

- 1 **3. The name of each appellant and the name and address of counsel**
2 **for each appellant:**

3 Appellant:

4 Plaintiffs, James Kosta

5 Counsel:

6 Dominic P. Gentile, Michael V. Cristalli. Vincent Savarese III

- 7 **4. The name of each respondent and the name and address of**
8 **appellate counsel, if known, for each respondent, but if the name**
9 **of a respondent's appellate counsel is not known, then the name**
10 **and address of that respondent's trial counsel:**

11 Respondent:

12 State of Nevada

13 Counsel:

14 Erik A. Levin

- 15 **5. Whether an attorney identified in response to subparagraph (4) is**
16 **not licensed to practice law in Nevada, and if so, whether the**
17 **District Court granted that attorney permission to appear under**
18 **SCR 42, including a copy of any District Court Order granting**
19 **that permission:**

20 Not applicable.

1 **6. Whether the appellant was represented by appointed counsel in**
2 **the District Court, and whether the appellant is represented by**
3 **appointed counsel on appeal:**

4
5 Not applicable

6 **7. Whether the District Court granted the appellant leave to proceed**
7 **in forma pauperis, and if so, the date of the District Court's Order**
8 **granting that leave.**

9
10 Not applicable.

11
12 **8. The date that the proceedings commenced in District Court: (e.g.,**
13 **date complaint, indictment, information, or petition was filed)**

14
15 On March 16, 2020 Appellant filed a motion of real party interest James
16 Kosta for return of property; to unseal search warrant application and supporting
17 affidavit; and to quash search warrant, or in the alternative, for protective order.

18
19 **9. A brief description of the nature of the action and result in the**
20 **District Court, including the type of judgment or order being**
21 **appealed and the relief granted by the District Court:**

22
23 Appellant seeks review of the District Courts denial of the above
24 referenced petition which sought the following relief;

25
26 A. Unsealing the Application and Affidavit of United States Drug
27 Enforcement Agency (DEA) Agent Evan Miyamoto ("Application and Supporting
28

1 Affidavit”) submitted in support of the Search Warrant issued on July 29, 2019 in
2 the matter of “The residence and property located at 1731 Sunset Court,
3 Gardnerville, Nevada 89410” by this Court, the Honorable Thomas W. Gregory,
4 District Judge (“the instant Search Warrant”), authorizing a forthwith search by
5 law enforcement officers of the residence and property located at 1731 Sunset
6 Court, Gardnerville, Nevada 89410, the person of James Kosta and further
7 authorizing a forthwith seizure of certain property belonging to Mr. Kosta, which
8 Search Warrant Application and Supporting Affidavit was sealed by Judge
9 Gregory pending further order of this Court.
10
11
12

13 B. Providing Appellant’s counsel with an opportunity to review and evaluate
14 the representations contained in the instant Application and Supporting Affidavit
15 and to submit a Supplemental Memorandum of Points and Authorities in support
16 of this Motion with the benefit of such review, regarding Appellant’s contention,
17 presently based upon information and belief, that the representations contained
18 therein fail to establish probable cause to justify the seizure of Appellant’s
19 property, pursuant to the instant Search Warrant;
20
21

22 C. Quashing the instant Search Warrant should the Court find, in view of
23 supplemental briefing, that probable cause to seize Appellant’s property was in fact
24 lacking; and
25

26 D. Thereupon requiring the return of Appellant’s property, and before any
27 presentation of any of its content to any judicial officer, grand jury, or other entity
28

1 or person whomsoever for any purpose whatsoever.

2 In the alternative, Appellant respectfully requests that this Court enter a
3 Protective Order:
4

5 A. Textually requiring the execution of any such warrant only by an
6 independent “filtering team” consisting of non-DEA law enforcement
7 personnel;
8

9 B. Textually establishing, approving and imposing co-extensive
10 minimization protocols upon executing personnel with respect to the execution of
11 any such warrant consistent with the foregoing temporal and subject-based
12 limitations;
13

14 C. Textually precluding application of the “plain view” doctrine by
15 executing personnel with respect to any such warrant; and
16

17 D. Textually requiring executing personnel to forswear reliance thereon.

18 **10. Whether the case has previously been the subject of an appeal to**
19 **or original writ proceeding in the Supreme Court and, if so, the**
20 **caption and Supreme Court docket number of the prior**
21 **proceeding:**
22

23 Not applicable.
24

25 **11. Whether the appeal involves child custody or visitation;**
26

27 Not applicable.
28

12. In civil cases, whether the appeal involves the possibility of settlement.

Portions of the relief sought could be settled others are unlikely to settle.

DATED this 30th day of July, 2020.

CLARK HILL PLC

/s/ Michael V. Cristalli

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/s/ Stacey Concepcion
An employee of CLARK HILL PLC