

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH FOLINO, an individual; and
NICOLE FOLINO, an individual,

Appellants,

vs.

TODD SWANSON, an individual;
TODD SWANSON, Trustee of the
SHIRAZ TRUST; SHIRAZ TRUST,
A Trust of unknown origins; LYONS
DEVELOPMENT, LLC, a Nevada
limited liability company; DOES I
through X; and ROES I through X,

Respondents.

Electronically Filed
Mar 18 2021 02:52 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

S.C. DOCKET NO: 81831

District Court Case No. A-18-782494-C

Motion to Strike Volumes I and II of Appellants' Joint Appendix and to Strike Portions of Appellants' Opening Brief

This motion is brought pursuant to NRAP 27 and is supported by the following arguments and attached exhibits.

I.

INTRODUCTION

Appellants' Opening Brief and Appendix contain arguments and documents presented for the first time on appeal. Such arguments and documents must be stricken by this Court. *See, Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d

981, 983 (1981) and *Peke Resources, Inc. v. Fifth Judicial Dist. Court in and for County of Esmeralda*, 113 Nev. 1062, 1068-1069 n. 5, 944 P.2d 843, 848-849 n. 5 (1997).

On March 17, 2021, Counsel for Respondent spoke with Appellants' Counsel regarding his issues and objections to the appendix and opening brief sections. Counsel were unable to agree to a resolution, necessitating this motion.

II.

BACKGROUND FACTS

In compliance with NRAP 30(a), on December 9, 2020, counsel for Appellants and Respondents "met and conferred" to discuss submitting a Joint Appendix. After discussions, counsel for both parties agreed that the entire District Court record was appropriate for the Joint Appendix.

On February 10, 2021, Appellants' counsel emailed an index of the documents which the parties agreed would be in the Joint Appendix. (*See Exhibit A*). Respondents' counsel reviewed the index and determined that it included only those documents filed in the District Court. The Index did not list any documents which were not part of the District Court record.

The Joint Appendix Filed by Appellants Contains Documents Which Are Not Part of the District Court Record

On March 11 and 12, 2021, Appellants filed a "Joint Appendix." (*See Exhibit B, Index to Appellants' Joint Appendix*). The "Joint Appendix," however, is not

what Appellants proposed during our meet and confer. In short, the “Joint Appendix” contains documents which are not part of the District Court record. Specifically, the documents in Volumes I and II of the “Joint Appendix” were never presented to the District Court, as exhibits to motions or otherwise.

Appellants’ Joint Appendix Contains Arguments Supported by Documents Which Are Not Part of the District Court Record

Appellants’ Opening Brief also contains arguments which were never presented to the District Court. Moreover, three sections of Appellants’ Opening Brief rely on documents contained in Volumes I and II of the “Joint Appendix,” which are not part of the District Court record.

Specifically, paragraphs B, C and D of Appellants’ Opening Brief assert that the District Court improperly analyzed the *Nelson v. Heer*¹ case. (See Appellants’ Opening Brief at 10-15). The documents in Volumes I and II are not part of the published *Nelson* opinion. Furthermore, as discussed above, the Appellants did not include the *Nelson* appendix as an exhibit to any motions or other filed documents, and, consequently, it was never made a part of the District Court record. The arguments in paragraphs B, C and D cannot stand *unless* matters outside the record are considered by this Court.

¹ *Nelson v. Heer*, 123 Nev. 217, 163 P.3d 420 (2007).

Because this Court cannot consider arguments which are based on documents outside the record, paragraphs B, C and D must be stricken.

III.

ARGUMENT

A. Joint Appendix Volumes I and II Cannot be Considered by this Court

Under NRAP 10(a), “[t]he trials court record consists of the papers and exhibits filed in the district court, the transcript of the proceedings, if any, the district court minutes, and the docket entries made by the district court clerk.”

“Matters outside the record on appeal may not be considered by an appellate court and reference to such matters is improper.” *Peke Resources, Inc. v. Fifth Judicial Dist. Court in and for County of Esmeralda*, 113 Nev. 1062, 1068-1069 n. 5, 944 P.2d 843, 848-849 n. 5 (1997), citing *Grey v. Grey*, 111 Nev. 388, 390 n. 1, 892 P.2d 595, 597 n. 1 (1995) and *State, Emp. Sec. Dep't v. Weber*, 100 Nev. 121, 123, 676 P.2d 1318, 1319 (1984).

