

IN THE SUPREME COURT OF THE STATE OF NEVADA

PAUL D.S. EDWARDS,

Appellant,

vs.

TIMESHARE LIQUIDATORS, LLC, a/d/b/a TLC
RESORT LIQUIDATORS, a/d/b/a TLC RESORTS
VACATION CLUB, LLC, a/d/b/a TLC RESORTS
VACATION CLUB, a/d/b/a TLC RESORTS, a/k/a
TLCRESORTS.COM, a/d/b/a TLC TRAVEL, a/k/a
TLC, a/d/b/a VIP TRAVEL, a/d/b/a VIP
VACATIONS, a/d/b/a VIP INTERNATIONAL, and
PLAZA HOTEL & CASINO, LLC, a/d/b/a PLAZA
HOTEL & CASINO, and CASH4ASKING, LLC,
a/d/b/a CASH4ASKING.COM, and STANLEY C.
MULLIS, a/k/a STANLEY MULLIS, a/k/a STAN
MULLIS, and ANGEL C. MULLIS, a/k/a ANGEL
MULLIS, a/k/a ANGEL SANTILLI, and
JONATHAN ROBERT JOSSEL, a/k/a
JONATHAN JOSSEL, and EDUARDO ROMAY
HERNANDEZ, a/k/a EDUARDO L ROMAY
HERNANDEZ, a/k/a EDUARDO ROMARY, a/k/a
EDUARDO L. ROMAY HERNANDEZ, a/k/a
HERNANDEZ EDUARDO ROMAY, a/lc/a
HERNANDEZ EDUARDO L OMay, a/k/a
EDUARDO ROMAY, a/k/a MR EDUARDO L.
ROMAY, and GLADYS C. RIONDA, a/k/a SUITO
GLADYS RIONDA, a/k/a GLADYS C. RIONDA-
SUITO, a/k/a GLADYS SUITO,
a/k/a GLADYS RIONDA SUITO,

Respondents.

PAUL D.S. EDWARDS,

Appellant,

vs.

Case No.: 81595

Electronically Filed
Oct 27 2021 04:59 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

consolidated with
No. 81759

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TIMESHARE LIQUIDATORS, LLC, A/D/B/A TLC
RESORT LIQUIDATORS, A/D/B/A TLC RESORTS,
A/D/B/A TLC RESORTS VACATION CLUB,
A/D/B/A TLC RESORTS VACATION CLUB, LLC,
A/D/B/A TLC TRAVEL, A/D/B/A
TLCRESORTS.COM, A/D/B/A VIP TRAVEL,
A/D/B/A VIP VACATIONS; CASH4ASKING,
LLC, A/D/B/A CASH4ASKING.COM; STANLEY
C. MULLIS, A/K/A STANLEY MULLIS, A/K/A
STAN MULLIS; ANGEL MULLIS, A/K/A ANGEL
C. MULLIS; EDUARDO ROMAY HERNANDEZ,
A/K/A EDUARDO L. ROMAY HERNANDEZ,
A/K/A EDUARDO ROMAY, A/K/A EDUARDO
L. ROMAY HERNANDEZ, A/K/A HERNANDEZ
EDUARDO ROMAY, A/K/A HERNANDEZ
EDUARDO L. ROMAY, A/K/A EDUARDO
ROMAY, A/K/A EDUARDO L. ROMAY; AND
GLADYS C. RIONDA, A/K/A SUITO GLADYS
RIONDA, A/K/A; GLADYS C. RIONDA-SUITO,
A/K/A GLADY SUITO, A/K/A GLADYS RIONDA
SUITO,

ANSWER TO PETITION FOR EN BANC RECONSIDERATION

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Eduardo Romay Hernandez;

and Gladys Rionda Suito

I. INTRODUCTION

“En banc reconsideration is disfavored, and this court will only order reconsideration when necessary to preserve precedential uniformity or when the case implicates important precedential, public policy, or constitutional issues.” *Huckabay Props. v. NC Auto Parts*, 130 Nev. 196, 201, 322 P.3d 429, 432 (2014); *see also* NRAP 40A(a) and NRAP 40A(c)(2).

In this case, the Panel (RP, LS, AS) recognized that the proper and timely filing of a notice of appeal is a fundamental jurisdictional requirement. *See In re Duong*, 118 Nev. 920, 922, 59 P.3d 1210, 1212 (2002). In partially dismissing Edwards’ appeal, the Panel correctly used a functional approach to assess what the District Court’s May 6, 2020, Order Granting Motion to Strike Complaint for Plaintiff’s Refusal to Comply with the Court’s Orders Granting Defendants’ Motions for More Definite Statement (the “Order Granting Motion to Strike”) actually did. The panel also rejected Edwards’ attempt to circumvent precedent which plainly holds that “an order resolving all of the claims in one of the consolidated cases is immediately appealable as a final judgment under NRAP 3A(b)(1).” *Matter of Estate of Sarge*, 134 Nev. 866, 870-71, 432 P.3d 722 (2018).

In his Petition for En Banc Reconsideration (the “Petition”), Edwards recycled the same arguments that the Panel already rejected on two separate

occasions. Because the Petition fails to advance any arguments that satisfy the exacting standard required for en banc reconsideration, this Court should deny the Petition.

II. RELEVANT PROCEDURAL HISTORY

A. DISTRICT COURT PROCEEDINGS.

On June 19, 2018, proper person litigant Paul D.S. Edwards (“Edwards”) initiated litigation in the Eighth Judicial District Court that was assigned case number A-18-776375-C. Although Edwards named over a dozen defendants, Cash4Asking, LLC, Eduardo Romay Hernandez, and Gladys Rionda Suito [cumulatively, the “Cash4Asking Respondents”] were not parties to the case.

On July 25, 2019, Edwards filed an additional 106-page complaint in the Eighth Judicial District Court that was assigned case number A-19-799140-C. In addition to many of the same defendants from the 2018 case, the 2019 complaint named the Cash4Asking Respondents as defendants.

Because the two cases overlapped in some respects, several defendants moved the District Court to consolidate case number A-18-776375-C with A-19-799140-C. The District Court granted the motion on October 16, 2019.

Meanwhile, on September 11, 2019, the Cash4Asking Respondents filed motions for a more definitive statement in accordance with NRCP 12(e). The

motions were fully briefed and the District Court held a hearing on October 29, 2019. Thereafter, on January 29, 2020, and February 3, 2020, the District Court entered two virtually identical orders which granted the Cash4Asking Respondents' motions. Notices of entry were filed and served the same day.

Under NRCP 12(e), Edwards had fourteen days to cure the deficiencies in the complaint (from case number A-19-799140-C) and to provide a more definite statement. Edwards did not do so.

On March 4, 2020, *i.e.*, more than a month after entry of the later order, the Cash4Asking Respondents filed a motion to strike Edwards' complaint for failure to provide a more definite statement. Other parties, including defendants / counter-claimants Timeshare Liquidators, LLC's, Stanley Mullis, and Angel Mullis, joined the motion.

