

No. 81224

IN THE SUPREME COURT OF THE STATE OF NEW YORK

Electronically Filed
Nov 13 2020 03:40 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

DIAMOND NAT. RES. PROT. AND CONSERVATION ASS'N, et al.,

Appellants,

v.

DIAMOND VALLEY RANCH, LLC, et al.,

Respondents.

ON APPEAL FROM THE SEVENTH JUDICIAL DISTRICT, EUREKA
COUNTY

Case No. CV1902-348, CV1902-349, CV1902-350

MOTION TO ASSOCIATE COUNSEL

Pacific Legal Foundation (“PLF”) respectfully submits this motion pursuant to Rule 46(a)(3) of the Nevada Rules of Appellate Procedure to associate counsel in this Court in the first instance and to permit Daniel Ortner, Esq. to practice in Nevada pursuant to Nevada Supreme Court Rule 42. NRAP 46(a)(3); SCR 42.

This motion is supported by the attached “Verified Application for Association of Counsel” (Exhibit A), “Certificate of Good Standing”, and the State Bar of Nevada Statement (Exhibit C).

Dated: November 13, 2020

Respectfully submitted,

/s/ Steven M. Silva

STEVEN M. SILVA

Nevada Bar No. 12492

BLANCHARD, KRASNER & FRENCH

5470 Kietzke Lane

Suite 200

Reno, Nevada 89511

Telephone: (775) 384-0022

Facsimile: (775) 236-0901

Email: SSilva@bkflaw.com

CERTIFICATE OF SERVICE

I hereby certify that the MOTION TO ASSOCIATE COUNSEL was filed electronically with the Nevada Supreme Court on the 13th day of November, 2020. Electronic Service of the Brief shall be made in accordance with the Master Service List, as follows:

Debbie Leonard, Esq.	James N. Boloton, Esq.
Don Springmeyer, Esq.	Christopher W. Mixon, Esq.
James N. Bolotin, Esq.	John E. Marvel, Esq.
Theodore Beutel, Esq.	Karen A. Peterson, Esq.

I further certify that on the 13th day of November, 2020, I served, via USPS first-class mail, complete copies of the Brief on the following attorneys of record who are not registered for electronic service:

Beth Mills, Trustee
Marshall Family Trust
HC 62 Box 62138
Eureka, Nevada 89316

DATED: November 13, 2020.

Respectfully submitted,
/s/ Barbara Spagna
Employee of
BLANCHARD, KRASNER & FRENCH

EXHIBIT A

IN THE SUPREME COURT OF THE STATE OF NEVADA

Diamond Nat. Res. Prot. And)
Conservation Ass'n) No. 81224
)
)
v.)
Diamond Valley Ranch, LLC) VERIFIED APPLICATION FOR
) ASSOCIATION OF COUNSEL UNDER
) NEVADA SUPREME COURT RULE 42
)
_____)

Daniel Moshe Ortner, Petitioner, respectfully represents:
First Middle Name Last

1. Petitioner resides at 2334 Canary Dr

Street Address

Rocklin, Placer, California
City County State
95765, (385) 242-9582
Zip Code Telephone

2. Petitioner is an attorney at law and a member of the law firm of Pacific Legal Foundation

with offices at 930 G St

Street Address

Sacramento, Sacramento, California
City County State
95814, (916) 419-7111, dortner@pacificlegal.org
Zip Telephone Email

3. Petitioner has been retained personally or as a member of the above named law firm by Pacific Legal Foundation to provide legal representation in connection with the above-entitled matter now pending before the above referenced court.

4. Since January of 2020, petitioner has been, and presently is, a member of good standing of the bar of

the highest court of the State of California where petitioner regularly practices law.

5. Petitioner was admitted to practice before the following United States District Courts, United States Circuit Courts of Appeal, the Supreme Court of the United States, and/or courts of other states on the dates indicated for each, and is presently a member in good standing of the bars of said Courts:

DATE ADMITTED

State Bar of Virginia Oct 30, 2015; U.S. Supreme Court 12/10/2018; 1st Circuit 10/30/2018; 3rd Circuit 6/15/2017; 5th Circuit 6/19/2018; 7th Circuit 12/1/2017; 9th Circuit 4/16/2018; E.D. Mich 5/14/2018; W.D. Mich 3/7/2018 W.D. Wisc 10/31/2017

6. Is Petitioner currently suspended or disbarred in any court? You must answer yes or no. If yes, give particulars; e.g., court, jurisdiction, date: No

7. Is Petitioner currently subject to any disciplinary proceedings by any organization with authority at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: No

