

IN THE SUPREME COURT OF THE STATE OF NEVADA

DENNIS VINCENT STANTON,
Appellant/Cross-Respondent,
vs.
TWYLA MARIE STANTON,
Respondent/Cross-Appellant.

No. 80910

FILED

JUN 22 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

*O R D E R R E G A R D I N G P R O B O N O C O U N S E L A N D D I R E C T I N G
T R A N S M I S S I O N O F T H E R E C O R D*

This is an appeal and cross-appeal from a district court order granting a motion to set aside divorce decree. Having considered the documents transmitted by the district court, appellant, and cross-appellant, this court has determined that the appointment of pro bono counsel to represent appellant and cross-appellant would assist this court in reviewing this appeal. By this order, the court expresses no opinion as to the merits of this appeal.

Pro bono counsel is an attorney who provides legal services without charge for the benefit of the public good. The appointment of pro bono counsel provides attorneys with an opportunity to volunteer legal services in furtherance of their professional responsibility and, at the same time, allows financially eligible litigants access to quality legal representation without cost. Counsel will be appointed for purposes of this appeal only and will participate in oral argument. Currently, the Pro Bono

Committee of the Appellate Litigation Section of the State Bar of Nevada (Pro Bono Committee), in conjunction with the Legal Aid Center of Southern Nevada, has developed a pro bono appellate program to assist the public and this court. This case is hereby referred to the program established by the Pro Bono Committee to evaluate whether either appellant and/or cross-appellant can benefit from the program.

Accordingly, the clerk of this court is directed to transmit a copy of this order and the attached case summary and district court order to the Legal Aid Center of Southern Nevada for financial eligibility screening. If either appellant and/or cross-appellant qualifies and does not object to pro bono counsel, the Legal Aid Center in cooperation with the Pro Bono Committee shall locate a volunteer attorney from the program to represent the party. Once an attorney is located, the attorney shall file a notice of appearance in this court within 60 days from the date of this order. Briefing and oral argument will be scheduled thereafter. Alternatively, if either appellant and/or cross-appellant is not financially eligible or objects to pro bono representation, or if a volunteer attorney cannot be located, the Legal Aid Center of Southern Nevada shall notify this court in writing within 60 days from the date of this order. In such case, oral argument will not be held. The briefing schedule in this appeal shall be suspended pending further order of this court. The motion filed on June 1, 2020, is denied at this time.

This court further concludes 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-0039304. 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.

Pickering, C.J.

cc: Dennis Vincent Stanton
Twyla Marie Stanton
Legal Aid Center of Southern Nevada, Barbara E. Buckley,
Executive Director
Anne R. Traum, Coordinator, Appellate Litigation Section,
Pro Bono Committee, State Bar of Nevada
Kelly Dove
Nye County Clerk

Docket no. 80910.

Stanton v. Stanton

This is an appeal and cross-appeal from a district court order granting a motion to set aside divorce decree. This appeal and cross-appeal arise from a rather complicated series of divorce proceedings between appellant/cross-respondent Dennis Stanton and respondent/cross-appellant Twyla Stanton. It appears that the parties both filed for divorce in the eighth judicial district court, then pursuant to a stipulation had the case dismissed. Dennis then filed a complaint for separate maintenance. The court in that matter stated that Twyla “has a diminished mental capacity and lacks the ability to comprehend legal documents, or make judgments as to legal matters” and appointed counsel. That case, as well, was dismissed pursuant to a stipulation, which was not signed by appointed counsel. The parties again filed for divorce in the same court and again the case was dismissed pursuant to a stipulation.