Although Edwards was properly served with the motion and the joinders, he did not file an opposition. So, on the basis of Eighth Judicial District Court Rule 2.20(e), NRCP 41(b), *and* NRCP 12(e), the District Court granted the motion to strike Edwards' complaint in case number A-19-799140-C. Importantly, the last two paragraphs of the District Court's order specified:

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's Complaint in Case No. A-19-799140-C is STRICKEN in its entirety under NRCP 12(e).

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that as a result of Plaintiff's Complaint being stricken, Case No. A-19-799140-C is hereby DISMISSED with PREJUDICE.⁴

See Order Granting motion to Strike at page 4.

Notice of entry of the Order Granting Motion to Strike” was completed on May 6, 2020. Consistent with the District Court’s order, the register of action listed the “case status” as closed.

B. RELEVANT APPELLATE PROCEEDINGS.

Under NRAP 4(a)(1), Edwards had until June 5, 2020, to file a notice of appeal challenging the Order Granting Motion to Strike. Edwards waited, however, until August 2020, to file a notice of appeal challenging, amongst other matters, the Order Granting Motion to Strike.¹ Accordingly, the Cash4Asking Respondents moved to dismiss Edwards’ appeals, in part, for lack of subject matter jurisdiction. In his opposition to the motion, Edwards argued that the Order Granting Motion to Strike was not truly a final order because of outstanding counter-claims and the continued litigation in case number A-18-776375-C. *See* Opposition attached hereto as **Exhibit 1**. Edwards also argued that the multi-party litigation rules set forth in NRCP 54 had not been satisfied. *Id.*

On April 8, 2021, the Panel granted the motion for partial dismissal. *See* Order Granting Motion and Partially Dismissing Appeals, attached hereto as

¹ Edwards filed a separate notice of appeal on September 9, 2020, which challenges attorneys’ fees and costs. Both cases (Supreme Court of Nevada case numbers 81595 and 81795) were consolidated.

Exhibit 2. In doing so, the Panel determined that the District Court’s order struck Edwards’ complaint and dismissed case number A-19-799140-C in its entirety. *Id.* at 3. Citing *Estate of Sarge*, the Panel explained that the consolidated cases retained their separate identities. *Id.* So, regardless of whether litigation continued in case number A-18-776375-C, the Order Granting Motion to Strike was “immediately appealable as a final judgment.” *Id.* And, because Edwards did not file a timely notice of appeal, the Panel concluded that it lacked jurisdiction to consider issues specific to case number A-19-799140-C. *Id.*

On April 19, 2021, Edwards filed a motion for reconsideration that the Court construed as a petition for rehearing. In the motion / petition, Edwards argued that the Panel erred by holding that the Order Granting Motion to Strike was a final order. As in his Opposition, Edwards insisted that additional issues remained in case number A-19-799140-C even though his complaint had been struck. Though NRCP 54(b) certification was never an issue, Edwards also repeated his arguments regarding multi-party litigation. The Panel denied the motion / petition on August 9, 2021.

III. LEGAL ARGUMENT

En banc reconsideration is disfavored for sound practical and jurisprudential reasons. Here, Edwards’ Petition for En Banc Reconsideration should be denied

because: (A) Edwards rehashes the same arguments that the Panel twice rejected; (B) Edwards did not preserve his argument regarding the District Court's July 13, 2020, order granting summary judgment in case number A-18-776375-C; and (C) none of the grounds enumerated in NRAP 40A(a) are applicable.

A. THE PETITION REHASHES THE SAME ARGUMENTS THAT THE PANEL TWICE REJECTED

Under NRAP 40A(c), matters previously presented may not be reargued in a petition for reconsideration. NRAP 40A(c) thus works in tandem with NRAP 40A(a) to convey that en banc reconsideration is not simply a mechanism for unhappy litigants to seek a do-over.

Here, Edwards' Petition includes the exact same arguments that Edwards advanced in his December 8, 2020, Opposition as well as the April 19, 2021, Motion for Reconsideration that the Court construed as a petition for rehearing. On two separate occasions, the Court considered and rejected these same arguments. A petition for en banc reconsideration is neither the time nor the place for repeating the same arguments a third time. Accordingly, under NRAP 40A(c), this Court should reject Edwards' Petition as improper and lacking merit.

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B. EDWARDS' DID NOT PRESERVE HIS ARGUMENT REGARDING THE DISTRICT COURT'S SUMMARY JUDGMENT ORDER.

It is well-established that parties may not advance arguments for the first time on appeal. *See, e.g., Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981); *Penrose v. O'Hara*, 92 Nev. 685, 686, 557 P.2d 276, 277 (1976). Likewise, NRAP 40A(c) provides that parties may not advance new arguments in a petition for reconsideration.

Here, Edwards' Petition advances a new argument regarding the July 13, 2020, order granting summary judgment in which the District Court found "Plaintiff's filing of a second action, Case No. A-19-799140-C, constitutes an abuse of process." *See Exhibit 3*. Although Edwards' argument is problematic in that it omits portions the July 13, 2020, Order, Edwards' failure to timely raise his argument before the Panel is fatal. After all, the En Banc Court cannot *re*-consider that which was not previously considered. So, to the extent Edwards seeks to raise new issues, his Petition is improper.

C. EDWARDS HAS NOT SATISFIED THE DIFFICULT BURDEN OF PROVING THAT EN BANC RECONSIDERATION IS WARRANTED.

As the petitioning party, Edwards bears the burden of proving that en banc reconsideration is warranted. Under NRAP 40A(a) and NRAP 40A(c)(2), the only way to meet this difficult burden is to demonstrate that: (1) "reconsideration by the

full court is necessary to secure or maintain uniformity of its decisions” or (2) “the proceeding involves a substantial precedential, constitutional or public policy issue.” *Huckabay Props*, 130 Nev. at 201, 322 P.3d at 432.

Edwards’ Petition fails to meaningfully address or apply the relevant standard to the facts of this case. Nevertheless, en banc reconsideration is not necessary because the Panel correctly identified and applied the controlling legal standards throughout the April 6, 2021, Order Granting Motion and Partially Dismissing Appeals.

In particular, the Panel used a functional approach to assess whether the District Court’s order was actually final for purposes of NRAP 3A(b)(1). See, e.g., *Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 444, 874 P.2d 729, 732 (1994) (discussing the functional approach to finality); *Bally’s Grand Hotel & Casino v. Reeves*, 112 Nev. 1487, 1488, 929 P.2d 936, 937 (1996) (same). The Panel then followed the binding precedent in *Estate of Sarge* which holds that an order disposing of a case is an appealable final decision, even if the matter was consolidated with other cases that are not yet complete. 134 Nev. at 870-71, 432 P.3d at 722. And, while this Court extends many courtesies to Proper Person litigants, the Panel correctly concluded that the proper and timely filing of a notice of appeal is a fundamental jurisdictional requirement that cannot be overlooked. See *In re Duong*, 118 Nev. 920, 922 59 P.3d 1210, 1212 (2002). As such, there is

no colorable argument that en banc reconsideration is necessary to secure the uniformity of the Court's decisions.