None of the documents contained in Joint Appendix Volumes I and II were ever presented to the District Court. As such, by definition, Volumes I and II contain “matters outside the record.” *Peke*, 113 Nev. at 1068-1069 n. 5, 944 P.2d at 848-849 n. 5.

Appellants including the *Nelson* appendix in the Joint Appendix “is improper.” *Id.* Joint Appendix Volumes I and II “may not be considered” by this Court and must be stricken. *Id.*

B. Paragraphs B, C and D of Appellants’ Opening Brief Cannot be Considered by this Court

“A point not urged in the trial court, unless it goes to the jurisdiction of that court, is deemed to have been waived and will not be considered on appeal.” *Old Aztec*, 97 Nev. at 52, 623 P.2d at 983, citing *Britz v. Consolidated Casinos Corp.*, 87 Nev. 441, 447, 488 P.2d 911 (1971) and *Harper v. Lichtenberger*, 59 Nev. 495, 92 P.2d 719 (1939). Here, Appellants’ arguments do not go to jurisdiction. However, the arguments in paragraphs B, C and D of Appellants’ Opening Brief are based on documents outside the record and have been waived. *Old Aztec*, 97 Nev. at 52, 623 P.2d at 983.

In paragraphs B, C and D, Appellants conduct a deep analysis of the *Nelson* case, concluding that the District Court misapplied *Nelson*. According to Appellants, because the Sellers Real Property Disclosure form (SRPD) in *Nelson* is purportedly different than the SRPD in this case, *Nelson* is inapplicable. Appellants’ argument, however, is based on and cites the improper documents contained in Joint Appendix Volumes I and II. The arguments are wholly dependent on the improper documents and Appellants’ arguments in paragraphs B, C and D are fail without those documents.

In paragraph B of Appellants' Opening Brief, Appellants' present a "Summary of Pertinent Facts From *Nelson v. Heer*." (See Appellants' Opening Brief at 10-11). But the "facts" in this paragraph include references to the *Nelson* appendix, specifically Vol. 1, JA 000148-000149. JA 000148-000149 is the SRPD from the *Nelson* appendix. However, neither it nor the other documents in the *Nelson* appendix were ever presented to the District Court and never became part of the trial court record.

Paragraph C also cites Vol. I JA000148-000149. Appellants argue that "the then in force SRPD Form" in *Nelson* "was substantially different from" the SRPD form in this case. See Appellants' Opening Brief at 11-12. This paragraph relies entirely on the unfiled *Nelson* appendix because it requires comparison of a document that *is* part of the record (the SRPD in this case) with a document that *is not* a part of the record (the *Nelson* appendix).

Appellants also reference JA000148-000149 in paragraph D. See Appellants' Opening Brief at 12-15. Contrary to appellate rules regarding the record on appeal, on pages 12 and 13, the Appellants quote language taken directly from the *Nelson* SRPD, which was never made a part of the record on appeal in this case. Appellants cited to JA000148-000149 to compare and contrast the SRPD in this case with the SRPD in *Nelson*.

Nevada appellate law requires that this Court strike paragraphs B, C and D of Appellants' Opening Brief.

IV.

CONCLUSION

Respondent requests that this Court strike Joint Appendix Volumes I and II because none of the documents contained in those volumes are part of the record on appeal.

In addition, Respondents request that this Court strike paragraphs B, C and D of Appellants' Opening Brief (at pages 10-15) because the arguments contained in those paragraphs are wholly dependent on documents contained in Volumes I and II.

DATED this 18th, day of March 2021.

CHRISTOPHER M. YOUNG, PC

/s/ JAY HOPKINS, ESQ.

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CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF

System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the Nevada Supreme Court by using the appellate CM/ECF users and that service will be accomplished by the appellate CM/ECF system on March ____, 2021,

I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

DATED this 18th day of March 2021.

RUSTY GRAF, ESQ.

