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Electronically Filed  
Dec 09 2020 05:35 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

11 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

12  
13 EDGEWORTH FAMILY TRUST;  
14 AMERICAN GRATING, LLC; BRIAN  
15 EDGEWORTH AND ANGELA  
16 EDGEWORTH, INDIVIDUALLY,  
AND AS HUSBAND AND WIFE;  
17 ROBERT DARBY VANNAH, ESQ.;  
JOHN BUCHANAN GREENE, ESQ.;  
18 AND ROBERT D. VANNAH, CHTD,  
19 d/b/a VANNAH & VANNAH, and  
DOES I through V and ROE  
20 CORPORATIONS VI through X,  
21 inclusive,

22  
23 Appellants,

24 v.

25 LAW OFFICE OF DANIEL S. SIMON,  
26 A PROFESSIONAL CORPORATION;  
DANIEL S. SIMON;

27 Respondents.  
28

Supreme Court Case 82058

District Court Case A-19-807433-C

**DOCKETING STATEMENT  
CIVIL APPEALS**

## **GENERAL INFORMATION**

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

## **WARNING**

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See KDI Sylvan Pools v. Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Judicial District

Department 24

County Judge The Hon. Jim Crockett

District Ct. Case No. A807433

**2. Attorney filing this docketing statement**

Attorney Renee M. Finch, Esq.

Telephone (702) 363-5100

Firm Messner Reeves LLP

Address 8945 West Russell Road, Suite 300

Las Vegas, Nevada 89148

Client(s) Appellants Edgeworth Family Trust; American Grating, LLC; and Brian Edgeworth and Angela Edgeworth, individually, and as husband and wife.

**3. Attorney(s) representing respondents(s):**

Attorney Peter S. Christiansen, Esq.

Telephone (702) 363-5100

Firm Christiansen Law Offices

Address

810 S. Casino Center Blvd., Suite 104

Las Vegas, Nevada 89101

Client(s) Law Office of Daniel S. Simon, A Professional Corporation and Daniel S. Simon

**4. Nature of disposition below (check all that apply):**

☐ Judgment after bench trial

☐ Dismissal:

- ☐ Judgment after jury verdict ☐ Lack of jurisdiction
- ☐ Summary judgment ☐ Failure to state a claim
- ☐ Default judgment ☐ Failure to prosecute
- ☐ Grant/Denial of NRCP 60(b) relief ☐ Other (specify):
- ☐ Grant/Denial of injunction ☐ Divorce Decree:
- ☐ Grant/Denial of declaratory relief ☐ Original ☐ Modification
- ☐ Review of agency determination ☒ Other disposition (specify): Denial of  
Special Motion to Dismiss Pursuant to NRS 41.660

**5. Does this appeal raise issues concerning any of the following?**

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Pending consolidated appeal at Supreme Court Case Nos. 77678/78176/79821.

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

Pending consolidated appeal at Supreme Court Case Nos. 77678/78176/79821.

1 Prior litigation at *Edgeworth Family Trust, et.al. v. Daniel S. Simon, et.al., Eighth*  
2 *Judicial District Court*, Case No. A-18-767242-C, consolidated with A-16-738444-C.

3 **8. Nature of the action.** Briefly describe the nature of the action and the result below:  
4

5 This matter stems from a dispute between Brian and Angela Edgeworth  
6 (collectively, with the Edgeworth Family Trust and American Grating, “the  
7 Edgeworths”) and their former counsel, Daniel S. Simon and The Law Office of Daniel  
8 S. Simon, P.C. Respondents represented Appellants in their litigation related to the  
9 flooding of their home, wherein the matter was settled for \$6,000,000.00. Thereafter,  
10 Respondents attempted to alter the parties’ fee agreement from hourly to a non-  
11 negotiable fee based on the outcome and refused to sign the joint settlement check.  
12

13  
14 Appellants retained Robert Vannah, Esq. of Vannah & Vannah and thereafter,  
15 on January 4, 2018, filed a Complaint alleging breach of contract, declaratory relief,  
16 breach of the implied covenant of good faith and fair dealing and conversion for  
17 Respondents’ unlawful dominion and control over funds to which they were not  
18 entitled. On November 19, 2018, Judge Tierra Jones granted Appellants’ Motion to  
19 Adjudicate Attorneys’ Liens, finding that Respondents were entitled to attorney’s fees  
20 totaling \$484,982.50 under the hourly agreement. To date, Respondents still have not  
21 agreed to release the adjudicated undisputed portion of the funds. Respondents are  
22 currently withholding over \$2,042,000, an amount more than four times what was  
23 adjudicated, and refuse to provide an accounting of the settlement proceeds being  
24 withheld. On February 25, 2019, the Edgeworths filed an appeal challenging Judge  
25  
26  
27  
28

1 Jones' Order Adjudicating the Lien. Respondents also filed a Petition for Writ with the  
2 Nevada Supreme Court on October 17, 2019, challenging the amount adjudicated by  
3 Judge Jones. The Appeal and Writ have been consolidated and are currently pending  
4 resolution.  
5

6 The underlying Complaint here seeks damages against Appellants following  
7 litigation on Appellants' January 4, 2018 Complaint and adjudication of lien.  
8 Respondents recognize in the underlying Complaint here that the damages sought stem  
9 from Appellants' prior Complaint and litigation thereon, which constitute protected  
10 speech pursuant to NRS 41.635 through 41.670.  
11  
12

13 On August 27, 2020, Appellants filed their Special Anti-SLAPP Motion to  
14 Dismiss pursuant to NRS 41.660, which the district court denied. Appellants appeal  
15 the Order Denying their Special Anti-SLAPP Motion to Dismiss Plaintiffs' Amended  
16 Complaint Pursuant to NRS 41.660, entered October 26, 2020 and noticed on October  
17 27, 2020, under the direct appeal provisions of NRS 41.670(4). Appellants assert that  
18 the order entered does not accurately reflect the actual findings made by the district  
19 court at the hearing on the motion. Instead, the court found that the claims in  
20 Appellants' prior Complaint were not covered by the absolute litigation privilege  
21 afforded in the Anti-SLAPP statute and that extra-judicial conversations are not  
22 afforded anti-SLAPP protection. The district court further misconstrued and  
23 misapplied the first and second prongs of NRS 41.660(3).  
24  
25  
26  
27

28 **9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate

1 sheets as necessary):

- 2 1. Whether the district court erred in finding that the claims in Appellants' prior  
3 Complaint were not covered by the absolute litigation privilege afforded in the  
4 Anti-SLAPP statute.  
5
- 6 2. Whether the district court erred in finding that extra judicial conversations are  
7 not afforded Anti-SLAPP protection.  
8
- 9 3. Whether the district court misconstrued and misapplied the first and second  
10 prongs of NRS 41.660(3).  
11
- 12 4. Whether the district court erred in denying Appellants' Special Anti-SLAPP  
13 Motion to Dismiss.  
14
- 15 5. Whether the district court erred in allowing Respondents to file an amended  
16 complaint after Appellants filed their Special Anti-SLAPP Motion to Dismiss.

17 **10. Pending proceedings in this court raising the same or similar issues.** If you are  
18 aware of any proceedings presently pending before this court which raises the same or  
19 similar issues raised in this appeal, list the case name and docket numbers and identify  
20 the same or similar issue raised:  
21

22 The case is related to Consolidated Appeal Nos. 77678, 78176, 79821. Therein, the  
23 Simon parties appealed from an order on their previous Anti-SLAPP motion that Judge  
24 Jones denied as moot. A cross-appeal on the special motion followed and is pending.  
25 The consolidated appeal therefore raises various issues related to Nevada's Anti-SLAPP  
26 statute.  
27  
28

1 **11. Constitutional issues.** If this appeal challenges the constitutionality of a statute,  
2 and the state, any state agency, or any officer or employee thereof is not a party to this  
3 appeal, have you notified the clerk of this court and the attorney general in accordance  
4 with NRAP 44 and NRS 30.130?  
5

6 ☒ N/A

7 ☐ No

8 ☐ Yes

9 If not, explain:  
10

11  
12 **12. Other issues.** Does this appeal involve any of the following issues?