Moreover, the issues in this case are only relevant to the parties. As evidenced by the record on appeal, Edwards is a repeat-filer who refuses to follow court orders. Edwards wastes judicial and party resources by asserting and re-asserting the same meritless arguments throughout multiple forums and cases. Nothing in his arguments implicates constitutional concerns or important public policy issues. With the exception of the parties, it is unlikely that anyone would even have an interest in the panel's unpublished order. As such, the Court should not waste any more of its valuable time and resources on this matter.

IV. CONCLUSION

For the foregoing reasons, the Cash4Asking Respondents respectfully submit that this Court should deny Edwards' Petition for En Banc Reconsideration.

Dated this 27th day of October, 2021.

MARQUIS AURBACH COFFING

By: /s/ Kathleen A. Wilde

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*Attorneys for Cash4Asking, LLC; Eduardo
Romay Hernandez; Gladys Rionda Suito*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **ANSWER TO PETITION FOR EN
BANC RECONSIDERATION** was filed electronically with the Supreme Court of Nevada on the 27th day of October, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Brian Clark

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

Paul D.S. Edwards
713 Wheat Ridge Lane, Unit 203
Las Vegas, Nevada 89145
Telephone: 702-341-1776
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Email: pauldse@pauldsedwards.com
Appellant, pro se

/s/ Suzanne Begg
An employee of Marquis Aurbach Coffing

EXHIBIT “1”

ORIGINAL

FILED

IN THE SUPREME COURT OF THE STATE OF NEVADA DEC 08 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

PAUL D.S. EDWARDS,

Appellant,

vs.

TIMESHARE LIQUIDATORS, LLC,
a/d/b/a TLC RESORT LIQUIDATORS,
a/d/b/a TLC RESORTS VACATION CLUB, LLC,
a/d/b/a TLC RESORTS VACATION CLUB,
a/d/b/a TLC RESORTS, a/k/a
TLCRESORTS.COM,
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a/d/b/a VIP TRAVEL, a/d/b/a VIP VACATIONS,
a/d/b/a VIP INTERNATIONAL,
and PLAZA HOTEL & CASINO, LLC,
a/d/b/a PLAZA HOTEL & CASINO,
and CASH4ASKING, LLC,
a/d/b/a CASH4ASKING.COM,
and STANLEY C. MULLIS,
a/k/a STANLEY MULLIS, a/k/a STAN MULLIS,
and ANGEL C. MULLIS, a/k/a ANGEL MULLIS,
a/k/a ANGEL SANTILLI,
and JONATHAN ROBERT JOSSEL,
a/k/a JONATHAN JOSSEL,
and EDUARDO ROMAY HERNANDEZ,
a/k/a EDUARDO L ROMAYHERNANDEZ,
a/k/a EDUARDO ROMAY,
a/k/a EDUARDO L. ROMAY HERNANDEZ,
a/k/a HERNANDEZ EDUARDO ROMAY,
a/k/a HERNANDEZ EDUARDO L ROMAY,
a/k/a EDUARDO ROMAY,
a/k/a MR EDUARDO L. ROMAY,
and GLADYS C. RIONDA,
a/k/a SUITO GLADYS RIONDA,
a/k/a GLADYS C. RIONDA-SUITO,
a/k/a GLADYS SUITO,
a/k/a GLADYS RIONDA SUITO,

Respondents.

SUPREME COURT NO.

81595

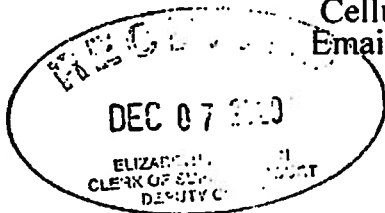
CONSOLIDATED WITH

SUPREME COURT NO.

81759

OPPOSITION TO
RESPONDENTS'
MOTION FOR
DISMISSAL OF APPEAL
CHALLENGING EIGHTH
JUDICIAL DISTRICT
COURT CASE
NUMBER A-19-799140-C

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Appellant, pro se



20-44643

1 As Respondents evidence on Page 2, in their “Motion for Dismissal of Appeal
2 Challenging Eighth Judicial District Court Case Number A-19-799140-C”
3 (“**Motion**”), their Motion is limited to Respondents CASH4ASKING, LLC, a/d/b/a
4 CASH4ASKING.COM (“**C4A**”), EDUARDO ROMAY HERNANDEZ, a/k/a
5 EDUARDO L ROMAYHERNANDEZ, a/k/a EDUARDO ROMARY, a/k/a
6 EDUARDOL.ROMAYHERNANDEZ, a/k/a HERNANDEZ EDUARDO ROMAY,
7 a/k/a HERNANDEZ EDUARDO L ROMAY, a/k/a EDUARDO ROMAY, a/k/a MR
8 EDUARDO L. ROMAY (“**ROMAY**”), and GLADYS C. RIONDA, a/k/a SUITO
9 GLADYS RIONDA, a/k/a GLADYS C. RIONDA-SUITO, a/k/a GLADYS SUITO,
10 a/k/a GLADYS RIONDA SUITO (“**SUITO**”) (collectively “**C4A Respondents**”).

11 Appellant PAUL D.S. EDWARDS, *pro se* (“**Appellant**”) contends that—
12 albeit the District Court’s Order granting the C4A Respondents “Motion to Strike
13 Complaint for Plaintiff’s Refusal to Comply With the Court’s Orders Granting
14 Defendants Motions For More Definite Statement” (“**Motion to Strike**”) was Entered
15 on May 6, 2020—the striking of Case No. A-19-799140-C’s Complaint did not end
16 the litigation of Case No. A-19-799140-C (consolidated with Case No. A-18-
17 776375-C¹)—hence, as put-forth *infra*, the dismissal of the C4A Respondents **was not**
18 a “*final order*. ”

19
20 ¹Albeit Respondents state, nonchalantly— “Because the two cases overlapped in some
21 respects, several defendants moved the District Court to consolidate case number A-
22 18-776375-C with A-19-799140-C.” Motion, Pge. 5. However, Respondents
23 TIMESHARE LIQUIDATORS, LLC, in their “Motion to Consolidate Cases,” state
24 the more specific reasons for consolidation—

25 “The factual allegations of Plaintiffs original Complaint, First Amended
26 Complaint, and Second Amended Complaint in the present case, and the
27 allegations of Plaintiff’s second suit designated as Case No. A-19-799140-C
28 **are all based on the same facts, the same alleged telephone calls to
Plaintiff’s mobile and land line telephones to sell timeshares...**Consolidation
of the present action with the second filed action, A-19-799140-C, is proper
as...**the facts, and the parties are identical.**” Record on Appeal, Volume 7,
Pge. 1545.

1 The Order granting the C4A Respondents' Motion to Strike **did not** "expressly
2 **determine that there is no just reason for delay.**" See *infra*.

3 The Order striking the Complaint associated with Case No. A-19-799140-C,
4 **did not strike or dismiss** the counterclaims of Defendants-Counterclaimants (also
5 Respondents in this appeal) TIMESHARE LIQUIDATORS, LLC, a/d/b/a TLC
6 RESORT LIQUIDATORS, a/d/b/a TLC RESORTS VACATION CLUB, LLC,
7 a/d/b/a TLC RESORTS VACATION CLUB, a/d/b/a TLC RESORTS, a/k/a
8 TLCRESORTS.COM, a/d/b/a TLC TRAVEL, a/k/a TLC, a/d/b/a VIP TRAVEL,
9 a/d/b/a VIP VACATIONS, a/d/b/a VIP INTERNATIONAL (**collectively**
10 **"TIMESHARE"**). Nor did striking the Complaint associated with Case No. A-19-
11 799140-C, **disassociate the court** from the remainder of counterclaims of Case No.
12 A-19-799140-C (consolidated with Case No. A.-18-776375-C).

