

IN THE SUPREME COURT OF THE STATE OF NEVADA

RALPH COPPOLA, Trustee of the
R.S. Coppola Trust dated
October 19, 1995 as most recently
Amended on September 13, 2001,

Appellant,

v.

WELLS FARGO BANK, N.A. and
NATIONAL DEFAULT SERVICES,

Respondents.

No. 81007

Electronically Filed
Oct 07 2022 11:09 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

MOTION TO WITHDRAW AS COUNSEL FOR APPELLANT

**LEGAL AID CENTER OF
SOUTHERN NEVADA, INC.**

Peter J. Goatz (NV Bar No. 11577)
Taylor Altman (NV Bar No. 15139C)
725 E. Charleston Blvd.
Las Vegas, Nevada 89104
Attorneys for Appellant

DISCLOSURE STATEMENT

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this Court may evaluate possible disqualifications or recusals.

- (1) Appellant Ralph Coppola is an individual and Trustee of the R.S. Coppola Trust dated October 19, 1995 as most recently Amended on September 13, 2001. The trust is not owned in whole or in part by a publicly traded company.
- (2) Legal Aid Center of Southern Nevada, Inc. is a 501(c)(3) non-profit legal services organization, which is not owned in whole or in part by a publicly traded company. Attorneys Taylor Altman and Peter Goatz represent appellant on appeal.

Dated October 7, 2022.

LEGAL AID CENTER OF SOUTHERN NEVADA, INC.

/s/ Taylor Altman

Peter J. Goatz (NV Bar No. 11577)
Taylor Altman (NV Bar No. 15139C)
725 E. Charleston Blvd.
Las Vegas, Nevada 89104

INTRODUCTION

Peter J. Goatz, Esq., and Taylor Altman, Esq. of Legal Aid Center of Southern Nevada, Inc. move for an order authorizing their withdrawal as counsel of record for Appellant Ralph Coppola in accordance with NRAP 46(e)(3) and SCR 46. The Court issued a final determination, an *Order of Affirmance*, on September 28, 2022. Appellant intends to file a petition for rehearing, a course of action with which his counsel fundamentally disagrees. Appellant consents to counsel's withdrawal. However, the time for filing such a petition has not yet expired, and counsel asks the Court to grant its motion to withdraw prior to the deadline of October 17, 2022, thus permitting Appellant to file his petition himself.

FACTS

This is an appeal of a district court order arising out of the Foreclosure Mediation Program. Legal Aid Center of Southern Nevada volunteered as pro bono counsel for Appellant to provide representation in this case until final judgment.

The Court issued an *Order of Affirmance* on September 28, 2022, which is a final determination. When Appellant's counsel spoke with Appellant on October 5, 2022, he stated his intent to file a petition for rehearing under NRAP 40, the deadline for which is October 17, 2022. For reasons explained to Appellant, counsel fundamentally disagrees with this course of action and seeks to withdraw.

ARGUMENT

NRAP 46(e)(3) addresses withdrawal of an attorney in a civil appeal. It provides:

A withdrawal of counsel may be effected only by filing a motion in the court. The withdrawing attorney shall serve a copy of the motion on the attorney's client and any adverse party. The motion shall clearly state the reasons for the attorney's withdrawal consistent with SCR 46 and RPC 1.16. A motion that is filed after judgment or final determination as provided in SCR 46 will only be granted if the Supreme Court or Court of Appeals has issued a final decision in the matter and the time for filing a petition for rehearing has expired.

NRAP 46(e)(3).

SCR 46 addresses withdrawal or change of attorney. It provides:

The attorney in an action or special proceeding may be changed at any time before judgment or final determination as follows:

1. Upon consent of the attorney, approved by the client.
2. Upon the order of the court or judge thereof on the application of the attorney or the client.

After judgment or final determination, an attorney may withdraw as attorney of record at any time upon the attorney's filing a withdrawal, with or without the client's consent.

SCR 46.

Further, under NRPC 1.16, withdrawal is permitted if:

- (1) Withdrawal can be accomplished without material adverse effect on the interests of the client;
- (2) The client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;
- (3) The client has used the lawyer's services to perpetrate a crime or fraud;
- (4) A client insists upon taking action that the lawyer considers repugnant or with which the lawyer has fundamental disagreement;

(5) The client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) The representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(7) Other good cause for withdrawal exists.

NRPC 1.16(b).