13 ☐ Reversal of well-settled Nevada precedent (identify the case(s))

14 ☐ An issue arising under the United States and/or Nevada Constitutions

15 ☐ A substantial issue of first impression

16 ☒ An issue of public policy

17 ☐ An issue where en banc consideration is necessary to maintain uniformity of this  
18 court's decisions

19 ☐ A ballot question  
20

21 If so, explain: The matter raises as a principal issue a question of statewide public  
22 importance, namely, the protections of Nevada's Anti-SLAPP statute.  
23

24 **13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly  
25  
26  
27  
28



1 set forth whether the matter is presumptively retained by the Supreme Court or assigned  
2 to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under  
3 which the matter falls. If appellant believes that the Supreme Court should retain the  
4 case despite its presumptive assignment to the Court of Appeals, identify the specific  
5 issue(s) or circumstance(s) that warrant retaining the case, and include an explanation  
6 of their importance or significance:  
7

8 This matter is presumptively retained by the Supreme Court under NRAP 17(a)(14).  
9  
10 The matter raises as a principal issue a question of statewide public importance, namely,  
11 the protections of Nevada's Anti-SLAPP statute. Furthermore, the explicit language of  
12 the Anti-SLAPP statute provides that an appeal lies to the Supreme Court. NRS  
13 41.670(4) provides that "[i]f the court denies the special motion to dismiss filed pursuant  
14 to NRS 41.660, an interlocutory appeal lies to the Supreme Court."  
15

16  
17 **14. Trial.** If this action proceeded to trial, how many days did the trial last? N/A

18 Was it a bench or jury trial? N/A

19 **15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a  
20 justice recuse him/herself from participation in this appeal? If so, which Justice?  
21 Justice Parraguirre was disqualified previously from the consolidated appeal due to firm  
22 affiliation, and Justice Silver voluntarily recused herself. Appellants anticipate the same  
23 here.  
24  
25

## 26 TIMELINESS OF NOTICE OF APPEAL

27 **16. Date of entry of written judgment or order appealed from** October 26, 2020  
28

1 If no written judgment or order was filed in the district court, explain the basis for  
2 seeking appellate review:

3 **17. Date written notice of entry of judgment or order was served** October 27, 2020

4  
5 Was service by:

6 ☐ Delivery

7  
8 ☒ Mail/electronic/fax

9 **18. If the time for filing the notice of appeal was tolled by a post-judgment motion**  
10 **(NRCP 50(b), 52(b), or 59)**

11  
12 (a) Specify the type of motion, the date and method of service of the motion, and  
13 the date of filing.

14 ☐ NRCP 50(b) - Date of filing:

15  
16 ☐ NRCP 52(b) - Date of filing:

17  
18 ☐ NRCP 59 - Date of filing:

19 **NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or**  
20 **reconsideration may toll the time for filing a notice of appeal. *See AA Primo***  
21 ***Builders v. Washington*, 126 Nev. \_\_\_\_, 245 P.3d 1190 (2010).**

22  
23 (b) Date of entry of written order resolving tolling motion:

24 (c) Date written notice of entry of order resolving tolling motion was served:

25  
26 Was service by:

27 ☐ Delivery

☐ Mail

19. Date notice of appeal filed: November 3, 2020

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

Respondents Robert Darby Vannah, Esq., John B. Greene, Esq., and Robert D. Vannah, Chtd., dba Vannah & Vannah filed their Notice of Appeal on November 2, 2020.

They are represented by:

PATRICIA A. MARR, LTD  
Patricia A. Marr, Esq.  
2470 St. Rose Pkwy., Ste. 110  
Henderson, Nevada 89074

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other:

NRAP 4(a)

### **SUBSTANTIVE APPEALABILITY**

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☐ NRAP 3A(b)(1)      ☐ NRS 38.205

☐ NRAP 3A(b)(2)      ☐ NRS 233B.150

☐ NRAP 3A(b)(3)      ☐ NRS 703.376

1 ☒ Other (specify): NRS 41.670(4)

2 (b) Explain how each authority provides a basis for appeal from the judgment or order:

3       The order appealed from is a denial of a Special Motion to Dismiss under NRS  
4 41.660. NRS 41.670(4) provides that "[i]f the court denies the special motion to dismiss  
5 filed pursuant to NRS 41.660, an interlocutory appeal lies to the Supreme Court."  
6

7 22. List all parties involved in the action or consolidated actions in the district court:

8 (a) Parties:

9 Edgeworth Family Trust; American Grating, LLC; Brian Edgeworth and Angela  
10 Edgeworth, individually, and as husband and wife; Robert Darby Vannah, Esq.; John  
11 Buchanan Greene, Esq.; and Robert D. Vannah, Chtd, d/b/a Vannah & Vannah, Law  
12 Office of Daniel S. Simon, A Professional Corporation; and Daniel S. Simon.  
13

14 (b) If all parties in the district court are not parties to this appeal, explain in detail why  
15 those parties are not involved in this appeal, e.g., formally dismissed, not served, or  
16 other:  
17

18       All are parties to this appeal.  
19

20 23. Give a brief description (3 to 5 words) of each party's separate claims,  
21 counterclaims, cross-claims, or third-party claims and the date of formal disposition of  
22 each claim.  
23

24       Respondents brought claims in their Amended Complaint for wrongful use of  
25 civil proceedings, abuse of process and intentional interference with prospective  
26  
27  
28

1 economic advantage, negligent hiring and retention, defamation, negligence, and civil  
2 conspiracy. There is no date of formal disposition on these claims.

3 24. Did the judgment or order appealed from adjudicate ALL the claims alleged below  
4 and the rights and liabilities of ALL the parties to the action or consolidated actions  
5 below?  
6

7 ☐ Yes

8  
9 ☒ No

10 25. If you answered "No" to question 24, complete the following:  
11

12 (a) Specify the claims remaining pending below: All claims remain pending below.

13 (b) Specify the parties remaining below: All parties to this appeal are remaining below.

14 (c) Did the district court certify the judgment or order appealed from as a final judgment  
15 pursuant to NRCP 54(b)?  
16

17 ☐ Yes

18  
19 ☒ No

20 (d) Did the district court make an express determination, pursuant to NRCP 54(b), that  
21 there is no just reason for delay and an express direction for the entry of judgment?  
22

23 ☒ No

24 ☐ Yes

25  
26 26. If you answered "No" to any part of question 25, explain the basis for seeking  
27 appellate review (e.g., order is independently appealable under NRAP 3A(b)):  
28

1 The order appealed from is a denial of a Special Motion to Dismiss under NRS 41.660.  
2 NRS 41.670(4) provides that "[i]f the court denies the special motion to dismiss filed  
3 pursuant to NRS 41.660, an interlocutory appeal lies to the Supreme Court."  
4

5 27. Attach file-stamped copies of the following documents:

- 6 • The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- 7 • Any tolling motion(s) and order(s) resolving tolling motion(s)
- 8 • Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims,  
9 crossclaims and/or third-party claims asserted in the action or consolidated action  
10 below, even if not at issue on appeal
- 11 • Any other order challenged on appeal
- 12 • Notices of entry for each attached order

13 ///

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**VERIFICATION**

**I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.**

Edgeworth Family Trust; American Grating, LLC; and Brian Edgeworth and Angela Edgeworth

Name of Appellants

Clark County, Nevada

State and county where signed

Renee M. Finch, Esq.

Name of counsel of record

December 9, 2020

Date Signature of counsel of record

DATED this 9th day of December, 2020.

**MESSNER REEVES LLP**

/s/ Renee M. Finch

M. Caleb Meyer, Esq.

Nevada Bar No. 13379

Renee M. Finch, Esq.

Nevada Bar No. 13118

8945 W. Russell Road, Suite 300

Las Vegas, Nevada 89148

*Attorneys for Appellants*

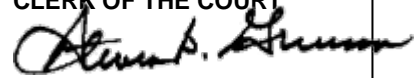
## CERTIFICATE OF SERVICE

On this 9th day of December, 2020, I caused the foregoing **DOCKETING STATEMENT** to be transmitted to the person(s) identified in the E-Service List for this captioned case in the Supreme Court of Nevada. A service transmission report reported service as complete and a copy of the service transmission report will be maintained with the document(s) in this office.

/s/ Kim Shonfeld  
Employee of MESSNER REEVES LLP



**“EXHIBIT 1”**



ACOMP  
PETER S. CHRISTIANSEN, ESQ.  
Nevada Bar No. 5254  
CHRISTIANSEN LAW OFFICES  
810 South Casino Center Blvd., Suite 104  
Las Vegas, Nevada 89101  
Telephone: (702) 240-7979  
pete@christiansenlaw.com  
*Attorney for Plaintiffs*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

LAW OFFICE OF DANIEL S. SIMON, A  
PROFESSIONAL CORPORATION;  
DANIEL S. SIMON;

CASE NO.: A-19-807433-C  
DEPT NO.: XXIV

Plaintiffs,

**AMENDED COMPLAINT**

vs.

EDGEWORTH FAMILY TRUST;  
AMERICAN GRATING, LLC; BRIAN  
EDGEWORTH AND ANGELA  
EDGEWORTH, INDIVIDUALLY, AS  
HUSBAND AND WIFE; ROBERT DARBY  
VANNAH, ESQ.; JOHN BUCHANAN  
GREENE, ESQ.; and ROBERT D.  
VANNAH, CHTD. d/b/a VANNAH &  
VANNAH, and DOES I through V and ROE  
CORPORATIONS VI through X, inclusive,

Defendants.

Plaintiffs, by and through undersigned counsel, hereby allege as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff LAW OFFICE OF DANIEL S. SIMON, a Professional Corporation, was  
at all times relevant hereto a professional corporation duly licensed and authorized to conduct  
business in the County of Clark, state of Nevada and will hereinafter be referred to as ("Plaintiff"  
or "Mr. Simon," or "Simon" or "Law Office.")

///

1           2.       Plaintiff, DANIEL S. SIMON, was at all times relevant hereto, a resident of the  
2 County of Clark, state of Nevada and will hereinafter be referred to as (“Plaintiff” or “Mr. Simon,”  
3 or “Simon” or “Law Office.”)

4           3.       Defendant, EDGEWORTH FAMILY TRUST, was and is a revocable trust created  
5 and operated in Clark County, Nevada with Brian Edgeworth and Angela Edgeworth, acting as  
6 Trustees for the benefit of the trust, and at all times relevant hereto, is a recognized entity  
7 authorized to do business in the County of Clark, state of Nevada.