13 Remaining in Case No. A-19-799140-C, and absent any reference in the C4A
14 Respondents Motion, were the Counterclaims of Defendants-Counterclaimants (also
15 Respondents here) TIMESHARE LIQUIDATORS, LLC, a/d/b/a TLC RESORT
16 LIQUIDATORS, a/d/b/a TLC RESORTS VACATION CLUB, LLC, a/d/b/a TLC
17 RESORTS VACATION CLUB, a/d/b/a TLC RESORTS, a/k/a TLCRESORTS.COM,
18 a/d/b/a TLC TRAVEL, a/k/a TLC, a/d/b/a VIP TRAVEL, a/d/b/a VIP VACATIONS,
19 a/d/b/a VIP INTERNATIONAL (**collectively "TIMESHARE"**). Counterclaims,
20 which were not final until summary judgment was entered for Defendants-
21 Counterclaimants TIMESHARE on July 13, 2020, from which Plaintiff-Appellant
22 [timely] filed his Notice of Appeal on August 5, 2020. Subsequently, on August 18,
23 2020, the Entry of Order was filed Granting "Defendants' Motion for Attorney's Fees
24 Pursuant to NRS 18.010 and for Costs of Suit Pursuant to NRS 18.020 and
25 Judgment." (Notation added).

26 Consequently, on August 31, 2020, Appellant [timely] filed a second Notice
27 of Appeal, pertaining to attorney's fees, costs, and judgment.
28

1 Accordingly, the dismissal of the C4A Respondents in Case No. A-19-799140-
2 C, was not a "final judgment" until Summary Judgment was entered in Case No. A-
3 19-799140-C and Case No. A.-18-776375-C on July 13, 2020.² See Record on
4 Appeal, Vol. 11, Pge. 2311, ¶¶ 4-5 & Pge. 2314, ¶¶ 4-5.

5 **I. LEGAL ARGUMENT:**

6 The Nevada Rules of Appellate Procedure ("**Nev.R.App.P.**") provide for ten
7 (10) circumstances where an aggrieved party may appeal a district court's judgment
8 or order. The (10) circumstances are, in-part, the following—

- 9 (1) A final judgment entered in an action or proceeding commenced in
10 the court in which the judgment is rendered.
- 11 (2) An order granting or denying a motion for a new trial.
- 12 (3) An order granting or refusing to grant an injunction or dissolving or
13 refusing to dissolve an injunction.
- 14 (4) An order appointing or refusing to appoint a receiver or vacating or
15 refusing to vacate an order appointing a receiver.
- 16 (5) An order dissolving or refusing to dissolve an attachment.
- 17 (6) An order changing or refusing to change the place of trial only when
18 a notice of appeal from the order is filed within 30 days.
* * *
- 19 (7) An order entered in a proceeding that did not arise in a juvenile
20 court that finally establishes or alters the custody of minor children.
- 21 (8) A special order entered after final judgment, excluding an order
22 granting a motion to set aside a default judgment under NRCP
23 60(b)(1) when the motion was filed and served within 60 days after
24 entry of the default judgment.
- 25 (9) An interlocutory judgment, order or decree in an action to redeem
26 real or personal property from a mortgage or lien that determines
27 the right to redeem and directs an accounting.
- 28 (10) An interlocutory judgment in an action for partition that determines
the rights and interests of the respective parties and directs a
partition, sale or division.
Nev.R.App.P., Rule 3A.

27 ²Upon dismissal of Defendants-Respondents C4A, ROMAY, and SUITO from Case
28 No. A-19-799140-C, Defendants TIMESHARE were the remaining Counterclaimants
associated with Case No. A-19-799140-C, and Defendants associated with
consolidated Case No. A.-18-776375-C.

1 Because none of the determinations, *supra*, are applicable to the filing of an
2 appeal, based [solely] on the lower court's order striking a complaint, but allowing
3 the counterclaims (in the same case) to continue— Appellant holds that any appeal
4 filed at that juncture would have been premature, inasmuch as the court's order
5 Striking the Complaint was not a "*final judgment*," nor did the lower court
6 "**expressly determine that there is no just reason for delay.**" See *infra*.

7 A "*final judgment*" is "one that disposes of all the issues presented in the case,
8 and leaves nothing for the future consideration of the court, except for post-judgment
9 issues such as attorney's fees and costs." *Lee v. GNLV. Corp.*, 116 Nev. 424, 426, 996
10 P.2d 416, 417 (2000). Therefore, Striking the Complaint; dismissing [only] the C4A
11 Respondents; and allowing Defendant TIMESHARE's counterclaims to continue,
12 **was not a final judgment**, because it did not dispose of all the parties, claims, and
13 issues presented in Case No. A-19-799140-C, or with Case No. A.-18-776375-C,
14 consolidated with Case No. A-19-799140-C.

15 Respondents' arguments— that Appellant failed to timely file his appeal from
16 the Entry of Order dismissing [only] the Complaint associated with Case No. A-19-
17 799140-C, *is erroneous*— [simply] because there remained the counterclaim of
18 Defendant TIMESHARE in Case No. A-19-799140-C, that [eventually] had to be
19 resolved, together with the action against Defendants TIMESHARE, in Case No. A.-
20 18-776375-C.

21 **1. The Entry of Order Granting Respondents' "Motion to Strike**
22 **Complaint for Plaintiff's Refusal to Comply With the Court's**
23 **Orders Granting Defendants Motions For More Definite Statement"**
WAS NOT a "Final Judgment":

24 In their Motion, the C4A Respondents argue that— for Appellant's
25 appeal to be timely, the appeal must have been filed within thirty (30) days of the
26 entry of order associated with Case No. A-19-799140-C.

27 On May 6, 2020, the District Court entered a final order that resolved all
28 of the claims in Eighth Judicial District Court case number A-19-
799140-C. Paul D.S. Edwards...did not file a notice of appeal
challenging the order until August 10, 2020. Motion, Introduction, Page.
4.

1 Nevertheless, the C4A Respondents' arguments are forged with *erroneous* and
2 *meritless* reasoning.

3 **When two or more district court cases are consolidated, a party aggrieved**
4 **by an interlocutory order, that is not otherwise appealable, must wait until all**
5 **claims from all the consolidated cases are resolved to reach the final, appealable**
6 **order.** (Emphasis added). See *Mallin v. Farmers Ins. Exch.*, 106 Nev. 606, 609, 797
7 P.2d 978, 980 (1990) (noting that "an order which resolves less than all of the claims
8 in a consolidated action is not appealable as a final judgment absent NRCP 54(b)
9 certification from the district court"). No such "certification" was issued by the
10 District Court in the Order Striking the Complaint of Case No. A-19-799140-C.