On the same day the case was dismissed in the eighth judicial district court, the parties filed a joint petition for summary decree of divorce in the fifth judicial district court seeking sole legal custody (the instant case). After being informed that the court would not grant sole custody without a hearing, the parties filed an amended joint petition for summary decree of divorce seeking joint legal custody. That decree of divorce was filed and Twyla filed an ex parte application to seal the court record. At that time, the circuit court of Faulkner County, Arkansas appointed temporary co-guardians of the person and estate of Twyla. Counsel on behalf of Twyla filed a motion to unseal the Nevada court record. Counsel on behalf of Twyla filed a motion pursuant to Rule 60(b) to set aside the decree of divorce as fraudulently obtained, to dismiss the joint petition for divorce with prejudice, and to sanction Dennis for forum shopping and perpetrating a fraud upon the court in the full amount of plaintiff’s fees and costs. The court granted the set aside, and found that Dennis had perpetrated a fraud upon the court, in direct violation of NRCF 11(b)(1) and (b)(3), and had misrepresented Twyla’s agreements and consent to agreement so as to “shock the court”. The court sanctioned Dennis and granted attorney fees to the temporary guardians. Dennis filed a motion for reconsideration, which the court denied without respondent being present, despite the court wishing her to be so. The district court denied the motion for reconsideration.

Both Dennis and Twyla have filed an appeal and cross-appeal in this matter. The appeal and cross-appeal appear to broadly raise the same arguments. The parties generally argue that the district court abused its discretion by allowing counsel on behalf of respondent to file the rule 60(b) motion and for allowing an award of attorney fees to be granted to the awarded, temporary guardians.

Due to the prior issues in this case regarding competency of Twyla and what appears to be a pattern of Dennis misrepresenting Twyla’s arguments and agreements. It would seem to me that pro bono counsel would be necessary for Twyla, and potentially for Dennis as well.

1 **ORDR**2 **CHARLES C. LoBELLO, ESQ.**3 **Nevada Bar No. 5052**4 **CHRISTOPHER F. OWEN, ESQ.**5 **Nevada Bar No. 13211**6 **OWEN LAW FIRM**7 **1785 East Sahara Ave., Suite 157**8 **Las Vegas, Nevada 89104**9 **Tel. (702) 733-2800**10 **Fax (702) 425-9883**11 **cowen@chrisowenlaw.com**12 **Attorneys for First Joint Petitioner/Plaintiff**

FILED

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Bennett
DEPUTY

13 **IN THE FIFTH JUDICIAL DISTRICT COURT OF THE**
14 **STATE OF NEVADA, IN AND FOR THE COUNTY OF NYE**

15 **TWYLA MARIE STANTON,**
16 **an individual;**

17 **First Joint Petitioner/Plaintiff,**

18 **vs.**

19 **DENNIS VINCENT STANTON,**
20 **an individual;**

21 **Second Joint Petitioner/Defendant.**

22 **Case No.: CV-39304**

23 **Dept. No.: 2**

24 **ORDER AND JUDGMENT**

25 On November 27, 2018, Temporary Guardians, Robert Crawford and Carmen Crawford, on behalf
26 of FIRST JOINT PETITIONER/PLAINTIFF, TWYLA MARIE STANTON filed her Motion Pursuant to
27 Rule 60(B) to Set Aside Decree of Divorce as Fraudulently Obtained, to Dismiss the Joint Petition for
28 Divorce with Prejudice, and to Sanction Defendant for Forum Shopping and Perpetrating a Fraud Upon the
Court in the Full Amount of Plaintiff's Fees and Costs ("Motion") and on December 26, 2018, SECOND
JOINT PETITIONER/DEFENDANT, DENNIS STANTON, filed his Countermotion to Strike Movant's
Motion as Being Filed Without Authority and in a Direct Conflict of Interest, and For Attorney's Fees
("Countermotion"), and the Court having reviewed the record, including all pleadings filed to date and
having considered arguments of counsel at the hearing on January 7, 2019, and good cause appearing
therefore, the Court hereby issues the following findings of fact and conclusion of law, and Orders, as
follows:

29 **FINDINGS OF FACT**

30 1. That on October 12, 2016, SECOND JOINT PETITIONER/DEFENDANT, DENNIS STANTON,
31 MAY 20 2020
(hereafter "Defendant" or "Dennis") filed a Complaint for Divorce, Case No. D-16-540966-D ("the
32 **First Divorce Action**"), in the Eighth Judicial District Court, Family Division;