Email: rgraf@blackwadhams.com

/s/Toni P. Hansen

An employee of Christopher M. Young PC

EXHIBIT “A”

**APPEAL
FROM THE EIGHTH JUDICIAL DISTRICT COURT
THE HONORABLE ANN E. ZIMMERMAN | CASE No. A-18-782494-C**

**JOINT
APPENDIX ON APPEAL
VOLUME ____ OF IX
INDEX TO APPELLANTS' APPENDIX OF RECORD**

VOLUMES

No.	Date of Item	Description	Vol.	Bates Nos.
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VOLUME I

1.	10/09/2018	Complaint	I	JA000001- JA000077
2.	10/12/2018	Summons – Todd Swanson	I	JA000078- JA000079
3.	10/12/2018	Summons – Lyons Development	I	JA000080- JA000081
4.	10/12/2018	Summons – Shiraz Trust	I	JA000082- JA000083
5.	10/23/2018	Declaration of Service – Summons - Lyons Development	I	JA000084
6.	01/04/2019	Acceptance of Service on Behalf of Defendant Todd Swanson, an individual, Todd Swanson, Trustee of the Shiraz Trust, and Shiraz Trust	I	JA000085- JA000086

7.	02/04/2019	Defendant's Initial Appearance Fee Disclosure	I	JA000087-JA000088
8.	02/04/2019	Defendant's Motion to Dismiss and/or Motion for More Definite Statement	I	JA000089-JA000101
9.	02/07/2019	Plaintiff's Request for Exemption from Arbitration	I	JA000102-JA000107
10.	02/13/2019	Plaintiffs' Opposition to Defendant's Motion to Dismiss and/or Motion for More Definite Statement; Countermotion to Amend Complaint	I	JA000108-JA000120
11.	02/13/2019	[Proposed] First Amended Complaint	I	JA000121-JA000198
12.	03/26/2019	Notice of Re-Hearing re: Defendant's Motion to Dismiss and/or Motion for More Definite Statement and Plaintiff's Countermotion to Amend the Complaint	I	JA000199-JA000201
13.	04/02/2019	Defendant's Reply to Plaintiffs' Opposition to Defendants' Motion to Dismiss and/or Motion For More Definite Statement; Countermotion to Amend the Complaint	I	JA000202-JA000210
14.	04/18/2019	Order on Defendants' Motion to Dismiss and/or Motion for More Definite Statement; Countermotion to Amend the Complaint	I	JA000211-JA000212

15.	04/18/2019	Notice of Entry of Order on Defendants' Motion to Dismiss and/or Motion for More Definite Statement; Countermotion to Amend the Complaint	I	JA000213- JA000217
16.	05/20/2019	Defendant's Motion to Dismiss Plaintiff's First Amended Complaint	I	JA000218- JA000238
17.	05/21/2019	Clerk's Notice of Hearing re: Defendant's Motion to Dismiss Plaintiff's First Amended Complaint	I	JA000239- JA000240
18.	06/05/2019	Plaintiffs' Opposition to Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint	I	JA000241- JA000253
19.	08/14/2019	Notice of Entry of Order Defendants' Motion to Dismiss the Plaintiff's First Amended Complaint	I	JA000254- JA000263

VOLUME II

20.	9/03/2019	Plaintiff's Second Amended Complaint	II	JA000264- JA000333
21.	09/24/2019	Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint	II	JA000334 - JA000359
22.	09/25/2019	Clerk's Notice of Hearing re: Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint	II	JA000360- JA000361

23.	10/03/2019	Plaintiffs' Opposition to Defendants' Motion to Dismiss Plaintiffs' Second Amended Complaint	II	JA000362- JA000383
24.	10/31/2019	Defendants' Reply to Plaintiffs' Opposition to Defendants' Motion to Dismiss Plaintiffs' Second Amended Complaint	II	JA000384- JA000396
25.	11/20/2019	Plaintiffs' Initial List of Witnesses and Production of Documents Pursuant to NRCPC 16.1	II	JA000397- JA000459
26.	11/26/2019	Notice of Early Case Conference	II	JA000460- JA000462
27.	11/26/2019	Notice of Association of Counsel	II	JA000463- JA000465
28.	12/06/2019	Declaration of Service of SDT COR Rakeman Plumbing, Inc.	II	JA000466
29.	12/09/2019	Affidavit of Service - Frontsteps	II	JA000467- JA000468
30.	12/10/2019	Declaration of Service – The Summerlin Association COR	II	JA000469- JA000470
31.	12/10/2019	Declaration of Service – Lyons Development LLC – SDT COR	II	JA000471
32.	12/19/2019	Declaration of Service – Americana LLC – SDT COR	II	JA000472
33.	12/19/2019	Declaration of Service – Repipe Specialist – SDT COR	II	JA000473
34.	12/19/2019	Declaration of Service – Las Vegas Homes and Fine Estates – SDT COR	II	JA000474