11 What is more, there can be only one final judgment in a case. *Alper v. Posin*,
12 77 Nev. 328, 363 P.2d 502 (1961), overruled on other grounds by *Lee*, 116 Nev. at
13 426, 996 P.2d at 417. Also see *Taylor Constr. Co. v. Hilton Hotels*, 100 Nev. 207,
14 678 P.2d 1152 (1984) (noting that this court has jurisdiction to consider an appeal
15 only when the appeal is authorized by statute or court rule).

16 Albeit the C4A Respondents were granted their "Motion to Strike,"³ the order
17 granting the "Motion to Strike" **was not the final order** because **it did not resolve**
18 **the rights and liabilities of all parties, nor dispose of all the issues presented in**
19 **the case.**

20 An order or judgment is final and appealable **only when** it resolves "the rights
21 and liabilities of all parties and dispose[s] of all issues presented in the case." *Lee*,
22 116 Nev. at 427-28, 996 P.2d at 418. Here, as claims remained in Case Number A-19-
23 799140-C, no final and appealable order or judgment had been entered. Therefore,
24 until summary judgment was entered in both Case No. A-19-799140-C and Case No.
25 A.-18-776375-C (consolidated cases), no appeal could be taken, and this Court lacked
26 jurisdiction.

27
28 ³A copy of the "Motion to Strike is attached to Respondents' Motion as Exhibit C.

1 As support for their Motion, the C4A Respondents make the following
2 reference—

3 Here, the Order Granting Motion to Strike was a final order that
4 resolved all of the claims in Eighth Judicial District Court case number
5 A-19-99140-C and left “nothing for the future consideration of the
6 court.” See *Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417
7 (2000) (“[A] final judgment has been described as one that disposes of
8 the issues presented in the case, determines the costs, and leaves nothing
9 for the future consideration of the court.”) (internal quotation marks and
10 citation omitted). Motion, Pge. 7.

11 Nevertheless, pursuant to Nev.R.Civ.P., Rule 54, when there are “Multiple
12 Claims or Involving Multiple Parties,” as there were here, a “final judgment” only can
13 be accomplished **when the court “...expressly determines that there is no just
14 reason for delay.”**

15 **Rule 54. Judgments;**

16 * * *

17 **(b) Judgment on Multiple Claims or Involving Multiple Parties.**

18 **When an action presents more than one claim for relief-**
19 **whether...counterclaim, crossclaim, or third-party claim-or when**
20 **multiple parties are involved, the court may direct entry of a final**
21 **judgment as to one or more, but fewer than all, claims or parties**
22 **only if the court expressly determines that there is no just reason for**
23 **delay. Otherwise, any order or other decision, however designated,**
24 **that adjudicates fewer than all the claims or the rights and liabilities**
25 **of fewer than all the parties does not end the action as to any of the**
26 **claims or parties and may be revised at any time before the entry of a**
27 **judgment adjudicating all the claims and all the parties' rights and**
28 **liabilities. (Emphasis added).**

29 Absent from the Order Granting the C4A Respondents' “Motion to Strike” is
30 any reference to the words, or any expression of the words “...expressly determines
31 **that there is no just reason for delay.**” Id. Hence, there was no appealable “*final*
32 *judgment.*”

33 When multiple parties are involved, as in the instant matter, the District Court
34 judge may direct the entry of a final judgment as to one or more, but fewer than all
35 of the parties—“**only upon an express determination that there is no just reason**
36 **for delay.**”

1 See *Cascade Drinking Waters, Inc. v. Cent. Tel Co.*, 88 Nev. 702, 703, 504
2 P.2d 697, 697 (1972) (“This court has held that a judgment dismissing fewer than all
3 parties to an action **without an express determination that there is no just reason**
4 **for delay** by the district court, **is not a final judgment**”) (emphasis added).

5 The court may direct the entry of a final judgment as to one or more, but fewer
6 than all of the parties, **only upon an express determination that there is “no just**
7 **reason for delay and upon an express direction for the entry of judgment.”** See
8 *Hern v. Erhardt*, 113 Nev. 1330, 1334 n.4, 948 P.2d 1195, 1198 n.4 (1997); *Aldabe*
9 *v. Evans*, 83 Nev. 135, 425 P.2d 598 (1967).

10 The right to appeal is statutory. Where no statute or court rule authorizes an
11 appeal, no right to appeal exists. See *Brown v. MHC Stagecoach, LLC*, 129 Nev. 343,
12 345, 301 P.3d 850, 851 (2013) (this court “may only consider appeals authorized by
13 statute or court rule”). This Court has jurisdiction to consider an appeal from a final
14 judgment. NRAP 3A(b)(1).

15 Nev.R.Civ.P., Rule 54(b) provides an exception by allowing the District Court,
16 in an action involving more than one claim for relief, to direct entry of final judgment
17 as to one or more, but fewer than all claims, [but] only if the court determines that
18 there is no just reason to delay the appeal exists. Absent from the Order granting the
19 C4A Respondents’ Motion to Strike Complaint, is any determination, by the District
20 Court, that no just reason to delay the appeal exists.

21 In *Hallicrafters Co. v. Moore*, 102 Nev. 526, 528-29, 728 P.2d 441, 443
22 (1986), this Court concluded that “if the claims asserted in an action, albeit separate,
23 are so closely related that this court must necessarily decide important issues pending
24 below in order to decide the issues appealed, there can be no finding that there is no
25 just reason for delay, and certification of an order deciding some but not all of those
26 claims as final is an abuse of the district court’s discretion.” See *n. l, supra*.

27 In this case, all of Appellant’ causes of action arose out of the same series of
28 related transactions— illegal, unsolicited telemarketing and solicitation telephone

1 calls to Appellant's landline and wireless telephone number. Appellant's Complaint,
2 in Case Number A-19-799140-C, states more than one claim for relief for purposes
3 of NRCP 54(b). Each of Appellant's causes of action are based on the alleged
4 causation involving thirty-five (35) [plus] illegal, unsolicited telemarketing and
5 solicitation telephone calls to Appellant's landline and wireless telephone numbers.

6 The additional causes of actions allege that (either individually, or in consort
7 with each other, and either directly or indirectly) the C4A Respondents violated
8 several Nevada Revised Statutes, and were the causation of the intentional invasion
9 into Plaintiff's expectation of privacy and intrusion into the solitude and seclusion
10 expected by Plaintiff in his home.

11 Thus, Appellant's various causes of action present at least three separate claims
12 for relief.

13 If the claims asserted in an action, albeit separate, are so closely related⁴ that
14 this Court must necessarily decide important issues pending below in order to decide
15 the issues appealed, there can be no finding that there is no just reason for delay, and
16 if the lower court had certified an order deciding some, but not all of those claims as
17 final, would constitute an abuse of the District Court's discretion. See *Mid-Century*
18 *Ins. Co. v. Cherubini*, 95 Nev. 293, 593 P.2d 1068 (1979); *Las Vegas Hacienda v.*
19 *G.L.M.M. Corp.*, 93 Nev. 177, 561 P.2d 1334 (1977).