2. That on October 12, 2016, FIRST JOINT PETITIONER/PLAINTIFF, TWYLA STANTON (hereafter, "Plaintiff" or "Twyla"), also filed a Complaint for Divorce in the Eighth Judicial District, Case No. D-16-541006-D. Both cases (D-16-540966-D and D-16-541006) were assigned to Judge Rena Hughes and consolidated under Case No. D-16-540966-D;
3. That over the next several months, Judge Hughes presided over multiple motion hearings and made substantive rulings on contested matters in the case (see Judge Duckworth minute order dated April 28, 2018, p. 2), however, considered the Peremptory Challenge invalid and stated, in a Minute Order dated April 18, 2018, holding hearings on November 9, 2016, February 2, 2017, February 9, 2017 and March 16, 2017;
4. That on April 3, 2017, after what had been a hotly contested divorce, the parties ostensibly reached a reconciliation and a Stipulation and Order for Voluntary Dismissal of the First Divorce Action (cases D-16-540966-D and D-16-541006-D) was filed;
5. That on September 13, 2017, Dennis filed in the Eight Judicial District Court, Family Division a Complaint for Separate Maintenance, Case No. D-17-558626-S (hereafter "the Second Divorce Action") in which Dennis sought separate maintenance from Twyla;
6. That within his Complaint for Separate Maintenance, Dennis stated, in answer to "Question 8" regarding other considerations relevant to the Court in determining child custody, that the Court should consider Twyla's "Mental State" (see Motion, Exhibit 3);
7. That on October 23, 2017, Dennis filed a Request for Summary Disposition of the Second Divorce Action, which contained alleged agreements between the parties as to, among other things, custody, support, and the division of marital assets, that would ostensibly allow the Court to enter a decree of separate maintenance in the Second Divorce Action;
8. That on December 19, 2018, Dennis filed an Affidavit Seeking Disqualification of Judge Hughes due to Bias or Prejudice;
9. That on January 23, 2018, Chief Judge Elizabeth Gonzalez Denied the Motion to Disqualify;
10. That on February 1, 2018, Judge Hughes *sua sponte* stated in a minute order that,

The Court has researched its duties with respect to ensuring due process to the Defendant [Twyla Stanton]. Through the previous case involving the parties (lead case - D-16-540966-D consolidated with D-16-541006-D), the Court is aware that Defendant has a diminished mental capacity and lacks the ability to comprehend legal documents or make judgments as to legal matters. In good conscience, and for purposes of due process, the Court cannot approve the Defendant's alleged agreements with Plaintiff until Defendant receives independent legal counsel. Therefore, the Court is appointing Defendant independent legal counsel to represent the Defendant in this matter, to ensure she is advised of her rights, and that she is truly making an informed judgment as to the legal matters at hand.
11. That on February 12, 2018, the Court issued its Order appointing Christopher F. Owen, Esq. as independent legal counsel for Twyla Stanton;
12. That the parties apparently reconciled thereafter and weeks later, on February 27, 2018, an Amended

Stipulation and Order to Dismiss the Complaint for Separate Maintenance was filed;

13. That on March 29, 2018, Dennis caused "the parties" to file a Joint Petition for Divorce (the "Third Divorce Action"), again in the Eighth Judicial District Court, Family Division;

14. That this Third Divorce Action was initially assigned to Judge Hughes;

15. That upon discovering that the case had been returned to Judge Hughes, Dennis caused Twyla to file a Peremptory Challenge of Judge Hughes, and the case was randomly reassigned to Judge Bryce Duckworth;

16. That Judge Duckworth, however, considered the Peremptory Challenge invalid and stated, in a Minute Order dated April 18, 2018:

The parties to litigation are not permitted to file a peremptory challenge against a district judge who has previously made rulings on contested issues. This prohibition applies in any subsequent cases between the same parties, which are assigned to that same district judge pursuant to a local case assignment rule. "Allowing a plaintiff to file a peremptory challenge after the filing of any counterclaim would give a plaintiff the opportunity to disqualify the district judge simply because he has made previous unfavorable rulings." [Citations omitted]....

The cause of action and issues in this case are identical to those in cases D-16-541006-D and D-16-540966-D because they are both actions for divorce. Had either of these earlier cases resulted in a decree of divorce, the instant case would have been barred under the principle of res judicata. The cause of action and issues in this case are substantively indistinguishable from those in case D-16-558626-S because of the natural overlap between divorce and separate maintenance cases. Should that case have resulted in a decree of separate maintenance, the instant case would not have been barred under res judicata; however, the principle of collateral estoppel would have been dispositive for all issues in the divorce action except whether the parties are incompatible.

