue to live together.” This was  
12 not a person with a mental defect or an inability to understand what was being  
13 told to her. Defendant knew it, and in fact at his request, not a demand according  
14 to her own testimony, she in fact went to India to marry Plaintiff’s brother. Was  
15 it a “sham” marriage? Of course it was. Did it assist the parties in their “end  
16 game”? No, because Plaintiff’s brother never got a Visa and did not come to the  
17 U.S. But at the end of the day, there is simply insufficient evidence that the  
18 Defendant acted under duress. So as much as the Court finds the facts of this  
19 case offensive, it cannot rule on what it finds offensive—it has to rule on the law  
20 and precedent and *Vaile* is still precedent in this state. Should the Supreme Court

1 choose to take a second look on appeal, they are free to do so, and, if in fact, they  
2 say that *Vaile* is not good law then the Court is happy to have the parties come  
3 back and the Court will even set a second hearing. On the testimony and the  
4 evidence, the Court is compelled to grant the motion for judgment on the  
5 evidence and it is compelled to deny the motion to set aside.

6 **THE COURT FURTHER FINDS** that, because neither party comes to  
7 this court with clean hands, neither party shall receive an award of attorney's fees  
8 against the other. The Plaintiff is not entitled to an award of attorney's fees. He  
9 is equally, if not greater, at fault than the Defendant, so he may be the prevailing  
10 party, but the Court will not reward someone with extremely unclean hands with  
11 an award of attorney's fees. The Defendant is not the prevailing party here and  
12 as much as there is some sympathy here, the Court does not rule on sympathy. It  
13 must rule on the law and insofar as Defendant is not the prevailing party the Court  
14 cannot award her any attorney's fees either. The Court was surprised when  
15 Defendant rested, but counsel did, and did not get to the heart of the *Vaile* case  
16 standard. It is not a criticism of counsel. The Court believes that Defendant was  
17 honest and candid with the Court, and counsel was left with the case he had.  
18 Defendant knew what her husband wanted her to do, and she went ahead and did  
19 it. There is no evidence that she refused or that he demanded or that he threatened  
20 her or anything else, just like the parties did in the *Vaile* case. Because of that,

1 and the *Vaile* precedent, the Court is compelled to deny the motion to set aside.  
2 There is an appealable issue there. The Court does not know what the Supreme  
3 Court will do. It is a question that has been answered in a way that most of us  
4 might not appreciate, but it is the question that has been answered and  
5 Defendant's testimony does not rise to the level for the Court to set aside the  
6 Decree of Divorce. Counsel need to decide what they wish to do, because the  
7 Court does believe there is an issue here. This Court does not have the ability to  
8 "jump over" the Supreme Court and decide.

9 Therefore,

10 **IT IS HEREBY ORDERED** that the Motion for Judgment on the  
11 Evidence is GRANTED.

12 **IT IS FURTHER ORDERED** that Defendant's Motion to Set Aside the  
13 Decree of Divorce is DENIED.

14 **IT IS FURTHER ORDERED** that, as neither party is the prevailing  
15 party, there shall be no award of attorney's fees to either party.

16 ///

17 ///

18 ///

19 ///

20 ///

1           **IT IS FURTHER ORDERED** that Mr. James shall prepare the Findings  
2 of Fact, Conclusions of Law with Mr. Kynaston to review the same and  
3 countersign.

4           **IT IS SO ORDERED.**

5 Dated this 21 day of October, 2019.

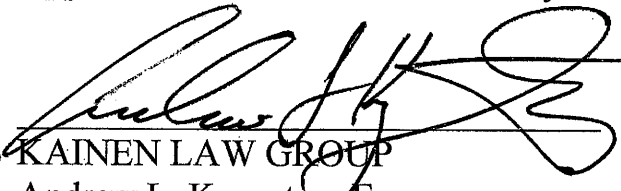
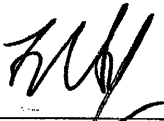


DISTRICT COURT JUDGE

SANDRA L. POMRENZE

8 Respectfully submitted by:

Approved as to form and content by:



10 LAW OFFICES OF F. PETER JAMES KAINEN LAW GROUP

F. Peter James, Esq.

Andrew L. Kynaston, Esq.

11 Nevada Bar No. 10091

Nevada Bar No. 8147

12 3821 W. Charleston Blvd., Suite 250

3303 Novat Street, Suite 200

Las Vegas, Nevada 89102

Las Vegas, Nevada 89129

702-256-0087

702-823-4900

13 Counsel for Plaintiff

Counsel for Defendant