35.	12/19/2019	Declaration of Service – The Ridges Community Assoc. – SDT	II	JA000475
36.	12/26/2019	Declaration of Service – Uponor, Inc.	II	JA000476
37.	12/30/2019	Plaintiffs’ First Supplemental Lists of Witnesses and Production of Documents Pursuant to NRCP 16.1	II	JA000477- JA000486
38.	12/30/2019	Production of Documents - PLT000054 – PLT000064	II	JA000487- JA000497
39.	01/02/2020	Plaintiff’s Notice of Subpoena Pursuant to NRCP 45(A)(4)(A)	II	JA000498- JA000536
40.	01/02/2020	Video Taped Deposition Subpoena – Kelly Contenta	II	JA000537- JA000540
41.	01/02/2020	Video Taped Deposition Subpoena – Ivan Sher	II	JA000541- JA000544
42.	01/02/2020	Video Taped Deposition Subpoena – Nicole Whitfield	II	JA000545- JA000548
43.	01/13/2020	Declaration of Service – Young - Rescheduled Videotaped Depo of Swanson, PMK Shiraz and PMK Lyons	II	JA00549
44.	01/13/2020	Declaration of Service – Galliher- Rescheduled Videotaped Depo of Swanson, PMK Shiraz and PMK Lyons	II	JA000550
45.	01/14/2020	Declaration of Service – Young - Rescheduled Videotaped Depo of Gerber and Hawley	II	JA000551
46.	01/14/2020	Declaration of Service – Galliher - Rescheduled Videotaped Depo of Swanson, PMK Shiraz and PMK Lyons	II	JA000552

47.	01/14/2020	Declaration of Service SDT and Video Depo – Ivan Sher	II	JA000553
48.	01/14/2020	Declaration of Service SDT – Absolute Closets & Cabinetry	II	JA000554

VOLUME III

49.	01/14/2020	Plaintiffs’ Second Supplemental List of Witnesses and Production of Documents Pursuant to NRCP 16.1	III	JA000555- JA000564
50.	01/14/2020	Document Production – PLT000065 – PLT0000156	III	JA000565- JA000656
51.	01/14/2020	Plaintiffs’ Third Supplemental List of Witnesses and Production of Documents Pursuant to NRCP 16.1	III	JA000657- JA000666
52.	01/14/2020	Part One – Document Production 3 rd Supp	III	JA000667 JA000816

VOLUME IV

53.	01/14/2020	Part Two – Document Production 3 rd Supp	IV	JA000817 JA001066
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VOLUME V

54.	01/14/2020	Part Three – Document Production 3 rd Supp	V	JA001067 JA001274
55.	01/15/2020	Plaintiffs’ Fourth Supplemental List of Witnesses and Production of Documents Pursuant to NRCP 16.1	V	JA001275 JA001287

56.	01/15/2020	Amended Certificate of Service of Plaintiffs' Fourth Supplemental List of Witnesses and Production of Documents Pursuant to NRCP 16.1	V	JA001288 JA001290
57.	01/15/2020	Declaration of Service re SDT and Video Depo – Kelly Contenta	V	JA001291
58.	01/15/2020	Declaration of Service re SDT EH Designs	V	JA001292
59.	01/15/2020	Declaration of Service re SDT Infinity Environmental Services	V	JA001293
60.	01/15/2020	Declaration of Service re SDT and Video Depo – Nicole Whitfield	V	JA001294
61.	01/24/2020	Plaintiffs' Fifth Supplemental List of Witnesses and Production of Documents Pursuant to NRCP 16.1	V	JA001295 JA001305
62.	02/04/2020	Notice of Continuance of (Zoom Conferencing) Deposition of Swanson	V	JA001306 JA001310
63.	02/05/2020	Plaintiffs' Sixth Supplemental Lists of Witnesses and Production of Documents Pursuant to NRCP 16.1	V	JA001311 JA001322
64.	02/07/2020	Stipulation and Order for Sixty (60) Day Continuing Production of Plaintiffs' Brief and Hearing Date	V	JA001323 JA001327