8. Has Petitioner ever received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: No

9. Has Petitioner ever had any certificate or privilege to appear and practice before any regulatory administrative body suspended or revoked? You must answer yes or no. If yes, give particulars, e.g. date, administrative body, date of suspension or reinstatement: No

10. Has Petitioner, either by resignation, withdrawal, or otherwise, ever terminated or attempted to terminate Petitioner's office as an attorney in order to avoid administrative, disciplinary, disbarment, or suspension proceedings? You must answer yes or no. If yes, give particulars: No

11. Petitioner, or any member of petitioner's firm, has/have filed the following application(s) to appear as counsel under Nevada Supreme Court Rule 42 during the past three (3) years in the following matter(s), if none, indicate so: *(do not include Federal Pro Hacs)*

<u>Date of Application</u>	<u>Cause</u>	<u>Title of Court Administrative Body or Arbitrator</u>	<u>Was Application Granted or Denied?</u>
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None.

12. Nevada Counsel of Record for Petition in this matter is:

(must be the same as the signature on the Nevada Counsel consent page)

Steven Michael Silva 12492
First Name Middle Name Last Name NV Bar #
who has offices at 5470 Kietzke Lane, Suite 200
Firm Name/Company
Blanchard Krasner & French Reno Washoe
Street Address City County
89511 (775) 384-0022
Zip Code Phone Number

13. The following accurately represents the names and addresses of each party in this matter, WHETHER OR NOT REPRESENTED BY COUNSEL, and the names and addresses of each counsel of record who appeared for said parties: (You may attach as an Exhibit if necessary.)

NAME

MAILING ADDRESS

See EXHIBIT 1

14. Petitioner agrees to comply with the provisions of Nevada Supreme Court Rule 42(3) and (13) and Petitioner consents to the jurisdiction of the courts and disciplinary boards of the State of Nevada in accordance with provisions as set forth in SCR 42(3) and (13). Petitioner respectfully requests that Petitioner be admitted to practice in the above-entitled court FOR THE PURPOSES OF THIS MATTER ONLY.

15. Petitioner has disclosed in writing to the client that the applicant is not admitted to practice in this jurisdiction and that the client has consented to such representation.

I, Daniel Ortner , do hereby swear/affirm under penalty of perjury that the assertions
Print Petitioner Name

of this application and the following statements are true:

- 1) That I am the Petitioner in the above entitled matter.
- 2) That I have read Supreme Court Rule (SCR) 42 and meet all requirements contained therein, including, without limitation, the requirements set forth in SCR 42(2), as follows:

- (A) I am not a member of the State Bar of Nevada;
- (B) I am not a resident of the State of Nevada;
- (C) I am not regularly employed as a lawyer in the State of Nevada;
- (D) I am not engaged in substantial business, professional, or other activities in the State of Nevada;
- (E) I am a member in good standing and eligible to practice before the bar of any jurisdiction of the United States; and
- (F) I have associated a lawyer who is an active member in good standing of the State Bar of Nevada as counsel of record in this action or proceeding.

- 2) That I have read the foregoing application and know the contents thereof; that the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to the matter I believe them to be true.

That I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada; that I understand and shall comply with the standards of professional conduct required by members of the State Bar of Nevada; and that I am subject to the disciplinary jurisdiction to the State Bar of Nevada with respect to any of my actions occurring in the course of such appearance.

DATED this 4 day of November, 2020

Dm and

Petitioner/Affiant (blue ink)

STATE OF California)
) ss
COUNTY OF Sacramento)

Subscribed and sworn to before me

this 4th day of November, 2020

K Mathews
Notary Public



DESIGNATION, CERTIFICATION AND CONSENT OF NEVADA COUNSEL

SCR 42(14) Responsibilities of Nevada attorney of record.

(a) The Nevada attorney of record shall be responsible for and actively participate in the representation of a client in any proceeding that is subject to this rule.

(b) The Nevada attorney of record shall be present at all motions, pre-trials, or any matters in open court unless otherwise ordered by the court.

(c) The Nevada attorney of record shall be responsible to the court, arbitrator, mediator, or administrative agency or governmental body for the administration of any proceeding that is subject to this rule and for compliance with all state and local rules of practice. It is the responsibility of Nevada counsel to ensure that the proceeding is tried and managed in accordance with all applicable Nevada procedural and ethical rules.

I STEVEN M. SILVER hereby agree to associate with Petitioner referenced hereinabove

Print Nevada Counsel Name

and further agree to perform all of the duties and responsibilities as required by Nevada Supreme Court Rule 42.