8           4.       AMERICAN GRATING, LLC, a Nevada Limited Liability Company, was and is,  
9 duly licensed and authorized to conduct business in Clark County, Nevada and all acts and  
10 omissions were all performed, at all times relevant hereto, in the County of Clark, state of Nevada.  
11 This entity and Brian Edgeworth and Angela Edgeworth and the Edgeworth Family Trust will be  
12 referred to collectively as (“The Edgeworths” or “Edgeworth” or “Edgeworth entities” or  
13 “Edgeworth Defendants”)

14           5.       Defendant, BRIAN EDGEWORTH AND ANGELA EDGEWORTH, were at all  
15 times relevant hereto, husband and wife, and residents of the state of Nevada, and acted in their  
16 individual capacity and corporate/trustee capacity on behalf of the Edgeworth entities for its  
17 benefit and their own personal benefit and for the benefit of the marital community in Clark  
18 County, Nevada. Brian Edgeworth and Angela Edgeworth, at all times relevant hereto, were the  
19 principles of the Edgeworth entities and fully authorized, approved and/or ratified the conduct of  
20 each other and the acts of the entities and each other personally and the Defendant Attorneys.

21           6.       Defendant, ROBERT DARBY VANNAH was and is an attorney duly licensed  
22 pursuant to the laws of the state of Nevada and at all times relevant hereto, performed all acts and  
23 omissions, individually and in the course and scope of his employment, in his master, servant  
24 and/or agency relationship with each and every other Defendant, including, Robert D. Vannah  
25 Chtd. D/B/A Vannah & Vannah in Clark County, Nevada and fully authorized, approved and/or  
26 ratified the conduct of each other Defendant, including the conduct of the Edgeworth entities, the  
27 acts of Brian Edgeworth, Angela Edgeworth, as well as the acts of Robert D. Vannah Chtd. d/b/a  
28 Vannah & Vannah.

1           7. Defendant, JOHN BUCHANAN GREENE was and is an attorney duly licensed  
2 pursuant to the laws of the state of Nevada and at all times relevant hereto, performed all acts and  
3 omissions, individually and in the course and scope of his employment, in his master, servant  
4 and/or agency relationship with each and every other Defendant, including, Robert D. Vannah  
5 Chtd. D/B/A Vannah & Vannah in Clark County, Nevada and fully authorized, approved and/or  
6 ratified the conduct of each other Defendant, including the conduct of the Edgeworth entities, the  
7 acts of Brian Edgeworth, Angela Edgeworth, as well as the acts of Robert D. Vannah, individually  
8 and Robert D. Vannah Chtd. d/b/a Vannah & Vannah.

9           8. Defendant, ROBERT D. VANNAH, CHTD. D/B/A VANNAH & VANNAH, was  
10 at all times relevant hereto, a Nevada Corporation duly licensed and doing business in Clark  
11 County, Nevada. The individual attorneys, ROBERT DARBY VANNAH AND JOHN  
12 BUCHANAN GREENE and Robert D. Vannah, Chtd. d/b/a Vannah and Vannah will be  
13 collectively referred to as “Defendant Attorneys.”

14           9. Venue and jurisdiction are proper in this Court because the actions taken between  
15 the parties giving rise to this action and the conduct complained of occurred in Clark County,  
16 Nevada.

17           10. The true names and capacities, whether individual, corporate, partnership,  
18 associate or otherwise of Defendants named herein as DOES 1 through 10 inclusive, and ROE  
19 CORPORATIONS and LIMITED LIABILITY COMPANIES 11 through 20, inclusive, and each  
20 of them are unknown to Plaintiffs at this time, and Plaintiffs therefore sue said Defendants and  
21 each of them by such fictitious name. Plaintiffs will advise this Court and seek leave to amend  
22 this Complaint when the names and capacities of each such Defendant have been ascertained.  
23 Plaintiffs allege that each Defendant herein designated as DOE, ROE CORPORATION is  
24 responsible in some manner for the events and happenings herein referred to as hereinafter  
25 alleged, including but not limited to advising, supporting, assisting in causing and maintaining  
26 the institution of the proceedings, abusing the process and/or republishing the defamatory  
27 statements at issue.

1           11. Plaintiffs are informed and believe and thereupon alleges that DOES 1 through 10,  
2 inclusive, ROE CORPORATIONS and LIMITED LIABILITY COMPANIES 11 through 20,  
3 inclusive, or some of them are either residents of the State of Nevada and/or were or are doing  
4 business in the State of Nevada and/or have targeted their actions against Plaintiffs in the State of  
5 Nevada.

6                                   **GENERAL ALLEGATIONS**

7           12. Mr. Simon represented the Edgeworth entities in a complex and hotly contested  
8 products liability and contractual dispute stemming from a premature fire sprinkler activation in  
9 April of 2016, which flooded the Edgeworth's speculation home during its construction causing  
10 approximately \$500,000.00 in property damage.

11           13. In May/June of 2016, Simon helped the Edgeworths on the flood claim as a favor,  
12 with the goal of ending the dispute by triggering insurance to adjust the property damage loss.  
13 Mr. Simon and Edgeworth never had an express written or oral attorney fee agreement. They  
14 were close family friends at the time and Mr. Simon decided to help them.

15           14. In June of 2016, a complaint was filed. Billing statements were sporadically  
16 created for establishing damages against the plumber under their contract. All parties knew that  
17 these billing statements did not capture all of the time spent on the case and were not to be  
18 considered as the full fee due and owing to the Law Office of Daniel Simon. In August/September  
19 of 2017, Mr. Simon and Brian Edgeworth both agreed that the flood case dramatically changed.  
20 The case had become extremely demanding and was dominating the time of the law office  
21 precluding work on other cases. Determined to help his friend at the time, Mr. Simon and Brian  
22 Edgeworth made efforts to reach an express attorney fee agreement for the new case. In August  
23 of 2017, Daniel Simon and Brian Edgeworth had discussions about an express fee agreement  
24 based on a hybrid of hourly and contingency fees. However, an express agreement could not be  
25 reached due to the unique nature of the property damage claim and the amount of work and costs  
26 necessary to achieve a successful result.

27           15. Although efforts to reach an express fee agreement failed, Mr. Simon continued  
28 to forcefully litigate the Edgeworth claims. Simon also again raised the desire for an express

1 attorney fee agreement with the clients on November 17, 2017, after which time, the Clients  
2 refused to speak to Simon about a fair fee and instead stopped talking to him and hired other  
3 counsel.

4 16. On November 29, 2017, the Edgeworths fired Simon by retaining new counsel,  
5 Robert D. Vannah, Robert D. Vannah, Chtd. d/b/a Vannah and Vannah and John Greene  
6 (hereinafter the “Defendant Attorneys”), and ceased all direct communications with Mr. Simon.  
7 On November 30, 2017, the Defendant Attorneys provided Simon notice of retention.

8 17. On November 30, 2017, Simon served a proper and lawful attorney lien pursuant  
9 to NRS 18.015. However, Simon continued to protect his former clients’ interests in the complex  
10 flood litigation, to the extent possible under the unusual circumstances. Mr. Vannah, on behalf of  
11 the Edgeworths, threatened Mr. Simon not to withdraw from the case.

12 18. On December 1, 2017, the Edgeworths entered into an agreement to settle with  
13 Viking and release Viking from all claims in exchange for a promise by Viking to pay six million  
14 dollars (\$6,000,000.00 USD). On January 2, 2018, Simon served an amended attorney lien.

15 19. On January 4, 2018, Edgeworths, through Defendant Attorneys, sued Simon,  
16 alleging Conversion (stealing) and various other causes of actions based on the assertion of false  
17 allegations. A primary reason the lawsuit was filed was to refuse payment for attorneys fees that  
18 all Defendants knew were due and owing to the Law Office of Daniel S. Simon. At the time of  
19 this lawsuit, the Defendant Attorneys and Edgeworth entities actually knew that the settlement  
20 funds were not taken by Simon and were not deposited in any other account as arrangements were  
21 being made at the request of Edgeworth and Defendant Attorneys to set up a special account so  
22 that Robert D. Vannah on behalf of Edgeworth would control the funds equally pending the lien  
23 dispute. When Edgeworth and the Defendant Attorneys sued Simon, they knew Mr. Simon was  
24 owed more than \$68,000 for outstanding costs advanced by Mr. Simon, as well as substantial  
25 sums for outstanding attorney’s fees yet to be determined by Nevada law.

26 20. On January 8, 2018, Robert D. Vannah, Brian Edgeworth and Angela Edgeworth  
27 met Mr. Simon at Bank of Nevada and deposited the Viking settlement checks into a special trust  
28 account opened by mutual agreement for the underlying case only. Mr. Simon signed the checks

1 for the first time at the bank and provided the checks to the banker, who took custody of the  
2 checks. The banker then provided the checks to Brian and Angela Edgeworth for signature in the  
3 presence of Robert D. Vannah. Mr. Vannah signed bank documents to open the special account.  
4 The checks were deposited into the agreed upon account. In addition to the normal safeguards for  
5 a trust account, this account required signatures of both Robert D. Vannah and Mr. Simon for a  
6 withdrawal. Thus, Mr. Simon stealing money from the trust account was an impossibility that  
7 was known to the Defendants, and each of them. After the checks were deposited, the Edgeworths  
8 and Defendant attorneys proceeded with their plan to falsely attack Simon.