The general prohibition against forum shopping between district judges prohibits a party from filing a peremptory challenge under the circumstances detailed above.

Therefore, under these circumstances, the Court concludes that the peremptory challenge filed by Twyla Stanton on March 29, 2018 is untimely under Nevada Supreme Court Rule 48.1(3) because it was not filed 3 days prior to a contested hearing. Additionally, the Court concludes that the peremptory challenge is prohibited by SCR 48.1(5) because it was filed against a district judge that has made rulings on contested issues between the parties.

17. That Judge Duckworth accordingly ordered that the Third Divorce Action be reassigned and returned to Judge Hughes for further handling in accordance with the Rules and Nevada case law;

18. That immediately following the return of the Third Divorce Action to Judge Hughes, the Third Divorce Action was dismissed;

19. That, on or about May 17, 2018, Dennis caused "the parties" to file a Joint Petition for Divorce before this Court (hereafter the "Fourth Divorce Action"), where the Joint Petition form utilized in Nye County does not inquire about participation in prior divorce or separate maintenance cases or ask about "other considerations" when it comes to determining custody;

20. That shortly thereafter, an Amended Joint Petition for Summary Decree of Divorce was filed whereby

Twyla ostensibly agreed to pay Dennis \$1,517.00 per month in child support based upon a stated monthly "income" of \$4,333.33, even though she was then unemployed, and also to give up any right to Spousal Support;

21. That on June 7, 2018, this Court granted a Decree of Divorce, adopting the parties' alleged settlement agreement setting forth "equitable" terms including, amongst other things, awarding Dennis sole physical custody of the parties' six children, obligating Twyla to pay Dennis \$1,517.00 per month as and for child support as well as child support arrears of \$4,551.00, and causing Twyla to waive significant legal rights including, without limitation, her right to custody of the children and spousal support;
22. That on October 19, 2018, Twyla's parents, Robert Crawford and Carmen Crawford ("Temporary Co-Guardians") applied to the Circuit Court of Faulkner County, Arkansas to be appointed as co-guardians of the person and estate of Twyla (Opposition, Exhibit C);
23. That on October 26, 2018, the Circuit Court of Faulkner County appointed Robert Crawford and Carmen Crawford as Temporary Co-Guardians of the Person and Estate of Twyla Marie Stanton (McCurdy) (Motion, Exhibit 1), and set a final hearing on the issue of granting Letters of Guardianship for December 10, 2018;
24. That on November 27, 2018, Twyla, through the Temporary Co-Guardians, filed her Motion with this Court;
25. That shortly after the filing and service of the Motion, counsel was retained in Arkansas to challenge the co-guardianship of Twyla's parents (Opposition, Exhibit A);
26. That on December 6, 2018, the Arkansas attorney filed a Response to Petitioners' Petition for Appointment as Co-Guardians (Opposition, Exhibit A), along with a Motion for Continuance of the final hearing (*id.*), resulting in the final hearing scheduled for December 10, 2018 being continued (*id.*, Exhibit B);
27. That on December 18, 2018, Dennis and Twyla remarried (*id.*, Exhibit D);
28. That on December 26, 2018, Dennis filed his Opposition and Countermotion with this Court;
29. That on January 2, 2019, Twyla, through the Temporary Co-Guardians, filed her Reply to Opposition and Opposition to Countermotion;
30. That on January 7, 2019, the Court conducted the hearing on the Motion and Countermotion;
31. That in the Motion, Opposition, Reply, and Exhibits thereto, the Court was made aware of the multiple filings prior to the filing in Nye County, as well as the shenanigans and fraud (Jan. 7, 2019 hearing at 9:57:07) made by Dennis in these filings, including;
 - a. Stating in the Third Divorce Action that Twyla was "earning" \$3,052.00 per month and should therefore be required to pay him child support of \$1,300.00 per month;
 - b. Stating to this Court that Twyla was now earning \$4,333.33 per month and should therefore be ordered to pay Dennis \$1,517.00 per month as child support; and