65.	02/11/2020	Notice of Entry of Stipulation and Order for Sixty (60) Day Continuing Production of Plaintiffs' Brief and Hearing Date	V	JA001328 JA001334
66.	02/13/2020	Plaintiffs' Supplemental Brief to Opposition to Defendants' Motion to Dismiss Plaintiffs' Second Amended Complaint	V	JA001335 JA001358

VOLUME VI

67.	02/13/2020	Plaintiffs' Supplemental List of Witnesses and Production of Documents	VI	JA001359 JA001374
68.	02/27/2020	Defendants Todd Swanson; Todd Swanson as, Trustee of the Shiraz Trust; and Lyon Development, LLC's Supplemental Reply in Support of Motion for Summary Judgment	VI	JA001375 JA001566
69.	03/10/2020	Acceptance of Service – Amended – Videotaped Deposition Subpoena for Ashely Oakes-Lazosky	VI	JA001567
70.	04/22/2020	Defendants' Motion for Attorney's Fees and Costs	VI	JA001568 JA001645
71.	04/22/2020	Defendants' Verified Memorandum of Costs and Disbursements	VI	JA001646 JA001649
72.	04/23/2020	Notice of Hearing re: Defendants' Motion for Fees and Costs	VI	JA001650

VOLUME VII

73.	04/24/2020	Plaintiffs' Motion to Retax Costs	VII	JA001651 JA001741
74.	04/27/2020	Notice of Hearing re: Plaintiffs' Motion to Retax Costs	VII	JA001742
75.	04/29/2020	Status Check Order re: Continue Hearing Motion to Retax and Motion for Fees and Costs	VII	JA001743
76.	05/11/2020	Order Granting Dismissal of Plaintiffs' Second Amended Complaint	VII	JA001744 JA001763
77.	05/11/2020	Opposition to Defendants' Motion for Attorney's Fees and Costs	VII	JA001764 JA001905
78.	05/13/2020	Errata to Opposition to Defendants' Motion for Attorney's Fees and Costs	VII	JA001906 JA001910
79.	05/13/2020	Notice of Entry of Order Granting Motion to Dismiss Plaintiffs' Second Amended Complaint	VII	JA001911 JA001933

VOLUME VIII

80.	05/26/2020	Notice of Appeal	VIII	JA001934 JA001936
81.	05/26/2020	Case Appeal Statement	VIII	JA001937 JA001967
82.	06/03/2020	Defendants' Reply in Support of Motion for Attorney's Fees	VIII	JA001968 JA001987

83.	06/04/2020	Stipulation and Order to Continue the Hearing For: 1) Plaintiffs' Motion to Retax Costs and 2) Defendants' Motion for Attorney's Fees and Costs	VIII	JA001988 JA001991
84.	06/04/2020	Notice of Entry re: Stipulation and Order to Continue the Hearing For: 1) Plaintiffs' Motion to Retax Costs and 2) Defendants' Motion for Attorney's Fees and Costs	VIII	JA001992 JA001997
85.	06/18/2020	Errata to Case Appeal Statement	VIII	JA001998 JA002009
86.	08/18/2020	Order Regarding Defendants' Motion for Attorney's Fees, Verified Memorandum of Costs and Disbursements and Plaintiffs' Motion to Retax	VIII	JA002010 JA002027
87.	08/21/2020	Notice of Name Change of Law Firm	VIII	JA002028 JA002030
88.	08/24/2020	Notice of Entry of Order Regarding Defendants' Motion for Attorney's Fees, Verified Memorandum of Costs and Disbursements and Plaintiffs' Motion to Retax	VIII	JA002031 JA002052
89.	09/17/2020	Notice of Appeal	VIII	JA002053 JA002078
90.	09/17/2020	Appellants' Case Appeal Statement	VIII	JA002079 JA002090
91.	09/17/2020	Motion for Stay of Execution of Judgment on an Order Shortening Time	VIII	JA002091 JA002167
92.	09/24/2020	Stipulation and Order to Stay Execution of Judgment	VIII	JA002168 JA002174