Here, withdrawal is permitted because Appellant “insists upon taking action . . . with which the lawyer has fundamental disagreement,” namely filing a petition for rehearing under NRAP 40. *See* NRPC 1.16(b)(4). Further, the Court made a final determination in this case on September 28, 2022. Per SCR 46, “After judgment or final determination, an attorney may withdraw as attorney of record at any time upon the attorney’s filing a withdrawal, with or without the client’s consent.” Additionally, Client consents to counsel’s withdrawal.

Finally, NRAP 46(e)(3) provides, “A motion that is filed after judgment or final determination as provided in SCR 46 will only be granted if the Supreme Court or Court of Appeals has issued a final decision in the matter and the time for filing a petition for rehearing has expired.” But, under NRAP 46A(a), “A party who is represented by counsel shall proceed through counsel and is not permitted to file written briefs or other papers, in pro se, with the exception of a motion to remove counsel.” To enable Appellant to file a pro se petition for rehearing, his counsel must be permitted to withdraw prior to the deadline for filing the petition on October 17, 2022. The Court should thus allow Appellant’s counsel to withdraw from this matter.

CONCLUSION

Because the withdrawal of Appellant's counsel is consistent with SCR 46 and NRPC 1.16, the Court should issue an order authorizing Peter J. Goatz, Esq., Taylor Altman, Esq., and Legal Aid Center of Southern Nevada, Inc. to withdraw from this matter.

Dated October 7, 2022.

LEGAL AID CENTER OF SOUTHERN NEVADA, INC.

/s/ Taylor Altman

Peter J. Goatz (NV Bar No. 11577)

Taylor Altman (NV Bar No. 15139C)

725 E. Charleston Blvd.

Las Vegas, Nevada 89104

Attorneys for Appellant

DECLARATION OF COUNSEL IN SUPPORT OF WITHDRAWAL

I, Taylor Altman, under penalty of perjury declare:

- (1) I am over 18 years old and I am competent to testify.
- (2) I have personal knowledge of the facts set forth in this declaration.
- (3) I am an attorney duly licensed to practice law in the State of Nevada.
- (4) I am an attorney with the law firm of Legal Aid Center of Southern Nevada, Inc., counsel for Appellant Ralph Coppola.
- (5) When I spoke with Appellant by telephone on October 5, 2022, he stated his intent to file a petition for rehearing.

(6) During the call, I also obtained his oral consent to withdraw from representation.

(7) The deadline for filing a petition for rehearing is October 17, 2022. There are no other scheduled deadlines or hearings in this matter.

(8) Appellant's last known address and telephone number are: 4785 Rio Pinar Dr., Reno, NV 89509; (775) 815-5304.

I declare under penalty of perjury that the foregoing is true and correct.

Dated October 7, 2022.

/s/ Taylor Altman
TAYLOR ALTMAN

CERTIFICATE OF COMPLIANCE

(1) I hereby certified that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5), and the type style requirements of NRAP 32(a)(6), because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2013 in 14 point Century Schoolbook.

(2) I further certify that this brief complies with the page- or type-volume limitations of NRAP 29(e) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

☒ proportionally spaced, has a typeface of 14 points or more and contains 1,027 words; or

☐ does not exceed ____ pages.

(3) Finally, I hereby certify that I have read this brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated October 7, 2022.

**LEGAL AID CENTER OF
SOUTHERN NEVADA, INC.**

/s/ Taylor Altman

Peter J. Goatz (NV Bar No. 11577)

Taylor Altman (NV Bar No. 15139C)

Attorneys for Appellant

CERTIFICATE OF SERVICE

I certify that, on the date and time of the electronic service, a copy of the foregoing *Motion to Withdraw as Counsel for Appellant* was sent via electronic means to the following at their last known email addresses pursuant to NEFCR 9 and NRAP 25(c):

Amy Sorenson
Gil Kahn
Blakeley Griffith
Andrew Jacobs

I further certify that on October 7, 2022, I served a copy of the foregoing *Motion to Withdraw as Counsel for Appellant* by depositing it in the U.S. mail in Las Vegas, NV, by first class mail with postage prepaid to the following at their last known address:

Ralph Coppola, 4785 Rio Pinar Dr., Reno, NV 89509

Dated October 7, 2022.

/s/ Julie Fox
An employee of
Legal Aid Center of Southern Nevada, Inc.