- 1 c. Representing that, based upon earnings of \$4,333.33 per month her alleged failure to pay in prior
2 months, that the Court should order that Twyla owed Dennis child support arrears of \$4,551.00;
- 3 32. That this Court also then discovered that Dennis had concealed from this Court additional material
4 facts, including:
- 5 a. The fact that Dennis had been involved in, and had caused the filing of, three prior divorce/separate
6 maintenance proceedings in Clark County;
- 7 b. That Judge Hughes had found Twyla to be suffering from a diminished mental capacity that
8 prevented her comprehending legal documents or making judgments as to legal matters there; and
- 9 c. That Twyla could not have possibly comprehended or appreciated what she was signing when she
10 is alleged in this case, the Fourth Divorce Action, to have entered into an equitable agreement
11 settling all issues as to assets, debts, and spousal support;
- 12 33. Finally, on Friday, January 4, 2019, Twyla filed an Affidavit in Regards to the Signing and Filing of
13 the New Decree of Divorce and the Amended Joint Petition for Summary Decree of Divorce
14 ("Affidavit");
- 15 34. That it is strange and unusual, and the Court was shocked and flabbergasted (January 7, 2019, hearing
16 at 10:03:20), that Twyla would file a document such as the Affidavit a week or two after the Decree of
17 Divorce was filed in Nye County, saying that "all of this" was done of my own free will and, to the
18 court is another piece of evidence of "shenanigans";
- 19 35. That the Court expressly makes no finding that Dennis's attorney, James S. Kent, Esq., had nothing to
20 do with Dennis perpetrating a fraud (January 7, 2019, hearing at 10:05:40).

21 **CONCLUSIONS OF LAW**

22 Based on the foregoing Findings of Fact, the Court hereby makes the following Conclusions of Law:

- 23 1. That Dennis engaged in or caused to be filed multiple divorce and/or separate maintenance actions in
24 the Eighth Judicial District Court, Family Division, prior to filing a Joint Petition for Divorce in the
25 Fifth Judicial District;
- 26 2. That Dennis failed to advise this Court of the multiple proceedings that preceded his filing in Nye
27 County;
- 28 3. That Dennis failed to advise the Court of the findings of Judge Hughes where, in her Minute Order of
February 1, 2018, Judge Hughes found that Twyla has "a diminished mental capacity", "lacks the ability
to comprehend legal documents", and is unable to "make judgments as to legal matters."
4. That Dennis failed to advise the Court that, based upon these findings, Judge Hughes refused to approve
the alleged agreements of the parties as set forth in the Request for Summary Disposition without first
affording Twyla independent legal counsel to make sure she is "truly making an informed judgment as
to the legal matters at hand."
5. That Dennis made representations to the Clark County Family Court in the Third Divorce Action,
falsely claiming in his Complaint for Separate Maintenance (Motion, Exhibit 5) that Twyla was

1 "earning" \$3,052.00 per month, and that Twyla should therefore be required to pay Dennis child support
2 of \$1,300.00 per month;

- 3 6. That Dennis made representations to this Court regarding Twyla's employment and earnings, falsely
4 representing that Twyla was earning \$4,333.33 per month, that Twyla should therefore pay Dennis
5 child support of \$1,517.00 per month, and that Twyla owed Dennis child support arrears of \$4,551.00;
6 7. That all of this -- the totality -- shocks the Court as to what Dennis has been doing for the past few years
7 (January 7, 2019, hearing at 10:15:50)
8 8. That Dennis's serial filings and further actions including, without limitation, his statements within those
9 filings, were consistent with the perpetration of a fraud upon this Court;
10 9. That Dennis's attorney, James S. Kent, Esq., had nothing to do either with Dennis's past fraudulent
11 conduct and representations made in the Eighth Judicial District Court or in assisting in Dennis's further
12 perpetration of a fraud upon this Court;
13 10. That based upon a review of the record, arguments of counsel, and the totality of circumstances (January
14 7, 2019, hearing at 10:12:30), Dennis' conduct was and is in direct violation of NRCP 11(b)(1) as the
15 filings as previously described were filed for no reason other than to delay and harass, and needlessly
16 increase the cost of litigation, and, therefore these filings are improper, and was and is in further
17 violation of NRCP 11(b)(3) as Dennis has caused to make false representations of fact as to Twyla's
18 earnings in the Third Divorce Action and with this Court.