9         21. On January 9, 2018, the Edgeworths served their complaint, which alleged that  
10 Simon stole their money-money which was safe kept in a Bank of Nevada account, earning them  
11 interest. The Edgeworths promptly received the undisputed amount of almost \$4 million dollars.  
12 The Edgeworths agreed this made them whole. Defendants all knew Simon did not and could not  
13 steal the money, yet they pursued their serious theft allegations knowing the falsity thereof. The  
14 Defendants, and each of them, knew and had reason to know, the conversion complaint was  
15 objectively baseless and the Defendants, and each of them, did not have good faith or probable  
16 cause to begin or maintain the action. Mr. Simon and his Law Office NEVER exclusively  
17 controlled the settlement funds and NEVER committed an act of wrongful dominion of control  
18 when strictly following the law pursuant to NRS 18.015. The Edgeworths and Defendant  
19 Attorneys conceded the Edgeworths owed Mr. Simon and his firm money for attorneys fees  
20 incurred in the underlying case.

21         22. Simon responded with two motions to dismiss, which detailed the facts and  
22 explained the law on why the complaint was frivolous. Rather than conceding the lack of merit  
23 as to even a portion of the complaint, the Edgeworth entities, through Defendant attorneys  
24 maintained the actions. On March 15, 2018, Defendants filed an Amended Complaint to include  
25 new causes of action and reaffirmed all the false facts in support of the conversion claims. The  
26 Defendants' false facts asserted stealing by Simon, sought punitive damages and sought to have  
27 the court declare that "Simon was paid in full." When these allegations were initially made and  
28 the causes of actions were maintained on an ongoing basis, Defendant Attorneys, and Brian and

Angela Edgeworth, individually and on behalf of the Edgeworth entities, all actually knew the allegations were false and had no legal basis whatsoever because their allegations were a legal impossibility. When questioned, the Defendant Attorneys could not articulate a legal or factual basis for their conversion claims. In multiple filed pleadings, court hearings, and at a five-day evidentiary hearing, Defendants failed to provide any factual or legal basis to support their conversion claim. Defendants failed to cite any Nevada law that would support the position that an attorney lien constituted conversion. Defendants failed to provide any facts or expert opinions that placing the settlement proceeds in a joint account for all parties while the attorney lien dispute was adjudicated would support a claim for conversion. Defendant Attorneys often stated that conversion “was a good theory” without providing any factual or legal basis for doing so.

23. During the course of the litigation, Defendants, and each of them, filed false documents asserting blackmail, extortion and theft by converting the Edgeworth’s portion of the settlement proceeds. This is evidenced by the Affidavit of Brian Edgeworth, dated February 12, 2018, at 7:25-8L15; the Affidavit of Brian Edgeworth, dated March 15, 2018, at 8:2-9:22; and the September 18, 2018 transcript of Angela Edgeworth’s sworn testimony at 133:5-23. The District Court conducted a five-day evidentiary hearing to adjudicate Simon’s attorney lien and the Motions to Dismiss Defendants’ complaints.

24. The facts elicited at the five-day evidentiary hearing concerning the substantial Attorney’s fees still owed and not paid by the Edgeworths, further confirmed that the allegations in both Edgeworth complaints were false and that the complaints were filed for an improper purpose - that is, to punish Mr. Simon as a collateral attack on the lien adjudication proceeding. This forced Simon to retain counsel and experts to defend the suit at substantial expense. The frivolous lawsuit was intended to cause Mr. Simon and his law practice to incur unnecessary and substantial expense. The initial complaint and subsequent filings for the ongoing litigation were done primarily because of hostility or ill will with the ulterior purposes to (1) refuse payment of attorneys fees all Defendants knew were due and owing to the Law Office of Daniel S. Simon; (2) to cause unnecessary and substantial expense to Simon; (3) to damage and harm the reputation and business of Mr. Simon; (4) to avoid lien adjudication; (5) cause humiliation, embarrassment,



1 mental anguish and inconvenience; and (6) to punish him personally and professionally, all of  
2 which, are independent improper purposes. Defendants had no good faith basis to pursue the  
3 conversion claim. Defendants knew there was no legal merit to asserting conversion and only  
4 pursued the claim for the ulterior purposes stated. Defendants' true purposes are further proven  
5 as the Edgeworths and the Defendant Attorneys never alleged malpractice and have no criticism  
6 of the work performed by Mr. Simon for the Edgeworths. At the evidentiary hearing, Defendants  
7 presented no evidence that supported their contention that Simon converted the settlement funds.  
8 Defendants also did not provide any expert testimony nor cite any Nevada law to support that  
9 position at the hearing or in the briefing for same. The Defendants did not rebut the expert  
10 testimony presented by Mr. Simon at the hearing. Defendants made no arguments whatsoever  
11 that their claim of conversion had merit, which only further shows their ulterior purposes for  
12 bringing the claim. It is Defendants' conduct – notably their omissions – that reveals their ulterior  
13 purposes and true goal when seeking conversion against Simon in the judicial system.

14         25. All filings for conversion were done without probable cause or a good faith belief  
15 that there was a factual evidentiary basis to file a legitimate conversion claim. There was no legal  
16 basis to do so as Simon never converted the settlement funds as defined by Nevada law. The  
17 Defendants, and each of them, were aware that the conversion claim and allegations of extortion,  
18 blackmail or other crimes were not meritorious. The Defendants, and each of them, did not  
19 reasonably believe they had a good faith factual or legal basis for establishing a conversion claim  
20 to the satisfaction of the Court. The complaint was filed for an ulterior purpose other than securing  
21 the success of their claims, most notably conversion.

22         26. When the complaint filed by Defendants and subsequent filings were made and  
23 arguments presented, the Defendants, and each of them, did not honestly believe in its possible  
24 merits and could not reasonably believe that they had a good faith factual or legal basis upon  
25 which to ever prove the case to the satisfaction of the court. Defendants, and each of them,  
26 consistently argued that Mr. Simon extorted and blackmailed them and stole their money.  
27 Defendants, and each of them, took an active part in the initiation, continuation and/or  
28 procurement of the civil proceedings against Mr. Simon and his Law Office. The primary ulterior

1 purposes were (1) to refuse payment of attorneys fees all Defendants knew were due and owing  
2 to the Law Office of Daniel S. Simon; (2) to cause unnecessary and substantial expense to Simon;  
3 (3) to damage and harm the reputation and business of Mr. Simon; (4) to avoid lien adjudication;  
4 (5) cause humiliation, embarrassment, mental anguish and inconvenience; and (6) to punish him  
5 personally and professionally, all of which, are independent improper purposes. It was also  
6 admittedly pursued to punish him before the money was ever received, as testified to by Angela  
7 Edgeworth under oath at the Evidentiary hearing on September 18, 2018 at 145:10-21, and  
8 adopted by all other Defendants. The claims were so obviously lacking in merit that they could  
9 not logically be explained without reference to the Defendants improper motive and ill will. The  
10 proceedings terminated in favor of Simon.

11 27. Angela Edgeworth testified that the lawsuit was filed to punish Mr. Simon before  
12 the money was received.

13 28. Mr. Edgeworth testified he always knew he owed Mr. Simon money for attorney's  
14 fees.

15 29. Mr. Vannah acknowledged that Mr. Simon was always owed money for attorney's  
16 fees.

17 30. Mr. Greene acknowledged that Mr. Simon was always owed money for attorney's  
18 fees.

19 31. The District Court found that the attorney lien of the Law Office of Daniel S.  
20 Simon dba Simon Law (hereafter "Mr. Simon") was proper and that the lawsuit brought by the  
21 Edgeworth entities, through the Defendant Attorneys, against Mr. Simon and his Law Office had  
22 no merit and was NOT filed and/or maintained in GOOD FAITH. Accordingly, on October 11,  
23 2018, the District Court dismissed Defendants complaint in its entirety against Mr. Simon. The  
24 court found, Edgeworth and the Defendant Attorneys brought claims that were not well grounded  
25 in fact or law confirming that it is clear that the conversion claim was frivolous and filed for an  
26 improper purpose. Specifically, the Court examined the facts known to Edgeworth and Defendant  
27 Attorneys when they filed the complaint on January 4, 2018; which were, Mr. Simon did not have  
28 the money and had not stolen any money. In fact, he did not even have the ability to steal the

1 money as Mr. Vannah equally controlled the account. Additionally, there was no merit to the  
2 Edgeworth entity claims that:

- 3 a. Simon “intentionally” converted and was going to steal the settlement proceeds;
- 4 b. Simon’s conduct warranted punitive damages;
- 5 c. Daniel S. Simon individually should be named as a party;
- 6 d. Simon had been paid in full;
- 7 e. Simon refused to release the full settlement proceeds to Plaintiffs;
- 8 f. Simon breached his fiduciary duty to Plaintiffs;
- 9 g. Simon breached the covenant of good faith and fair dealing; and,
- 10 h. Plaintiffs were entitled to Declaratory Relief because they had paid Simon in  
11 full.

12 32. On October 11, 2018, the Court dismissed Plaintiffs’ amended complaint. Of  
13 specific importance, the Court found that:

- 14 a. On November 29, Mr. Simon was discharged by Edgeworth.
- 15 b. On December 1, Mr. Simon appropriately served and perfected a charging lien on  
16 the settlement monies.
- 17 c. Mr. Simon was due fees and costs from the settlement monies subject to the proper  
18 attorney lien.
- 19 d. There was no evidence to support the conversion claim.
- 20 e. Simon did not convert the clients’ money.
- 21 f. The Court did not find an express oral contract for \$550 an hour.