93.	09/25/2020	Notice of Entry of Order – Stipulation and Order to Stay Execution of Judgment	VIII	JA002175 JA002181
94.	09/30/2020	Notice of Posting Cash Bond	VIII	JA002182 JA002186
95.	10/07/2020	Notice of Compliance with Court Order	VIII	JA002187 JA002190

VOLUME IX

96.	01/13/2021	Recorder's Transcript of Hearing "Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint 3/3/2020	IX	JA002191 JA002213
97.	01/13/2021	Recorder's Transcript of Hearing "Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint	IX	JA002214 JA002231
98.	01/13/2021	Recorder's Transcript of Hearing "Defendants' Motion for Fees and Costs and Plaintiffs' Motion to Retax Costs."	IX	JA002232 JA002246

CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the Nevada Supreme Court by using the appellate CM/ECF system on February ____ 2021.

I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

DATED this ____ day of February 2020.

BLACK & WADHAMS

Rusty Graf, ESQ
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Attorneys for Appellants

EXHIBIT “B”

IN THE SUPREME COURT STATE OF NEVADA

Electronically Filed
Mar 12 2021 01:31 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

JOSEPH FOLINO, an individual and
NICOLE FOLINO, an individual,

Case No. 81252

Appellant,

v.

TODD SWANSON, an individual;
TODD SWANSON, Trustee of the
SHIRAZ TRUST;
SHIRAZ TRUST, a Trust of unknown
origin; LYONS DEVELOPMENT,
LLC, a Nevada limited liability
company; DOES I through X; and ROES
I through X,

Respondent.

JOSEPH FOLINO, an individual and
NICOLE FOLINO, an individual,

Case No. 81831

Appellant,

v.

TODD SWANSON, an individual;
TODD SWANSON, Trustee of the
SHIRAZ TRUST;
SHIRAZ TRUST, a Trust of unknown
origin; LYONS DEVELOPMENT,
LLC, a Nevada limited liability
company; DOES I through X; and ROES
I through X,

Respondent.

**APPEAL
FROM THE EIGHTH JUDICIAL DISTRICT COURT
THE HONORABLE JIM CROCKETT | CASE NO. A-18-782494-C**

**JOINT
APPENDIX ON APPEAL
VOLUME II OF XIX
INDEX TO APPELLANTS' APPENDIX OF RECORD**

VOLUMES

No.	Date of Item	Description	Vol.	Bates Nos.
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VOLUME I

1.	08/05/2006	Appellant's Appendix from Nelson v. Heers Appeal No. 45571 (Part 1)	I	JA000001 JA000200
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VOLUME II

2.	08/05/2006	Appellant's Appendix from Nelson v. Heers Appeal No. 45571 (Part 2)	II	JA000201 JA000248
3.	10/09/2018	Complaint	II	JA000249 JA000325
4.	10/12/2018	Summons – Todd Swanson	II	JA000326 JA000327
5.	10/12/2018	Summons – Lyons Development	II	JA000328 JA000329
6.	10/12/2018	Summons – Shiraz Trust	II	JA000330 JA000331

7.	10/23/2018	Declaration of Service – Summons - Lyons Development	II	JA000332
8.	01/04/2019	Acceptance of Service on Behalf of Defendant Todd Swanson, an individual, Todd Swanson, Trustee of the Shiraz Trust, and Shiraz Trust	II	JA000333 JA000334
9.	02/04/2019	Defendant's Initial Appearance Fee Disclosure	II	JA000335 JA000336
10.	02/04/2019	Defendant's Motion to Dismiss and/or Motion for More Definite Statement	II	JA000337 JA000349
11.	02/07/2019	Plaintiff's Request for Exemption from Arbitration	II	JA000350 JA000355
12.	02/13/2019	Plaintiffs' Opposition to Defendant's Motion to Dismiss and/or Motion for More Definite Statement; Countermotion to Amend Complaint	II	JA000356 JA000368
13.	02/13/2019	[Proposed] First Amended Complaint (Part 1)	II	JA000369 JA000407

VOLUME III

14.	02/13/2019	[Proposed] First Amended Complaint (Part 2)	III	JA000408 JA000446
15.	03/26/2019	Notice of Re-Hearing re: Defendant's Motion to Dismiss and/or Motion for More Definite Statement and Plaintiff's Countermotion to Amend the Complaint	III	JA000447 JA000449