20 In this case, the claims alleged in Appellant's Complaints and Amended
21 Complaints are so closely related, that this Court would necessarily decide the law of
22 the case on the claims still pending in the District Court in the course of deciding the
23 appeal. Therefore, consideration of this appeal would result in piecemeal litigation,
24 and would defeat the purpose of NRCP 54(b).

25 A "final judgment" is a judgment that resolves all claims and rights in the
26 litigation, and leaves nothing for the lower court to consider except for non-
27 substantive "post-judgment issues" like attorney fee awards. *Simmons Self-Storage*
28 *Partners, LLC v. Rib Roof, Inc.*, 127 Nev. 86, 87, 247 P.3d 1107, 1108 (2011).

⁴See *n. l, supra*.

1 The final judgment rule exists to avoid “piecemeal litigation,” by having the
2 lower court decide all of the issues in one case before the appellate court can re-
3 examine those rulings. *Barbara Ann Hollier Tr. v. Shack*, 131 Nev., Adv. Op. 59, 356
4 P.3d 1085, 1090 (2015). It also prevents our already over-taxed Appellate Court from
5 an increasingly heavier caseload. *Archon Corp. v. Eighth Jud. Dist. Ct.*, 133 Nev.,
6 Adv. Op. 1010, 407 P.3d 702, 709 (Nev. 2017). Finally, it actually makes litigation
7 more efficient. since you cannot constantly appeal everything and endlessly delay the
8 underlying case. *Musso v. Triplett*, 78 Nev. 355, 358, 372 P.2d 687, 689 (1962).

9 To be appealable under NRAP 3A(b)(1), the order or judgment must resolve
10 all claims and liabilities **against all parties**. *Aldabe v. Evans*, 83 Nev. 135, 136-37,
11 425 P.2d 598, 599 (1967). Here, Appellant was entitled to a single appeal, to be
12 deferred until final judgment had been entered in Case No. A-19-799140-C,
13 consolidated with Case No. A.-18-776375-C. See *Digital Equipment Corp. v.*
14 *Desktop Direct, Inc.*, 511 U.S. 863, 868, 114 S.Ct. 1992, 128 L.Ed.2d 842 (1994)
15 (citation omitted);

16 **III. Conclusion:**

17 When, as here, multiple parties, or multiple claims for relief are involved in an
18 action, an appeal may be taken from a final judgment as to one or more but fewer than
19 all of the parties or claims— **only if the trial court has made an express written**
20 **finding that there is no just reason for delaying enforcement or appeal.**

21 Otherwise, any order, or other decision, however designated, that adjudicates
22 fewer than all the claims, or the rights and liabilities of fewer than all the parties, does
23 not end the action.

24 For all of the aforementioned C4A Respondents’ Motion should be denied.

25 DATED this 2nd day of December 2020.

26 PAUL D.S. EDWARDS,

27 /s/ Paul D.S. Edwards

28 Paul D.S. Edwards, Appellant, *pro se*
713 Wheat Ridge Lane, Unit 203
Las Vegas, Nevada 89145
Landline Telephone: 702.341.1776
Cellular Telephone: 702.893.1776
Email: pauldse@pauldsedwards.com

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 2nd day of December 2020, after being placed in a envelope, and thereon placing sufficient postage, I deposited in a United States Postal Service receptacle, a copy[ies] of the following document[s]:

1. "Opposition to Respondents' Motion for Dismissal of Appeal Challenging Eighth Judicial District Court Case Number A-19-799140-C"

and addressed to the following:

Supreme Court Clerk's Office
201 South Carson Street
Carson City, Nevada 89701-4702

Brian P. Clark
CLARK MCCOURT
7371 Prairie Falcon Road, Suite 120
Las Vegas, NV 89128
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TIMESHARE LIQUIDATORS, LLC,
a/d/b/a TLC RESORT LIQUIDATORS,
a/d/b/a TLC RESORTS VACATION CLUB, LLC,
a/d/b/a TLC RESORTS VACATION CLUB,
a/d/b/a TLC RESORTS, a/k/a TLCRESORTS.COM,
a/d/b/a TLC TRAVEL, a/k/a TLC, a/d/b/a VIP TRAVEL,
a/d/b/a VIP VACATIONS, a/d/b/a VIP INTERNATIONAL,
and PLAZA HOTEL & CASINO, LLC,
a/d/b/a PLAZA HOTEL & CASINO,
and STANLEY C. MULLIS, a/k/a STANLEY MULLIS,
a/k/a STAN MULLIS,
and ANGEL C. MULLIS, a/k/a ANGEL MULLIS,
a/k/a ANGEL SANTILLI,
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Attorney for—
CASH4ASKING, LLC, a/d/b/a CASH4ASKING.COM,
and EDUARDO ROMAY HERNANDEZ,
a/k/a EDUARDO L ROMAYHERNANDEZ,
a/k/a EDUARDO ROMAY,
a/k/a EDUARDO L. ROMAY HERNANDEZ,
a/k/a HERNANDEZ EDUARDO ROMAY,
a/k/a HERNANDEZ EDUARDO L ROMAY,
a/k/a EDUARDO ROMAY, a/k/a MR EDUARDO L. ROMAY,
and GLADYS C. RIONDA, a/k/a SUITO GLADYS RIONDA,
a/k/a GLADYS C. RIONDA-SUITO, a/k/a GLADYS SUITO,
a/k/a GLADYS RIONDA SUITO


Designee for Appellant

EXHIBIT “2”

IN THE SUPREME COURT OF THE STATE OF NEVADA

PAUL D.S. EDWARDS,
Appellant,

vs.

TIMESHARE LIQUIDATORS, LLC,
A/D/B/A TLC RESORT LIQUIDATORS,
A/D/B/A TLC RESORTS, A/D/B/A TLC
RESORTS VACATION CLUB, A/D/B/A
TLC RESORTS VACATION CLUB, LLC,
A/D/B/A TLC TRAVEL, A/D/B/A
TLCRESORTS.COM, A/D/B/A VIP
TRAVEL, A/D/BA/ VIP VACATIONS;
CASH4ASKING, LLC, A/D/B/A
CASH4ASKING.COM; STANLEY C.
MULLIS, A/K/A STANLEY MULLIS,
A/K/A STAN MULLIS; ANGEL MULLIS,
A/K/A ANGEL C. MULLIS; EDUARDO
ROMAY HERNANDEZ, A/K/A;
EDUARDO L. ROMAYHERNANDEZ,
A/K/A EDUARDO ROMARY, A/K/A
EDUARDO L. ROMAY HERNANDEZ,
A/K/A HERNANDEZ EDUARDO
ROMAY, A/K/A HERNANDEZ
EDUARDO L. ROMAY, A/K/A
EDUARDO ROMAY, A/K/A EDUARDO
L. ROMAY; AND GLADYS C. RIONDA,
A/K/A SUITO GLADYS RIONDA, A/K/A
GLADYS C. RIONDA-SUITO, A/K/A
GLADY SUITO, A/K/A GLADYS
RIONDA SUITO,

Respondents.

PAUL D.S. EDWARDS,
Appellant,

vs.