22 33. On February 6, 2019, the Court found that:

- 23 a. The Edgeworths and Defendant Attorneys did not maintain the conversion claim  
24 on reasonable grounds since it was an impossibility for Mr. Simon to have converted the  
25 Edgeworth’s property at the time the lawsuit was filed. Mr. Simon never had exclusive control of  
26 the settlement proceeds and did not perform a wrongful act of dominion or control over the funds  
27 when merely filing a lawful attorney lien pursuant to NRS 18.015. The filing of a lawful attorney  
28 lien is a protected communication pursuant to NRS 41.635- NRS41.670, precluding a lawsuit

1 against Mr. Simon, which is yet another reason the lawsuit was not filed and maintained in good  
2 faith and/or with serious consideration of a valid claim.

3 **COUNT I**

4 **WRONGFUL USE OF CIVIL PROCEEDINGS – ALL DEFENDANTS**

5 34. Plaintiffs incorporate all prior paragraphs and incorporate by reference the  
6 preceding allegations as though fully set forth herein.

7 35. The Edgeworth entities, through the Defendant Attorneys, initiated a complaint on  
8 January 4, 2018 alleging Mr. Simon and his Law Office converted settlement proceeds in the  
9 amount of 6 million dollars.

10 36. The Edgeworth entities, through the Defendant Attorneys, maintained the baseless  
11 conversion claim when filing an amended complaint re-asserting the same conversion allegations  
12 on March 15, 2018.

13 37. The Edgeworth entities, through the Defendant Attorneys, maintained the  
14 conversion and stealing of the settlement allegations when filing multiple public documents and  
15 presenting oral argument at hearings containing a public record when re-asserting the conversion  
16 and theft by Mr. Simon and his Law Office. Defendants had no factual or evidentiary basis where  
17 they could contemplate in good faith a claim for conversion against Simon. Further, Defendants  
18 had no legal basis in Nevada law that Simon's attorney lien constituted conversion of the  
19 settlement proceeds.

20 38. The Edgeworths and the Defendant Attorneys did not contemplate their causes of  
21 action in good faith with serious consideration against Simon and acted without probable cause  
22 and with no evidentiary basis to pursue said claims. The District Court dismissed Defendants'  
23 claims after conducting the five-day evidentiary hearing, which constitutes a final determination  
24 on the matter. The Court allowed additional time for full questioning of the witnesses and  
25 presenting evidence necessary to prove all of their claims.

26 39. The Edgeworths and the Defendant Attorneys acted with malice, express and/or  
27 implied and their actions were malicious, oppressive, fraudulent and done with a conscious and  
28 deliberate disregard of Plaintiffs' rights and Plaintiffs are entitled to punitive damages in a sum

1 to be determined at the time of trial. The Defendants, and each of them, knew of the probable and  
2 harmful consequences of their false claims and intentionally and deliberately failed to act to avoid  
3 the probable and harmful consequences.

4 40. The Edgeworths and the Defendant Attorneys' conduct proximately caused injury,  
5 damage, loss, and/or harm to Mr. Simon and his Law Office in a sum to be determined at the time  
6 of trial. Asserting what amounts to theft of millions of dollars against Mr. Simon and his Law  
7 Office, harmed his image in his profession and among the community, and the allegations  
8 damaged his reputation.

9 41. The Edgeworths and the Defendant Attorneys advanced arguments in public  
10 documents that Mr. Simon committed serious crimes of stealing, extortion and blackmail  
11 knowing these filings and arguments were false. The Edgeworth's admittedly made these same  
12 statements outside the litigation to third parties that were not significantly interested in the  
13 proceedings. Defendant Attorneys promulgated these same false statements under the guise of a  
14 proper lawsuit when in reality they knew they had no good faith basis or probable cause to  
15 maintain the conversion against Simon.

16 42. The Defendants acted without privilege or justification in causing clients to avoid  
17 representation from Plaintiffs.

18 43. The Edgeworth's and Defendant Attorneys' abuse of the process proximately  
19 caused injury, damage, loss, and/or harm to Mr. Simon and his Law Office when asserting what  
20 amounts to theft and crimes of extortion against Mr. Simon that harmed his image in his  
21 profession and among his personal friends and the community. Mr. Simon and his office sustained  
22 damage for humiliation, embarrassment, mental suffering, inconvenience, loss of quality of life,  
23 lost time and loss of income. The false allegations damaged his reputation, and proximately  
24 caused general, special and consequential damages, past and future, in a sum to be determined at  
25 the time of trial.

26 44. The actions of Defendants, and each of them, were sufficiently fraudulent, malicious,  
27 and/or oppressive under NRS 42.005 to warrant an award of punitive damages. The Defendants,  
28

1 and each of them, knew of the probable and harmful consequences of their false claims and  
2 intentionally and deliberately failed to act to avoid the probable and harmful consequences.

3 45. Plaintiffs were forced to retain attorneys to defend the wrongful use of civil  
4 proceedings and incurred substantial attorney's fees and costs, which are specially plead pursuant  
5 to NRCP 9(g) to be recovered as special damages in a sum in excess of \$15,000.

6 46. Plaintiffs have been forced to retain attorneys to prosecute this matter and are  
7 entitled to reasonable attorney's fees, costs and interest separately pursuant to Nevada law.

8 **COUNT II**

9 **INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC**

10 **ADVANTAGE –ALL DEFENDANTS**

11 47. Plaintiffs incorporate the preceding paragraphs and allegations as though fully set  
12 forth herein.

13 48. At the time of filing of this lawsuit, Plaintiffs had prospective contractual  
14 relationships with clients who had been injured due to the fault of another, including but not  
15 limited to persons injured in motor vehicle accidents, slip and falls, medical malpractice and other  
16 personal injuries.

17 49. The Defendants knew Plaintiffs regularly received referrals for and represented  
18 clients in motor vehicle accidents, slip and falls, medical malpractice and incidents involving  
19 other personal injuries.

20 50. The Defendants intended to harm Plaintiffs by engaging in one or more wrongful  
21 acts, including advancing arguments in public documents that Mr. Simon committed crimes of  
22 stealing, extortion and blackmail knowing these filings and arguments were false, all designed to  
23 prevent clients from seeking representation from Plaintiffs. The Edgeworth's made these same  
24 statements to third parties outside the litigation who did not have a significant interest in the  
25 proceedings, and Defendant Attorneys promulgated these same false statements under the guise  
26 of a proper lawsuit when in reality they knew they had no good faith basis or probable cause to  
27 maintain the conversion action against Simon. Defendants sued Simon for conversion when they  
28 had no factual or legal basis to do so. Defendants, and each of them, filed false affidavits and

1 procured false testimony that Mr. Simon stole the settlement, blackmailed and extorted the  
2 Edgeworths. Defendants did not seek in good faith adjudication of the conversion claim but  
3 brought and maintained the suit for the ulterior purposes of harming Simon, personally and  
4 professionally, including his business.

5 51. The Defendants acted without privilege or justification in causing clients to avoid  
6 representation from Plaintiffs.

7 52. As a direct and proximate result of these wrongful acts, Plaintiffs have suffered,  
8 and will continue to suffer, damages in an amount in excess of \$15,000.

9 53. The Edgeworth's and Defendant attorneys' abuse of the process and conduct  
10 proximately caused injury, damage, loss, and/or harm to Mr. Simon and his Law Office when  
11 asserting what amounts to theft and crimes of extortion against Mr. Simon that harmed his image  
12 in his profession and among his personal friends and the community. Mr. Simon and his office  
13 sustained damage for humiliation, embarrassment, mental suffering, inconvenience, loss of  
14 quality of life, lost time, loss of income, damage to his reputation, past and future, proximately  
15 caused by the acts of Defendants, and each of them. These acts proximately caused general,  
16 special and consequential damages, past and future, in a sum to be determined at the time of trial.

17 54. The actions of Defendants, and each of them, were sufficiently fraudulent, malicious,  
18 and/or oppressive under NRS 42.005 to warrant an award of punitive damages. The Defendants,  
19 and each of them, knew of the probable and harmful consequences of their false claims and  
20 intentionally and deliberately failed to act to avoid the probable and harmful consequences.

21 55. Plaintiffs were forced to retain attorneys and experts to defend the intentional  
22 interference with prospective economic advantage and incurred substantial attorney's fees and  
23 costs, which are specially plead pursuant to NRCP 9(g) to be recovered as special damages in a  
24 sum in excess of \$15,000.

25 56. Plaintiffs have been forced to retain attorneys to prosecute this matter and are  
26 entitled to reasonable attorney's fees, costs and interest separately pursuant to Nevada law.

**COUNT III**

**ABUSE OF PROCESS –ALL DEFENDANTS**

57. Plaintiffs incorporate the preceding paragraphs and allegations as if fully set forth herein.

58. The Edgeworths and the Defendant Attorneys abused the judicial process when initiating and maintaining a proceeding alleging conversion, theft, and malice with no evidence to support those claims or a good faith basis to maintain such action. Defendants did not contemplate bringing these claims in good faith because they had no factual or legal basis to pursue and maintain the claims. Defendants knew they had no basis but brought the claims with the ulterior purposes in order to harm Mr. Simon and his practice. Defendants did not perform a diligent inquiry into the facts and law to support the conversion claims and knew the claims of conversion could not be established, but continued to maintain the action against Simon, all to Simon's harm. Through multiple pleadings, hearings, and testimony, Defendants never presented any sufficient facts, expert or lay testimony, or basis in Nevada law to support their claims against Simon, all of which reveal Defendants' true ulterior purposes. Simply, an attorney lien is not conversion and Defendants knew this before ever filing suit against Simon and knew it while maintaining the action.