19 Based on the foregoing Findings of Fact and Conclusions of Law, and upon review and
20 consideration of same, it is hereby:

21 **ORDERED** that the Temporary Guardians', Robert Crawford and Carmen Crawford, on behalf of
22 **FIRST JOINT PETITIONER/PLAINTIFF, TWYLA MARIE STANTON**, Motion Pursuant to Rule 60(B)
23 to Set Aside Decree of Divorce as Fraudulently Obtained, to Dismiss the Joint Petition for Divorce with
24 Prejudice, and to Sanction Defendant for Forum Shopping and Perpetrating a Fraud Upon the Court in the
25 Full Amount of Plaintiff's Fees and Costs filed by the **FIRST JOINT PETITIONER/PLAINTIFF, TWYLA**
26 **STANTON**, by and through the temporary guardians, is hereby **GRANTED**;

27 **IT IS FURTHER ORDERED** that the Joint Petition for Divorce filed in this action, Nye County
28 Case No. CV-39304, on May 17, 2018, is hereby **DISMISSED WITH PREJUDICE**;

IT IS FURTHER ORDERED that the Decree of Divorce filed and entered in this Action, Case
No. CV-39304, on June 7, 2018, is hereby **SET ASIDE IN ITS ENTIRETY** and is of no force and effect
and shall **NOT** be given full faith and credit by any other State or Federal court or agency;

IT IS FURTHER ORDERED that so long as the Eight Judicial District Court in Clark County,
Nevada shall have jurisdiction of any further, future filings for divorce or separate maintenance by either
or both of the parties hereto, that should there be any further, future filings for divorce or separate
maintenance, whether by one or both parties, these shall be filed in **CLARK COUNTY, NEVADA**, and
that it shall be considered the further perpetration of a fraud upon the Court should a future filing for divorce

1 or separate maintenance be made anywhere other than CLARK COUNTY, NEVADA;

2 **IT IS FURTHER ORDERED** that, for having found to have violated Rules 11(b)(1) and 11(b)(3)
3 of the Nevada Rules of Civil Procedure, Defendant, DENNIS STANTON, is hereby **SANCTIONED** and,
4 as and for said sanction, shall pay to the Temporary Co-Guardians, Robert Crawford and Carmen Crawford,
5 within sixty (60) days of the date of this Order, the sum of Three Thousand Dollars and 0/100 (\$3,000.00)
6 as and for their attorney's fees (January 7, 2019, hearing at 10:14:14);

7 **IT IS FURTHER ORDERED** that the Temporary Co-Guardians are awarded **JUDGMENT**
8 against Defendant, DENNIS STANTON, in the amount of \$3,000.00, plus post-judgment interest at the
9 applicable daily rate of judgment interest allowed under Nevada law, accruing until the Judgment is paid in
10 full, ~~plus any and all additional costs incurred in the collection of this JUDGMENT~~, and that the Temporary
11 Co-Guardians may seek collection on the JUDGMENT by all legal means if the JUDGMENT has not been
12 fully satisfied by Defendant, DENNIS STANTON, within sixty (60) days from the date of this ORDER;

13 **IT IS FURTHER ORDERED** that the attorney for Defendant, DENNIS STANTON, James S.
14 Kent, Esq., Nevada Bar No. 5034, has not acted in any manner that may be construed as assisting the
15 Defendant in perpetrating a fraud upon this Court; and

16 **IT IS FURTHER ORDERED** that the **SECOND JOINT PETITIONER/ DEFENDANT**, DENNIS
17 STANTON Countermotion to Strike Movant's Motion as Being Filed Without Authority and in a Direct
18 Conflict of Interest, and For Attorney's Fees is hereby **DENIED**.

19 DATED this 15th day of March, 2019.

20 
21 **DISTRICT COURT JUDGE**

22 **Respectfully submitted by:**

23 **OWEN LAW FIRM**

24 
25 By: **CHARLES C. LoBELLO, ESQ.**
26 Nevada Bar No. 5052
27 1785 E. Sahara Ave., Suite 157
28 Las Vegas, Nevada 89104
Attorneys for First Joint Petitioner/Plaintiff