DATED this 6 day of Nov, 20 20

[Signature]
Nevada Counsel of Record (blue ink)

STATE OF NEVADA)
) ss
COUNTY OF WASHOE)

Subscribed and sworn to before me

this 6th day of November, 2020

Barbara A. Spagna
Notary Public

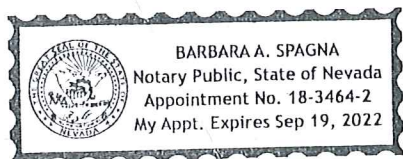
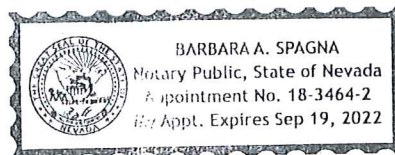


EXHIBIT B



Supreme Court of California

JORGE E. NAVARRETE

Clerk and Executive Officer of the Supreme Court

CERTIFICATE OF THE CLERK OF THE SUPREME COURT

OF THE

STATE OF CALIFORNIA

DANIEL MOSHE ORTNER

I, JORGE E. NAVARRETE, Clerk/Executive Officer of the Supreme Court of the State of California, do hereby certify that DANIEL MOSHE ORTNER, #329866, was on the 7th day of January 2020, duly admitted to practice as an attorney and counselor at law in all the courts of this state, and is now listed on the Roll of Attorneys as a member of the bar of this state in good standing.

*Witness my hand and the seal of the court
on the 28th day of September 2020.*

JORGE E. NAVARRETE

Clerk/Executive Officer of the Supreme Court

By: _____

C. Wong, Senior Deputy Clerk

VIRGINIA STATE BAR

CERTIFICATE OF GOOD STANDING

THIS IS TO CERTIFY THAT **DANIEL MOSHE ORTNER** IS AN ACTIVE MEMBER OF THE VIRGINIA
STATE BAR IN GOOD STANDING. **MAJOR ORTNER** WAS LICENSED TO PRACTICE LAW IN VIRGINIA ON
OCTOBER 30, 2015, AFTER SUCCESSFULLY PASSING THE BAR EXAMINATION GIVEN BY THE BOARD OF
BAR EXAMINERS.

Issued October 1, 2020

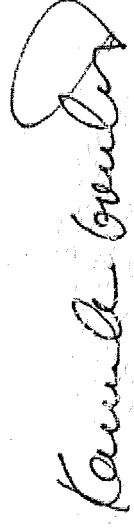

KAREN A. GOULD
EXECUTIVE DIRECTOR AND
CHIEF OPERATING OFFICER

EXHIBIT C

1 STAT

2
3 IN THE SUPREME COURT OF THE STATE OF NEVADA

4 Case No. 81224

5
6 Diamond Nat. Res. Prot.
7 and Conservation Ass'n

8 vs.

9 Diamond Valley Ranch, LLC
10 _____/

11 STATE BAR OF NEVADA STATEMENT PURSUANT TO SUPREME COURT RULE
12 42 (3) (b)

13 THE STATE BAR OF NEVADA, in response to the application of
14 Petitioner, submits the following statement pursuant to SCR42(3):

15 SCR42(6)**Discretion.** The granting or denial of a motion to associate
16 counsel pursuant to this rule by the court is discretionary. The
17 court, arbitrator, mediator, or administrative or governmental
18 hearing officer may revoke the authority of the person permitted to
19 appear under this rule. Absent special circumstances, repeated
20 appearances by any person or firm of attorneys pursuant to this rule
21 shall be cause for denial of the motion to associate such person.

22 (a) **Limitation.** It shall be presumed, absent special
23 circumstances, and only upon showing of good cause, that
24 more than 5 appearances by any attorney granted under
25 this rule in a 3-year period is excessive use of this
26 rule.

27 (b) **Burden on applicant.** The applicant shall have the
28 burden to establish special circumstances and good cause
for an appearance in excess of the limitation set forth
in subsection 6(a) of this rule. The applicant shall set
forth the special circumstances and good cause in an
affidavit attached to the original verified application.


1. DATE OF APPLICATION: 10/29/2020

2. APPLYING ATTORNEY: Daniel Moshe Ortner, Esq.

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///
///

- 1 3. FIRM NAME AND ADDRESS: Pacific Legal Foundation, 930 G Street,
2 Sacramento, CA 95814
- 3 4. NEVADA COUNSEL OF RECORD: Steven M. Silva, Esq., Blanchard
4 Krasner & French, 5470 Kietzke Lane, Suite 200, Reno, NV 89511
- 5 5. There is no record of previous applications for appearance by
6 petitioner within the past three (3) years.

7 DATED this November 10, 2020

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9 
10 Suzy Moore
11 Member Services Admin.
12 Pro Hac Vice Processor
13 STATE BAR OF NEVADA
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