59. The Edgeworths and Defendant Attorneys' initiation of the proceedings and continued pursuit of the false claims, was brought for ulterior purposes to refuse payment of attorneys fees all Defendants knew were due and owing to the Law Office of Daniel S. Simon; to damage the reputation of Mr. Simon and his Law Offices; to cause Mr. Simon to expend substantial resources to defend the frivolous claims; cause financial harm and the loss of business; humiliate, embarrass, cause great inconvenience; to punish Simon and his Law Office; and to avoid lien adjudication of the substantial attorney's fees and costs admittedly owed to Mr. Simon at the time the process was initiated rather than for the proper purpose of asserting claims supported by evidence. All Defendant's conduct further establishes and corroborates the ulterior purpose.



1           60.     The Edgeworths and Defendant Attorneys committed a willful act in using the  
2 judicial process for an ulterior purpose not proper in the regular conduct of the proceedings and  
3 misapplied the process for an end other than which it was designed to accomplish, and acted and  
4 used the process for an improper purpose or ulterior motive, as stated herein. Defendants admitted  
5 their conduct was for the ulterior purpose of punishing Mr. Simon and his Law office.

6           61.     The Edgeworths and the Defendant Attorneys abused the process at hearings to  
7 avoid lien adjudication, to cause unnecessary and substantial expense and to damage the  
8 reputation of Mr. Simon and financial loss to his Law Office, as well as to punish him. The  
9 Defendants, and each of them, knew of the probable and harmful consequences of their false  
10 claims and intentionally and deliberately failed to act to avoid the probable and harmful  
11 consequences. The Defendants, and each of them, have fully approved and ratified the conduct  
12 of the others. Defendants made these statements under the mistaken belief that they could say and  
13 do anything without consequence as they falsely believed they were shielded and had immunity  
14 under the litigation privilege. Defendants, and each of them, filed and maintained the frivolous  
15 complaint to punish Mr. Simon and Law Practice knowing the falsity of these statements. They  
16 also invented a story of an express oral contract for \$550 an hour in attempt to refuse payment of  
17 a reasonable attorney fee. The frivolous complaint also alleged that Mr. Simon was “paid in full.”

18           62.     The Edgeworths and Defendant Attorneys’ abuse of the process and conduct  
19 proximately caused injury, damage, loss, and/or harm to Mr. Simon and his Law Office when  
20 asserting what amounts to theft and crimes of extortion against Mr. Simon that harmed his image  
21 in his profession and among his personal friends and the community. Mr. Simon and his office  
22 sustained damage for humiliation, embarrassment, mental suffering, inconvenience, loss of  
23 quality of life, lost time, loss of income, damage to his reputation, past and future, proximately  
24 caused by the acts of Defendants, and each of them. These acts proximately caused general,  
25 special and consequential damages, past and future, in a sum to be determined at the time of trial.

26           63.     Plaintiffs were already forced to retain attorneys to defend the litigation  
27 improperly brought and maintained by Defendants, constituting an abuse of process, thus  
28

1 incurring substantial attorney's fees and costs, which are specially plead pursuant to NRCP 9(g)  
2 to be recovered as special damages in a sum in excess of \$15,000.

3 64. The actions of Defendants, and each of them, were sufficiently fraudulent, malicious,  
4 and/or oppressive under NRS 42.005 to warrant an award of punitive damages. The Defendants,  
5 and each of them, knew of the probable and harmful consequences of their false claims and  
6 intentionally and deliberately failed to act to avoid the probable and harmful consequences.

7 65. Plaintiffs have been forced to retain attorneys to prosecute this matter and are  
8 entitled to reasonable attorney's fees, costs and interest separately pursuant to Nevada law.

9 **COUNT IV**

10 **NEGLIGENT HIRING, SUPERVISION, AND RETENTION - THE DEFENDANT**  
11 **ATTORNEYS**

12 66. Plaintiffs incorporate the preceding paragraphs and allegations as if set forth  
13 herein.

14 67. Robert D. Vannah, Chtd. had a duty to hire, supervise, and retain competent  
15 employees including, Defendant Attorneys, to act diligently and competently to represent valid  
16 claims to the court and to file pleadings before the court that have the legal or evidentiary basis  
17 to support the claims and not file lawsuits for an ulterior purpose. The duties, professional  
18 responsibility and acts of the Lawyer are governed by their own independent acts and the rules of  
19 professional responsibility. The Defendant Attorneys had an independent duty to act and not  
20 follow all directions of their clients inconsistent with the Nevada law and the Nevada Rules of  
21 Professional Conduct.

22 68. The Attorneys acting on behalf of Robert D. Vannah, Chtd. fell below the standard  
23 of care when drafting, signing, and filing complaints with allegations, known to them to be false,  
24 a legal impossibility and without any evidentiary basis. The continuing acts of maintaining the  
25 false claims and advancing false arguments violate the rules of professional responsibility. The  
26 Defendant Attorneys had a duty to refrain from pursuing frivolous allegations of conversion  
27 despite the wishes of the clients.

28 69. Robert D. Vannah, Chtd breached that duty proximately causing damage to Mr.

1 Simon and his Law Office, when failing to properly supervise the Attorneys in order to ensure its  
2 attorneys do not bring actions that were not contemplated in good faith but brought and  
3 maintained with ulterior purposes to cause harm to parties in judicial proceedings, including,  
4 Simon, and to ensure the Attorneys are complying with their ethical duties pursuant to the rules  
5 of professional responsibility. The false allegations damaged his reputation, and proximately  
6 caused general, special and consequential damages to be determined at the time of trial.

7 70. The Defendant Attorneys' abuse of the process under negligent supervision and  
8 retention, proximately caused injury, damage, loss, and/or harm to Mr. Simon and his Law Office,  
9 the Law Office of Daniel Simon when asserting what amounts to illegal and fraudulent activity,  
10 including false allegations of theft and crimes of extortion against Mr. Simon that harmed his  
11 image in his profession and among his personal friends and the community. Mr. Simon and his  
12 office sustained damage for humiliation, embarrassment, mental suffering, inconvenience, loss  
13 of quality of life, lost time, loss of income, damage to his reputation, past and future, proximately  
14 caused by the acts of Defendants, and each of them. These acts proximately caused general,  
15 special and consequential damages, past and future, in a sum to be determined at the time of trial.

16 71. Robert D. Vannah, Chtd.' acts were malicious, oppressive, fraudulent and done  
17 with a conscious and deliberate reckless disregard for the rights of the Plaintiffs. The Defendant  
18 Attorneys, knew of the probable and harmful consequences of their false claims and intentionally  
19 and deliberately failed to act to avoid the probable and harmful consequences. The actions of  
20 Defendant Attorneys, were sufficiently fraudulent, malicious, and/or oppressive under NRS  
21 42.005 to warrant an award of punitive damages. All of the acts were fully authorized, approved  
22 and ratified by Robert D. Vannah, Chtd.

23 72. Plaintiffs were forced to retain attorneys to defend the frivolous complaints  
24 abusing the process, and related proceedings thereby incurring substantial attorney's fees and  
25 costs, which are specially plead pursuant to NRCP 9(g) to be recovered as special damages in a  
26 sum in excess of \$15,000.

27 73. Plaintiffs have been forced to retain attorneys to prosecute this matter and are  
28 entitled to reasonable attorney's fees, costs and interest separately pursuant to Nevada law.

**COUNT V**

**DEFAMATION PER SE –THE EDGEWORTH DEFENDANTS**

74. Plaintiffs incorporate the preceding allegations as though fully set forth herein.

75. On information and belief, Brian Edgeworth and Angela Edgeworth misrepresented to the public that Mr. Simon and his Law Office committed illegal and fraudulent acts. Defendants, and each of them, also made intentional misrepresentations to the general public that Mr. Simon and his Law Office lacked integrity and good moral character including, but not limited to, its publicly filed complaint on January 4, 2018, the amended complaint filed March 15, 2018, the multiple publicly filed briefs and affidavits asserting the same false statements. The Edgeworths repeated these statements to individual third parties independent of the litigation, and who were not significantly interested in the proceedings.

76. Brian and Angela Edgeworth's statements were false and defamatory and Brian and Angela Edgeworth knew them to be false and defamatory at the time the statements were made, and were at least negligent in making the statement to the third parties who were not significantly interested in the proceedings.

