Case No. 81689

In the Supreme Court of Nevada

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Elizabeth A. Brown
Clerk of Supreme Court

TRUDI LEE LYTLE and JOHN ALLEN LYTLE, as trustees of the Lytle Trust,

Appellants,

vs.

SEPTEMBER TRUST, DATED MARCH 23, 1972; GERRY R. ZOBRIST AND JOLIN G. ZOBRIST, as trustees of the GERRY R. ZOBRIST AND JOLIN G. ZOBRIST FAMILY TRUST; RAYNALDO G. SANDOVAL AND JULIE MARIE SANDOVAL GEGEN, as Trustees of the RAYNALDO G. AND EVELYN A. SANDOVAL JOINT LIVING AND DEVOLUTION TRUST DATED MAY 27, 1992; DENNIS A. GEGEN AND JULIE S. GEGEN, husband and wife, as joint tenants,

Respondents.

JOINT MOTION FOR LEAVE TO NARROW THE ISSUES PRESENTED AND FOR AN EXTENSION OF TIME TO FILE THE ANSWERING BRIEF

Pursuant to a partial settlement, the parties move the Court for leave to amend the issues presented in Appellants' Opening Brief, filed on May 5, 2022 (doc. # 2022-14462). Specifically, appellants seek to withdraw the second of two issues presented:

1. Must an award of attorney fees and costs be reversed when an underlying decision upon which the award was based is reversed?

~~2. Did the district court abuse its discretion by granting an award of fees and costs that were incurred during a previous appeal based on an inapplicable fee-shifting provision of CC&Rs that related to the parties' dispute only tangentially?~~

(Doc. 2022-14462, at vi.) The alteration reduces the scope of this appeal to the technical point that the portion of the subject award of fees and costs that relates to work performed procuring a contempt order will have to be reversed if this Court orders the district court to vacate that underlying contempt order[1] in the pending writ proceeding *Lytle v. Eighth Judicial District Court* (case no. 84538). Of course, appellants are prepared to effectuate this change by submission of an amended opening brief should this Court so direct.

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[1] *See Frederic & Barbara Rosenberg Living Tr. v. MacDonald Highlands Realty, LLC*, 134 Nev. 570, 579–80, 427 P.3d 104, 112 (2018) (concluding an award of attorney fees and costs must necessarily be reversed when the underlying decision upon which the award was based is reversed); *Bower v. Harrah's Laughlin, Inc.*, 124 Nev. 470, 495–96, 215 P.3d 709, 726 (2009) ("Notably, if we reverse the underlying decision of the district court that made the recipient of the costs the prevailing party, we will also reverse the costs award.").

The parties also move the Court to extend the time for respondents to file their answering brief from the current deadline of June 6, 2022. The answering brief should be due 30 days after either the Court issues an order recognizing the withdrawal of the second issue presented or appellants file any amended opening brief this Court may direct.

Dated this 3rd day of June, 2022.

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