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*Attorneys for Non-party Edward Detwiler*

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Elizabeth A. Brown  
Clerk of Supreme Court

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

EDWARD N. DETWILER,

Supreme Court No. 81017

Appellant,

v.

**CASE APPEAL STATEMENT**

BAKER BOYER NATIONAL  
BANK, A WASHINGTON  
CORPORATION,

Respondent.

**1. Name of appellant filing this case appeal statement:** Edward N. Detwiler (“Non-party Appellant” or “Mr. Detwiler”).

**2. Identify the judge issuing the decision, judgment, or order appealed from:** Judge Richard Scotti, Department II of the Clark County District Court.

**3. Identify each appellant and the name and address of counsel for each appellant:** Non-party Appellant is the sole appellant and his counsel is Brenoch Wirthlin, Esq., Hutchison & Steffen, 10080 W. Alta Dr., Suite 200, Las Vegas, Nevada 89145.

1           **4. Identify each respondent and the name and address of appellate**  
2 **counsel, if known, for each respondent (if the name of a respondent’s appellate**  
3 **counsel is unknown, indicate as much and provide the name and address of that**  
4 **respondent’s trial counsel):** The Respondent is purportedly Baker Boyer National  
5 Bank, a Washington corporation (the “Bank” or “Respondent”)<sup>1</sup> and, presumably,  
6 its appellate counsel will be John Bragonje, Esq., Lewis Roca Rothgerber Christie,  
7 3993 Howard Hughes Pkwy., Suite 600, Las Vegas, Nevada 89169.  
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9  
10           **5. Indicate whether any attorney identified above in response to**  
11 **question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the**  
12 **district court granted that attorney permission to appear under SCR 42 (attach**  
13 **a copy of any district court order granting such permission):** Mr. Wirthlin and  
14 Mr. Bragonje are both licensed to practice in Nevada.  
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17           **6. Indicate whether appellant was represented by appointed or**  
18 **retained counsel in the district court:** Appellant retained Mr. Wirthlin to represent  
19 him in the District Court case and Mr. Wirthlin appeared in the District Court case  
20 on January 28, 2020; however, prior to such date, Appellant was unrepresented.  
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26 <sup>1</sup> As set forth more fully in Non-Party Appellant’s forthcoming motion for a stay,  
27 the Bank’s claim to be a Washington corporation is false, resulting in the judgment  
28 in this matter against Non-part Appellant having been issued by the Trial Court to  
a non-existent entity. This fact alone renders the judgment against Non-party  
Appellant void *ab initio*.

1           **7.     Indicate whether appellant is represented by appointed or retained**  
2 **counsel on appeal:** Appellant has retained Mr. Wirthlin represent him on the appeal.

3           **8.     Indicate whether appellant was granted leave to proceed in forma**  
4 **pauperis, and the date of entry of the district court order granting such leave:**  
5  
6 No such request was requested or granted.

7           **9.     Indicate the date the proceedings commenced in the district court**  
8 **(e.g., date complaint, indictment, information, or petition was filed):** Foreign  
9 Judgment against non-appellant/Defendant James Foust was domesticated in the  
10 District Court on August 31, 2017. The first time a court order was entered in any  
11 way related to non-party Mr. Detwiler was January 9, 2019.

12           **10.    Provide a brief description of the nature of the action and result in**  
13 **the district court, including the type of judgment or order being appealed and**  
14 **the relief granted by the district court:**

15           While Mr. Detwiler is a non-party to the underlying action,<sup>2</sup> in the Findings  
16 of Fact, Conclusions of Law and Final Judgment dated January 9, 2019 (the “January  
17 2019 Order”), the Honorable Richard Scotti (“Trial Court”) included Mr. Detwiler  
18 in the order to turnover certain vehicles (“Vehicles”). **However, in the January**  
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25           <sup>2</sup> As will be further addressed in Mr. Detwiler’s appellate briefs, motions and  
26 related papers, Mr. Detwiler maintains his non-party status in the underlying action  
27 and further reserves any and all of his defenses and arguments related thereto which  
28 were raised before the District Court. Regardless, Mr. Detwiler has standing to bring  
this appeal as the Orders, to which he seeks an appeal from, were entered against  
him.