77. Brian and Angela Edgeworth's publication of these statements to third parties was not privileged. They were false statements intentionally made to parties with no significant interest in the proceedings, and they knew the statements were false at the time they were made. The statements were made about the business and profession of Mr. Simon and were intended to lower the opinion of others in the community about his integrity, moral character, and ability to perform his professional services. Specifically, Angela Edgeworth testified in the Evidentiary Hearing on September 18, 2018, that she made these false and defamatory statements to third parties who were not significantly interested in the proceedings. *See*, September 18, 2018 transcript of Angela Edgeworth's sworn testimony at 133:5-23. This is further evidenced by the Affidavit of Brian Edgeworth, dated February 12, 2018, at 7:25-8:15 and the Affidavit of Brian Edgeworth, dated March 15, 2018, at 8:2-9:22;

78. Brian and Angela Edgeworth, individually and on behalf of the Edgeworth entities made false and defamatory statements attacking the integrity and moral character of Mr. Simon

1 and his law practice tending to cause serious injury to his reputation and ability to secure new  
2 clients. These statements impugn Mr. Simon's lack of fitness for his trade, business and  
3 profession and injured Plaintiffs in his business. Under Nevada law, the statements were  
4 defamatory per se and damages are presumed. The foregoing notwithstanding, as a direct and  
5 proximate result of the false and defamatory statements, Mr. Simon and his Law Office, the Law  
6 Office of Daniel Simon have sustained actual, special and consequential damages, loss and harm  
7 in a sum to be determined at the time of trial.

8 79. The actions of the Edgeworth Defendants, were sufficiently fraudulent, malicious,  
9 and/or oppressive under NRS 42.005 to warrant an award of punitive damages. The Edgeworth  
10 Defendants, knew of the probable and harmful consequences of their false claims and  
11 intentionally and deliberately failed to act to avoid the probable and harmful consequences. The  
12 Edgeworth Defendants ratified, fully approved, authorized and ratified each other's actions in  
13 attacking the integrity and moral character of Mr. Simon and his law office and on behalf of  
14 American Grating and the Edgeworth Family Trust. Therefore, Plaintiffs are entitled to an award  
15 of punitive damages.

16 80. The Edgeworth's Defamation Per Se and conduct proximately caused injury,  
17 damage, loss, and/or harm to Mr. Simon and his Law Office when asserting what amounts to theft  
18 and crimes of extortion against Mr. Simon that harmed his image in his profession and among his  
19 personal friends and the community. Mr. Simon and his office sustained damage for humiliation,  
20 embarrassment, mental suffering, inconvenience, loss of quality of life, lost time, loss of income,  
21 past and future, damage to his reputation proximately caused by the acts of the Edgeworth  
22 Defendants. These acts proximately caused general, special and consequential damages, past and  
23 future, in a sum to be determined at the time of trial.

24 81. Plaintiffs were forced to retain attorneys to defend the complaints and defamatory  
25 statements and incurred substantial attorney's fees and costs, which are specially plead pursuant  
26 to NRCP 9(g) to be recovered as special damages in a sum in excess of \$15,000.

27 82. The additional specific facts necessary for Plaintiffs to plead this cause of action  
28 are peculiarly within the Defendants' knowledge or possession, thereby precluding Plaintiffs from

1 offering further specificity at this time. *Rocker v. KPMG, LLP*, 122 Nev. 1185, 1193, 148 P.3d  
2 703, 708 (2006).

3 83. It has become necessary for Plaintiffs to retain the services of attorneys to litigate  
4 this action. Therefore, Plaintiffs are entitled to an award of attorneys' fees, costs and interest  
5 separately pursuant to Nevada law.

6 **COUNT VI**

7 **BUSINESS DISPARAGEMENT –THE EDGEWORTH DEFENDANTS**

8 84. Plaintiffs repeat and reallege each and every paragraph and allegation in the  
9 foregoing paragraphs as though fully set forth herein.

10 85. The statements of Brian and Angela Edgeworth, as alleged more fully herein,  
11 attacked the reputation for honesty and integrity of their lawyer and communicated to others a  
12 lack of truthfulness by stating that the Mr. Simon and his Law Office, the Law Office of Daniel  
13 S. Simon, converted, blackmailed and extorted millions of dollars from them. These statements  
14 were false and done with the intent to disparage, injure and harm Mr. Simon and his Law Office  
15 and actually disparaged the Law Office of Daniel Simon.

16 86. Brian and Angela Edgeworth's statements were false, misleading and disparaging.

17 87. Brian and Angela Edgeworth's publication of the statements were not privileged,  
18 as they were communicated to third parties not significantly interested in the proceedings. These  
19 statements were confirmed by Angela Edgeworth, individually and on behalf of their entities  
20 during the evidentiary hearing on September 18, 2018. See, the September 18, 2018 transcript of  
21 Angela Edgeworth's sworn testimony at 133:5-23. This is further evidenced by the Affidavit of  
22 Brian Edgeworth, dated February 12, 2018 at 7:25-8:15 and the Affidavit of Brian Edgeworth,  
23 dated March 15, 2018, at 8:2-9:22. They knew the statements were false at the time they were  
24 made to persons who did not have significant interest in the proceedings.

25 88. The Edgeworths' Disparagement of the business and conduct proximately caused  
26 injury, damage, loss, and/or harm to Mr. Simon and his Law Office when asserting what amounts  
27 to theft and crimes of extortion against Mr. Simon that harmed his image in his profession and  
28 among his personal friends and the community. Mr. Simon and his office sustained damage for

1 humiliation, embarrassment, mental suffering, inconvenience, loss of quality of life, lost time,  
2 loss of income, past and future, damage to his reputation proximately caused by the acts of the  
3 Edgeworth Defendants. These acts proximately caused general, special and consequential  
4 damages, past and future, in a sum to be determined at the time of trial.

5 89. Brian and Angela Edgeworth published the false statements with malice, thereby  
6 entitling Plaintiffs to an award of punitive damages.

7 90. Brian and Angela Edgeworth published the false statements to further the amount  
8 of the recovery of the Edgeworth entities and personally benefit the Edgeworth's, disparage Mr.  
9 Simon and his Law Office with the intent to injure and cause financial harm and damage. At all  
10 times the defamatory and disparaging statements were fully authorized, approved and ratified by  
11 the Edgeworths and the Edgeworth entities, who knew the statements were false.

12 91. As a direct and proximate result of Brian and Angela Edgeworth's false and  
13 defamatory and disparaging statements, Plaintiffs have sustained actual, special and  
14 consequential damages, loss and harm, in a sum to be determined at trial well in excess of  
15 \$15,000.

16 92. The Edgeworth's Defamation Per Se and conduct proximately caused injury,  
17 damage, loss, and/or harm to Mr. Simon and his Law Office when asserting what amounts to theft  
18 and crimes of extortion against Mr. Simon that harmed his image in his profession and among his  
19 personal friends and the community. Mr. Simon and his office sustained damage for humiliation,  
20 embarrassment, mental suffering, inconvenience, loss of quality of life, lost time, loss of income,  
21 past and future, damage to his reputation proximately caused by the acts of Defendants, and each  
22 of them. These acts proximately caused general, special and consequential damages, past and  
23 future, in a sum to be determined at the time of trial.

24 93. Plaintiffs were forced to retain attorneys to defend the defamatory and disparaging  
25 statements during the proceedings and incurred substantial attorney's fees and costs, which are  
26 specially plead pursuant to NRCP 9(g) to be recovered as special damages in a sum in excess of  
27 \$15,000.





1 Mr. Simon and his Law Office has sustained actual, special and consequential damages in a sum  
2 to be determined at trial.

3 99. The Edgeworth's Negligence and conduct proximately caused injury, damage,  
4 loss, and/or harm to Mr. Simon and his Law Office when asserting what amounts to theft and  
5 crimes of extortion against Mr. Simon that harmed his image in his profession and among his  
6 personal friends and the community. Mr. Simon and his office sustained damage for humiliation,  
7 embarrassment, mental suffering, inconvenience, loss of quality of life, lost time, loss of income,  
8 past and future, damage to his reputation proximately caused by the acts of Defendants, and each  
9 of them. These acts proximately caused general, special and consequential damages, past and  
10 future, in a sum to be determined at the time of trial.

11 100. Plaintiffs were forced to retain attorneys to defend the frivolous lawsuit initiated  
12 by Defendants and incurred substantial attorney's fees and costs, which are specially plead  
13 pursuant to NRCP 9(g) in a sum in excess of \$15,000.

14 101. Plaintiffs have been forced to retain attorneys to prosecute this matter and are  
15 entitled to reasonable attorney's fees, costs and interest separately pursuant to Nevada law.

## 16 **COUNT VIII**

### 17 **CIVIL CONSPIRACY –ALL DEFENDANTS**

18 102. Plaintiffs repeat and reallege each and every allegation in the foregoing paragraphs  
19 and allegations as though fully set forth herein.

20 103. Defendants, and each of them, through concerted action among themselves and  
21 others, intended to accomplish the unlawful objectives of (i) filing false claims for an improper  
22 purpose. Defendant Attorneys and the Edgeworths all knew that the Plaintiffs did not convert the  
23 money. They devised a plan to knowingly commit wrongful acts by filing the frivolous claims  
24 for an improper purpose to damage and harm the reputation of Mr. Simon and his Law Office;  
25 cause harm to his law practice; cause him unnecessary and substantial expense to expend valuable  
26 resources to defend the abusive and frivolous lawsuit; and they abused the process in attempt to  
27 manipulate the proceedings for an ulterior purpose. Defendants did not contemplate in good faith  
28 the initiation and continuation of these judicial proceedings. Instead, for the ulterior purposes

described herein, Defendants chose to maintain their improper claims all in an attempt to harm Simon when they had no legal or factual basis to maintain said claims. The wrongful acts were committed several times when filing the complaint, amended complaint, all briefs, three affidavits, oral arguments and supreme court filings, and Defendants, and each of them, took no action to correct the falsity of the statements repeatedly made by all Defendants. Defendants knew prior to the initiation of the proceedings that they had no good faith basis in fact or in law to maintain their claims against Simon. They did not perform a diligent inquiry and did not have sufficient facts under Nevada law to seek adjudication of conversion against Simon, yet chose to do so and continue to advance the legally deficient claim. Defendants never presented any Nevada law or facts to support or maintain their improper claims throughout the entire litigation of the matter. Defendants made these statements under the mistaken belief that they could say and do anything without consequence as they falsely believed they were shielded and had immunity under the litigation privilege. Defendants, and each of them, filed and maintained the frivolous complaint to punish Mr. Simon and Law Practice knowing the falsity of these statements. They also invented a story of an express oral contract for \$550 an hour in attempt to refuse payment of a reasonable attorney fee. The frivolous complaint also alleged that Mr. Simon was “paid in full.”