TIMESHARE LIQUIDATORS, LLC,
A/D/B/A TLC RESORT LIQUIDATORS,
A/D/B/A TLC RESORTS, A/D/B/A TLC
RESORTS VACATION CLUB, A/D/B/A
TLC RESORTS VACATION CLUB, LLC,

No. 81595

FILED

APR 08 2021

ELIZABETH A. BRADY
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

No. 81759

A/D/B/A TLC TRAVEL, A/D/B/A
TLCRESORTS.COM, A/D/B/A VIP
TRAVEL, A/D/B/A VIP VACATIONS;
CASH4ASKING, LLC, A/D/B/A
CASH4ASKING.COM; STANLEY C.
MULLIS, A/K/A STANLEY MULLIS,
A/K/A STAN MULLIS; ANGEL MULLIS,
A/K/A ANGEL C. MULLIS; EDUARDO
ROMAY HERNANDEZ, A/K/A
EDUARDO L. ROMAYHERNANDEZ,
A/K/A EDUARDO ROMARY, A/K/A
EDUARDO L. ROMAY HERNANDEZ,
A/K/A HERNANDEZ EDUARDO
ROMAY, A/K/A HERNANDEZ
EDUARDO L. ROMAY, A/K/A
EDUARDO ROMAY, A/K/A EDUARDO
L. ROMAY; AND GLADYS C. RIONDA,
A/K/A SUITO GLADYS RIONDA, A/K/A;
GLADYS C. RIONDA-SUITO, A/K/A
GLADY SUITO, A/K/A GLADYS
RIONDA SUITO,

Respondents.

*ORDER GRANTING MOTION AND PARTIALLY DIMSISSING
APPEALS*

Respondents Cash4Asking, LLC, Eduardo Romay Hernandez, and Gladys C. Rionda-Suito (the Cash4Asking respondents) have filed a motion to dismiss these consolidated appeals as to them for lack of a timely notice of appeal. Appellant opposes the motion, and respondents have filed a reply.

Respondents explain that appellant filed a complaint in case number A-18-776375-C against several defendants, not including the Cash4Asking respondents. Appellant then filed another complaint in case number A-19-799140-C naming the Cash4Asking respondents as defendants. The district court consolidated the two cases. On May 4, 2020,

the district court granted the Cash4Asking respondents' motion to strike the complaint in case number A-19-799140-C, and the complaint was stricken in its entirety and the case was dismissed with prejudice. Appellant's claims against the Cash4Asking respondents were finally disposed of by that order. *See Lee v. GNLV Corp.*, 116 Nev. 424, 427, 996 P.2d 416, 417 (2000) ("[A] final judgment is one that disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues such as attorney's fees and costs."); *see also* NRAP 3A(b) (enumerating appealable determinations). Notice of entry was filed and served on May 6, 2020. Appellant however, did not file his notice of appeal until August 5, 2020, after entry of the order also disposing of the claims in case number A-18-766375-C.

In 2018, this court overruled *Mallin v. Farmers Insurance Exchange*, 106 Nev. 606, 609, 797 P.2d 978, 980 (1990), and held that consolidated cases retain their separate identities so that an order resolving all of the claims in one of the consolidated cases is immediately appealable as a final judgment. *Matter of Estate of Sarge*, 134 Nev. 866, 432 P.3d 718 (2018). The district court order that completely resolved the complaint against the Cash4Asking respondents in case number A-19-799140-C was therefore immediately appealable as a final judgment, and the time to file the notice of appeal began to run upon service of notice of entry of that order on May 6, 2020. Because the notice of appeal was not filed until August 5, 2020, it was untimely filed, and this court lacks jurisdiction over any appeal in district court case number A-19-799140-C. Appellant may only challenge the judgment to the extent it resolves case number A-18-776375-C. The motion to dismiss is granted and, as the Cash4Asking respondents were never party to the A-18-776375-C case, they are dismissed entirely from

these appeals. The appeals shall proceed regarding the remaining respondents.

Appellant shall have 30 days from the date of this order to file and serve either an opening brief that complies with NRAP 28 and NRAP 32, or the informal brief form for pro se parties provided by the clerk of this court. Respondents need not file a response unless directed to do so by this court. NRAP 46A(c). Failure to comply timely with this order may result in the dismissal of these appeals. See NRAP 31(d).

It is so ORDERED.¹

 , J.

Parraguirre

 , J.
Stiglich

 , J.
Silver

cc: Hon. Nancy L. Alf, District Judge
Paul D.S. Edwards
Clark McCourt, LLC
Marquis Aurbach Coffing
Eighth District Court Clerk

¹Appellant's motion for an extension of time to file the opening brief is denied as moot.

EXHIBIT “3”

Heather L. Linn
CLERK OF THE COURT

1 **OGM**
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4 LUKAS B. McCOURT
5 Nevada Bar No. 11839
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13 Attorneys for Defendants

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 PAUL D. S. EDWARDS,

11 Plaintiff,

12 v.

13 TIMESHARE LIQUIDATORS, LLC, a/d/b/a TCL
14 RESORT LIQUIDATORS, a/d/b/a TLC RESORTS
15 VACATION CLUB, LLC, a/d/b/a TLC RESORTS
16 VACATION CLUB, a/d/b/a TLC RESORTS, a/k/a
17 TLCRESORTS.COM, a/d/b/a TLC TRAVEL, a/d/b/a
18 VIP TRAVEL, a/d/b/a VIP VACATIONS, and
19 PLAZA HOTEL & CASINO, LLC, a/d/b/a PLAZA
20 HOTEL & CASINO, and STANLEY C. MULLIS,
21 a/k/a STANLEY MULLIS, a/k/a STAN MULLIS, and
22 ANGEL C. MULLIS, a/k/a ANGEL MULLIS, a/k/a
23 ANGEL SANTILLI, and JONATHAN ROBERT
24 JOSSEL, a/k/a JONATHAN JOSSEL, and
25 MICHAEL ANTHONY PERGOLINI, a/k/a
26 MICHAEL A. PERGOLINI, a/k/a MICHAEL
27 PERGOLINI, a/k/a MICHAEL A. PERCOLINI, and
28 DOES I-X, and ROE CORPORATIONS XI-XX, et
al.,

Defendants.

AND CONSOLIDATED MATTERS

Case No.: A-18-776375-C
Dept. No.: XXVII

Consolidated with

Case No.: A-19-799140-C

**ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT ON PLAINTIFF'S
CLAIMS IN CASE NO. A-18-776375,
AND CASE NO. A-19-799140-C**

Defendants' motion for summary judgment came before the court on June 25, 2020.

Appearing for Defendants, via Bluejeans audio, was Brian P. Clark of the law firm Clark McCourt.

Plaintiff did not appear at the hearing in person or attend by remote means.

1 Having reviewed the papers on file, the court makes the following Findings of Fact and
2 Conclusions of Law.

3 **I. FINDINGS OF FACT.**

4 **THE COURT FINDS** that the motion for summary judgment was presented to summarily
5 adjudicate Plaintiff's claims in Case No. A-18-776375-C and Case No. A-19-799140-C¹.

6 **THE COURT FURTHER FINDS** that Plaintiff was served with Defendants' motion for
7 summary judgment and that Plaintiff did not file an opposition to the motion and did not attend the
8 June 25, 2020 hearing on the motion for summary judgment.