16.	04/02/2019	Defendant's Reply to Plaintiffs' Opposition to Defendants' Motion to Dismiss and/or Motion For More Definite Statement; Countermotion to Amend the Complaint	III	JA000450 JA000458
17.	04/18/2019	Notice of Entry of Order on Defendants' Motion to Dismiss and/or Motion for More Definite Statement; Countermotion to Amend the Complaint	III	JA000459 JA000461
18.	04/18/2019	Order on Defendants' Motion to Dismiss and/or Motion for More Definite Statement; Countermotion to Amend the Complaint	III	JA000462 JA000465
19.	05/20/2019	Defendant's Motion to Dismiss Plaintiff's First Amended Complaint	III	JA000466 JA000486
20.	05/21/2019	Clerk's Notice of Hearing re: Defendant's Motion to Dismiss Plaintiff's First Amended Complaint	III	JA000487 JA000488
21.	06/05/2019	Plaintiffs' Opposition to Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint	III	JA000489 JA000501
22.	07/03/2019	Defendants' Reply to Plaintiffs' Opposition to Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint	III	JA000502 JA000507

23.	07/18/2019	Minute Order - Defendant's Motion to Dismiss Plaintiff's First Amended Complaint	III	JA000508
24.	08/14/2019	Notice of Entry of Order Defendants' Motion to Dismiss the Plaintiff's First Amended Complaint	III	JA000509 JA000511
25.	08/14/2019	Order - Defendants' Motion to Dismiss the Plaintiff's First Amended Complaint	III	JA000512 JA000525
26.	9/03/2019	Plaintiff's Second Amended Complaint	III	JA000526 JA000595
27.	09/24/2019	Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint	III	JA000596 JA000621
28.	09/25/2019	Clerk's Notice of Hearing re: Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint	III	JA000622 JA000623

VOLUME IV

29.	10/03/2019	Plaintiffs' Opposition to Defendants' Motion to Dismiss Plaintiffs' Second Amended Complaint	IV	JA000624 JA000645
30.	10/31/2019	Defendants' Reply to Plaintiffs' Opposition to Defendants' Motion to Dismiss Plaintiffs' Second Amended Complaint	IV	JA000646 JA000658
31.	11/20/2019	Notice of Early Case Conference	IV	JA000659 JA000661

32.	11/20/2019	Plaintiffs' Initial List of Witnesses and Production of Documents Pursuant to NRCPC 16.1	IV	JA000662 JA000724
33.	11/26/2019	Notice of Association of Counsel	IV	JA000725 JA000727
34.	12/06/2019	Declaration of Service of SDT COR Rakeman Plumbing, Inc.	IV	JA000728
35.	12/09/2019	Affidavit of Service - Frontsteps	IV	JA000729 JA000730
36.	12/10/2019	Declaration of Service – Lyons Development LLV – SDT COR	IV	JA000731
37.	12/10/2019	Declaration of Service – The Summerlin Association COR	IV	JA000732
38.	12/10/2019	Declaration of Service – Ivan Sher Group – SDT COR	IV	JA000733
39.	12/19/2019	Declaration of Service – Americana LLC – SDT COR		JA000734
40.	12/19/2019	Declaration of Service – Las Vegas Homes and Fine Estates – SDT COR	IV	JA000735
41.	12/19/2019	Declaration of Service – Repipe Specialist – SDT COR	IV	JA000736
42.	12/19/2019	Declaration of Service – The Ridges Community Assoc. – SDT	IV	JA000737
43.	12/26/2019	Declaration of Service – Uponsor, Inc.	IV	JA000737
44.	12/30/2019	Production of Documents - PLT000054 – PLT000064	IV	JA000739 JA000749
45.	12/30/2019	Plaintiffs' First Supplemental Lists of Witnesses and Production of Documents Pursuant to NRCPC 16.1	IV	JA000750 JA000759

46.	01/02/2020	Plaintiff's Notice of Subpoena Pursuant to NRCPC 45(A)(4)(A)	IV	JA000760 JA000798
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CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the Nevada Supreme Court by using the appellate CM/ECF system on March 9th, 2021.

I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

DATED this 9th day of March 2021.

BLACK & WADHAMS

/s/ Rusty Graf

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