1 **2019 Order the Trial Court made multiple findings that Defendant James Foust**  
2 **(“Defendant Foust”) – not Mr. Detwiler – owned, controlled and possessed all**  
3 **of the Vehicles.** Thus, the January 2019 Order ordered multiple individuals and  
4 entities to turnover the Vehicles, despite finding unequivocally that the Vehicles  
5 were “owned, controlled and possessed” by Mr. Foust, not Mr. Detwiler or the entity  
6 of which Mr. Detwiler formerly was a limited manager, Harry Hildibrand, LLC  
7 (“HH”). **Based upon said findings it was wholly inconsistent and a violation of**  
8 **Nevada law for the Trial Court to find Non-party Appellant in contempt for**  
9 **failing to turn over Vehicles which the Trial Court itself had found were**  
10 **“owned, controlled and possessed” by another individual, namely Defendant**  
11 **Foust.** In addition, the Trial Court’s findings of contempt were in direct violation  
12 of Nevada law, as this Court has held that “[a]n order on which a judgment of  
13 **contempt is based must be clear and unambiguous,** and must spell out the details  
14 of compliance in clear, specific and unambiguous terms so that the person will  
15 readily know exactly what duties or obligations are imposed on him.” *Kogod v.*  
16 *Cioffi-Kogod*, 135 Nev. 64, 80, 439 P.3d 397, 409 (2019). How can the January  
17 2019 Order, upon which the later judgment and contempt order against Non-party  
18 Appellant are based, be “clear and unambiguous” when the January 2019 Order  
19 required Non-party Appellant to turn over the Vehicles which the Trial Court found  
20 were “owned, controlled and possessed” by a separate individual?  
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1 Although Mr. Detwiler never had the ability to turn over the Vehicles – which  
2 the Trial Court found repeatedly were “owned controlled and possessed” by  
3 Defendant Foust, **not Mr. Detwiler** – *and even resigned from HH in September of*  
4 *2019*, the Bank sought to hold him in contempt of court based upon an alleged failure  
5 to comply with the Trial Court’s January 2019 Order. However, this was not a good  
6 faith act by the Bank, as it is clear from the proceedings that the Bank took little to  
7 no action to pursue the actual judgment debtor, Defendant Foust, and instead  
8 unlawfully threatened Non-party Appellant with jail time on multiple occasions to  
9 coerce him into paying money to the Bank based upon a judgment against another  
10 entity, namely Defendant Foust.

14 Further, despite Non-party Appellant having filed his Objection pursuant to  
15 NRS 22.030 to Judge Richard Scotti entering any order of contempt against Non-  
16 Party Appellant – **prior to entry of any order finding Non-party Appellant in**  
17 **contempt** – the Trial Court refused to recuse himself despite NRS 22.030’s  
18 unequivocal requirement that he do so. After such improper refusal, the Trial Court  
19 issued an Order for Punishment of Contempt by Harry Hildibrand, LLC and Edward  
20 N. Detwiler, Its Manager (entered on January 30, 2020) (the “Contempt Order”),  
21 wherein the Trial Court held Mr. Detwiler in contempt, issued a bench warrant  
22 against him and ordered him to turn over his passport to his counsel within 24 hours.

26 On February 5, 2020, Mr. Detwiler filed a Motion requesting relief from the  
27 Contempt Order and, among other things, a new trial. In entering a decision on such  
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1 Motion, the Trial Court issued an Order Awarding Edward N. Detwiler and Harry  
2 Hildibrand, LLC (entered on March 12, 2020) (the “Order for Sanctions”) – from  
3 which Non-party Appellant is also appealing – wherein he vacated the Contempt  
4 Order and related bench warrant, finding that Non-party Appellant could not comply  
5 with the January 2019 Order because he had resigned from HH (and because in that  
6 Order the Trial Court found that Defendant Foust owned and possessed the Vehicles)  
7 – an entity controlled by Defendant Foust. However, in an end run around the notice  
8 and hearing required in order to find that any sanctions were warranted, the Trial  
9 Court sanctioned Non-party Appellant the sum of \$100,000 and attorneys’ fees  
10 (“Sanctions Order”) based on a purported finding that Non-party Appellant had  
11 committed contempt. Both were violations of Nevada law. In issuing the Sanctions  
12 Order, the Trial Court committed reversible error by ignoring NRS 22.100 which  
13 provides in relevant part that “**if a person is found guilty of contempt, a fine may**  
14 **be imposed on the person not exceeding \$500 or the person may be imprisoned**  
15 **not exceeding 25 days, or both**”. Nev. Rev. Stat. Ann. § 22.100 (West). Despite  
16 this clear limitation on penalties for purported contempt, as noted above the Trial  
17 Court sanctioned Non-party Appellant \$100,000 – *200 times the permissible award*  
18 *under NRS 22.100*. In addition, the Trial Court also awarded attorneys’ fees in  
19 excess of \$218,888.52 – *over \$118,000 of which were incurred prior to the January*  
20 *2019 Order was even entered!* Thus, the Trial Court’s attorney fee award included  
21 over \$118,000 of fees and costs purportedly incurred by the Bank *before Mr.*