9 **THE COURT FURTHER FINDS**, pursuant to EDCR 2.20(e), that Plaintiff's failure to file
10 a written opposition to the motion for summary judgment "may be construed as an admission that
11 the motion and/or joinder is meritorious and a consent to granting the same."

12 **THE COURT FURTHER FINDS**, and adopts as supporting facts each of the "Undisputed
13 Facts" set forth in the motion for summary judgment (numbered items 1-42) as none of these facts
14 were contested by Plaintiff.

15 **THE COURT FURTHER FINDS**, regarding Case No. A-18-776375-C, that most of
16 Plaintiff's claims in the First Amended Complaint were dismissed by court orders dated January 14,
17 2019, and August 27, 2019. Additionally, many of Plaintiff's allegations were stricken from the
18 First Amended Complaint by court orders dated August 27, 2019 (May 1, 2019 motion to strike)
19 December 17, 2019 (motion to strike for failure to amend) and February 6, 2020 (motion to strike
20 for failure to amend). Plaintiff's remaining claims in Case No. A-18-776375-C are for invasion of
21 Plaintiff privacy, intrusion into seclusion, and for injunctive relief.

22 **THE COURT FURTHER FINDS**, regarding Case No. A-19-799140-C, that the Complaint
23 was struck, pursuant to NRCP 12(e), for Plaintiff's failure to file an Amended Complaint after
24 failing to oppose Defendants' Motion To Strike Complaint For Plaintiff's Refusal To Comply With
25 The Court's Orders Granting Defendants' Motions For More Definite Statement. (See Order entered
26 May 4, 2020.)

27 ¹ Defendants Cash4Asking, Eduardo Romay Hernandez, and Gladys Rionda Suito were
28 dismissed from Case No. A-19-799140-C by court order filed May 4, 2020.

1 **THE COURT FURTHER FINDS** that Plaintiff did not present any facts to show that
2 Timeshare Liquidators, LLC or its employees made any intrusion, intentional or otherwise, on the
3 solitude of Plaintiff.

4 **THE COURT FURTHER FINDS** that although Mr. Edwards claims that several telephone
5 calls were received by him on his landline and mobile telephone numbers, Mr. Edwards cannot show
6 that any of the alleged calls were made by Timeshare or its employees.

7 **THE COURT FURTHER FINDS** that the First Amended Complaint sought an order for
8 injunctive relief and that Plaintiff did not seek a preliminary injunction by motion since the filing of
9 his original complaint on June 19, 2018.

10 **THE COURT FURTHER FINDS** that Plaintiff has not presented any evidence that
11 Defendant Timeshare made any of the alleged calls to Plaintiff and has not alleged irreparable injury.

12 **THE COURT FURTHER FINDS**, regarding Case No. A-19-799140-C, that Plaintiff had
13 an ulterior purpose, other than resolving a legal dispute, when he filed the action and that Plaintiff's
14 actions were not in the regular conduct of proceedings.

15 **THE COURT FURTHER FINDS** that Plaintiff's filing of a second action, Case No. A-19-
16 799140-C, constitutes an abuse of process.

17 **II. CONCLUSIONS OF LAW.**

18 A. "Summary judgment is appropriate and 'shall be rendered forthwith' when the
19 pleadings and other evidence on file demonstrate that no 'genuine issue as to any material fact
20 [remains] and that the moving party is entitled to a judgment as a matter of law.' This court has
21 noted that when reviewing a motion for summary judgment, the evidence, and any reasonable
22 inferences drawn from it, must be viewed in a light most favorable to the nonmoving party." *Wood*
23 *v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).

24 B. "This court has often stated that the nonmoving party may not defeat a motion for
25 summary judgment by relying 'on the gossamer threads of whimsy, speculation and conjecture.' As
26 this court has made abundantly clear, '[w]hen a motion for summary judgment is made and

27 ///

28 ///

1 supported as required by Rule 56, the nonmoving party may not rest upon general allegations and
2 conclusions, but must, by affidavit or other wise, set forth specific facts demonstrating the existence
3 of a genuine factual issue.” *Id.* at p. 730-7310, 1030-31.

4 C. “While we construe the facts in the light most favorable to the nonmoving party, we
5 also place the burden on the nonmoving party to ‘set forth facts demonstrating the existence of a
6 genuine issue in order to withstand a disfavorable summary judgment.’ Where the nonmoving party
7 would bear the burden of persuasion at trial, ‘the party moving for summary judgment may satisfy
8 the burden of production by either (1) submitting evidence that negates an essential element of the
9 nonmoving party’s claims, or (2) ‘pointing out . . . that there is an absence of evidence to support the
10 nonmoving party’s case.’” *Torrealba v. Kesmetis*, 124 Nev. 95, 100, 178 P.3d 716, 720 (Nev. 2008).

11 D. “In our view, the plain language of Rule 56(c) mandates the entry of summary
12 judgment, after adequate time for discovery and upon motion, against a party who fails to make a
13 showing sufficient to establish the existence of an element essential to that party’s case, and on
14 which that party will bear the burden of proof at trial. In such a situation, there can be ‘no genuine
15 issue as to any material fact,’ since a complete failure of proof concerning an essential element of
16 the nonmoving party’s case necessarily renders all other facts immaterial.”)

17 E. “To recover for the tort of intrusion, a plaintiff must prove the following elements: 1)
18 an intentional intrusion (physical or otherwise); 2) on the solitude or seclusion of another; 3) that
19 would be highly offensive to a reasonable person.” *PETA v. Berosini*, 111 Nev. 615, 630, 895 P.2d
20 1269, 1270 (1995).

21 F. Plaintiff’s claim for injunctive relief under NRS 33.010(2) fails as Plaintiff has not
22 presented any evidence that Defendant Timeshare made any of the alleged calls to Plaintiff, has not
23 shown any conduct by Defendant Timeshare during the litigation that would support injunctive
24 relief, and Plaintiff has not alleged any irreparable injury.

25 **III. ORDER.**

26 Based on the case activity, history and prior orders, including Plaintiff’s failure to amend the
27 First Amended Complaint in Case No. A-18-776375-C and failure to amend the Complaint in Case
28 No. A-19-799140-C, and Plaintiff’s failure to oppose case ending motions,

IT IS HEREBY ORDERED that Defendants' Motion For Summary Judgment is granted in its entirety, resolving Plaintiff's claims for invasion of Plaintiff privacy, intrusion into seclusion, and for injunctive relief in favor of Defendants.

IT IS FURTHER ORDERED that the Motion For Summary Judgment is granted in favor of the Counter-claimants, on their claim of abuse of process in Case No. A-19-799140-C.


DATED this _____ day of _____, 2020.

Dated this 13th day of July, 2020

Nancy L Alf
DISTRICT COURT JUDGE JD

Submitted by:

CLARK MCCOURT


 Brian P. Clark
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 Attorneys for Defendants

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Paul Edwards, Plaintiff(s)

CASE NO: A-18-776375-C

7 vs.

DEPT. NO. Department 27

8 Timeshare Liquidators LLC,
9 Defendant(s)

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11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 7/13/2020

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