1 *Detwiler was even ordered to do anything by the Trial Court!* The unlawful and  
2 draconianly punitive measures taken by the Trial Court highlight exactly the concern  
3 underscoring the requirement that a judge recuse him or herself upon notice of an  
4 objection pursuant to NRS 22.030. As this Court held in *Awad v. Wright*, 106 Nev.  
5 407, 410–11, 794 P.2d 713, 715 (1990), *abrogated on other grounds by Pengilly v.*  
6 *Rancho Santa Fe Homeowners Ass'n*, 116 Nev. 646, 5 P.3d 569 (2000):

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10 **Judge Shearing's refusal to recuse herself, coupled with her fining**  
11 **Awad \$2,000.00 when the maximum fine provided by NRS 22.100**  
12 **was only \$500.00, are strong indications of a bias against Awad.** The  
13 purpose of the legislature in passing an automatic recusal was *precisely*  
14 *to avoid such situations*. Based on NRS 22.030 and on the McCormick  
15 case, Judge Shearing committed reversible error when she did not  
16 recuse herself when Awad requested her to do so. We therefore reverse  
17 the order holding Awad in contempt because Judge Shearing presided  
18 over a hearing regarding charges which arose outside the immediate  
19 view and presence of her court, and Awad filed a timely and proper  
20 objection to her presiding.

21 *Id.* (Internal footnote omitted) (emphasis added). Exactly the same situation is  
22 present here, only instead of awarding \$2,000 (four times the limit) in violation of  
23 NRS 22.100's limitation of \$500, the Trial Court here awarded **over 200 times the**  
24 **permissible limit under NRS 22.100 and attorneys' fees on top of that for a total**  
25 **amount of \$318,888.52**, egregiously in excess of the permissible amount. In doing  
26 so the Trial Court "strong indications of a bias" against Mr. Detwiler and committed  
27 reversible error.

28 While Mr. Detwiler sought a stay of execution during the pendency of the  
appeal or waiver of a supersedeas bond before the Trial Court, the requested relief

1 was denied by the Trial Court. Instead the Trial Court ordered Mr. Detwiler to post  
2 a supersedeas bond in the amount of \$350,000.00 – in excess of even the egregious  
3 and unlawful “judgment” amount with no legal basis – and issued a 45 day stay from  
4 the date the Order Denying Stay/Waiver is entered with the District Court.  
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6 **11. Indicate whether the case has previously been the subject of an**  
7 **appeal to or original writ proceeding in the Supreme Court and, if so, the**  
8 **caption and Supreme Court docket number of the prior proceeding:** This case  
9 has not previously been the subject of an appeal or original writ proceeding in the  
10 Supreme Court.  
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13 **12. Indicate whether this appeal involves child custody or visitation:**  
14 Appeal does not involve child custody or visitation.  
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16 **13. If this is a civil case, indicate whether this appeal involves the**  
17 **possibility of settlement:** As there has been prior settlement discussions, this appeal  
18 involves the possibility of settlement.  
19

20 DATED: April 16, 2020.

21 **HUTCHISON & STEFFEN**

22 By /s/ Brenoch Wirthlin, Esq.  
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26 Las Vegas, Nevada 89145  
27 *Attorneys for Non-party*  
28 *Edward Detwiler*



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***Via Supreme Court's Electronic Filing System:***

***Via US Mail:***

Harry Hildibrand, LLC  
3011 American Way  
Missoula, Montana 59808  
Phone No.: 406-327-0401  
*Third Party*

By: /s/ Danielle Kelley  
An Employee of  
Hutchison & Steffen