104. Defendants, and each of them, through concerted action among themselves and others, intended to accomplish the foregoing unlawful objectives through unlawful means and to cause damage to Plaintiffs as herein alleged, including abusing the process, defaming and disparaging his Law Office, harming his business, causing unnecessary substantial expense, and to punish him, among others wrongful objectives to be determined at the time of trial.

105. In taking the actions alleged herein, Defendants, and each of them, were acting for their own individual advantage. Mr. Vannah was being paid \$925 an hour to file and maintain the frivolous claim. Mr. Greene was also being paid \$925 an hour to file and maintain the frivolous claims.

106. The Edgeworth’s Defamation Per Se and conduct proximately caused injury, damage, loss, and/or harm to Mr. Simon and his Law Office when asserting what amounts to theft and crimes of extortion against Mr. Simon that harmed his image in his profession and among his

1 personal friends and the community. Mr. Simon and his office sustained damage for humiliation,  
2 embarrassment, mental suffering, inconvenience, loss of quality of life, lost time, loss of income,  
3 past and future, damage to his reputation proximately caused by the acts of Defendants, and each  
4 of them. These acts proximately caused general, special and consequential damages, past and  
5 future, in a sum to be determined at the time of trial.

6 107. As the direct and proximate result of the concerted action of Defendants, and each  
7 of them, as described herein, Plaintiffs have suffered general, special and consequential damages,  
8 loss and harm, in a sum to be determined at trial.

9 108. The actions of Defendants, and each of them, were sufficiently fraudulent, malicious,  
10 and/or oppressive under NRS 42.005 to warrant an award of punitive damages. The Defendants,  
11 and each of them, knew of the probable and harmful consequences of their false claims and  
12 intentionally and deliberately failed to act to avoid the probable and harmful consequences and  
13 repeated the wrongful acts to achieve the objectives of their devised plan. Plaintiffs are entitled  
14 to punitive damages in a sum to be determined at the time of trial.

15 109. The additional specific facts necessary for Plaintiffs to plead this cause of action  
16 are peculiarly within the Defendants' knowledge or possession, thereby precluding Plaintiffs from  
17 offering further specificity at this time. *Rocker v. KPMG, LLP*, 122 Nev. 1185, 1193, 148 P.3d  
18 703, 708 (2006).

19 110. Plaintiffs were forced to retain attorneys to defend the wrongful acts to carry out  
20 their devised plan and incurred substantial attorney's fees and costs, which are specially plead  
21 pursuant to NRCP 9(g) to be recovered as special damages in a sum in excess of \$15,000.

22 111. It has become necessary for Plaintiffs to retain the services of an attorney in this  
23 matter and he is entitled to be reimbursed for his attorneys' fees and costs incurred as a result  
24 separately pursuant to Nevada law.

25 ///

26 ///

27 ///

28 ///

**GENERAL PRAYER FOR RELIEF**

Plaintiffs pray judgment against Defendants, and each of them, as follows:

1. For a sum to be determined at trial for actual, special, compensatory, consequential and general damages, past and future, in excess of \$15,000.
2. For a sum to be determined at trial for punitive damages.
3. For a sum to be determined for attorneys' fees and costs as special damages.
4. For attorneys' fees, costs and interest separately in prosecuting this action.
5. For such other relief as this court deems just and proper.

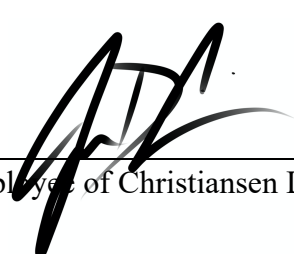
Dated this 21<sup>st</sup> day of May, 2020.

CHRISTIANSEN LAW OFFICES

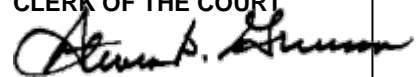
By   
PETER S. CHRISTIANSEN, ESQ.  
*Attorney for Plaintiffs*

**CERTIFICATE OF SERVICE**

I certify that I am an employee of CHRISTIANSEN LAW OFFICES, and that on this 21<sup>st</sup> day of May, 2020 I caused the foregoing document entitled *AMENDED COMPLAINT*, to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

  
An employee of Christiansen Law Offices

**“EXHIBIT 2”**



1 **NEOJ**  
2 **PETER S. CHRISTIANSEN, ESQ.**  
3 Nevada Bar No. 5254  
4 **KENDELEE L. WORKS, ESQ.**  
5 Nevada Bar No. 9611  
6 pete@christiansenlaw.com  
7 **CHRISTIANSEN LAW OFFICES**  
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9 Las Vegas, Nevada 89101  
10 Telephone: (702) 240-7979  
11 *Attorney for Plaintiffs*

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

10 LAW OFFICE OF DANIEL S. SIMON, A  
11 PROFESSIONAL CORPORATION;  
12 DANIEL S. SIMON;

13 Plaintiffs,

14 vs.

15 EDGEWORTH FAMILY TRUST;  
16 AMERICAN GRATING, LLC; BRIAN  
17 EDGEWORTH AND ANGELA  
18 EDGEWORTH, INDIVIDUALLY, AS  
19 HUSBAND AND WIFE; ROBERT DARBY  
20 VANNAH, ESQ.; JOHN BUCHANAN  
21 GREENE, ESQ.; and ROBERT D.  
22 VANNAH, CHTD. d/b/a VANNAH &  
23 VANNAH, and DOES I through V and ROE  
24 CORPORATIONS VI through X, inclusive,

25 Defendants.

CASE NO.: A-19-807433-C  
DEPT NO.: XXIV

**NOTICE OF ENTRY OF ORDER  
DENYING THE EDGEWORTH  
DEFENDANTS' SPECIAL ANTI-SLAPP  
MOTION TO DISMISS PLAINTIFFS'  
AMENDED COMPLAINT PURSUANT  
TO NRS 41.637**

23 PLEASE TAKE NOTICE, that an Order on the Edgeworth Defendants' Special Anti-  
24 Slapp Motion to Dismiss Plaintiffs' Amended Complaint Pursuant to NRS 41.637, was entered

25 ///

26 ///

27 ///

1 in the above-entitled matter on the 26<sup>th</sup> day of October, 2020, a copy of which is attached hereto.

2 DATED this 27<sup>th</sup> day of October, 2020.

3 **CHRISTIANSEN LAW OFFICES**

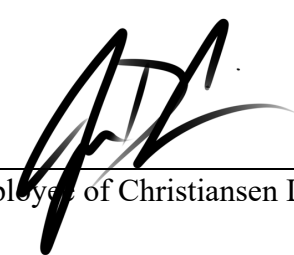
4 

5 PETER S. CHRISTIANSEN, ESQ.  
6 Nevada Bar No. 5254  
7 KENDELEE WORKS, ESQ.  
8 Nevada Bar No. 9611  
9 810 S. Casino Center Blvd., Ste. 104  
10 Las Vegas, Nevada 89101  
11 *Attorneys for Plaintiffs*



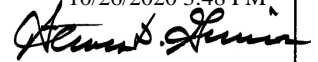
**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of CHRISTIANSEN LAW OFFICES, and that on this 27<sup>th</sup> day of October, 2020 I caused the foregoing document entitled **NOTICE OF ENTRY OF ORDER DENYING THE EDGEWORTH DEFENDANTS' SPECIAL ANTI-SLAPP MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT PURSUANT TO NRS 41.637** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.



---

An employee of Christiansen Law Offices

  
CLERK OF THE COURT

1 **ORDR**  
2 **PETER S. CHRISTIANSEN, ESQ.**  
3 Nevada Bar No. 5254  
4 **KENDELEE L. WORKS, ESQ.**  
5 Nevada Bar No. 9611  
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9 Las Vegas, Nevada 89101  
10 Telephone: (702) 240-7979  
11 *Attorney for Plaintiffs*

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

10 LAW OFFICE OF DANIEL S. SIMON, A  
11 PROFESSIONAL CORPORATION;  
12 DANIEL S. SIMON;

13 Plaintiffs,

14 vs.

15 EDGEWORTH FAMILY TRUST;  
16 AMERICAN GRATING, LLC; BRIAN  
17 EDGEWORTH AND ANGELA  
18 EDGEWORTH, INDIVIDUALLY, AS  
19 HUSBAND AND WIFE; ROBERT DARBY  
20 VANNAH, ESQ.; JOHN BUCHANAN  
21 GREENE, ESQ.; and ROBERT D.  
22 VANNAH, CHTD. d/b/a VANNAH &  
23 VANNAH, and DOES I through V and ROE  
24 CORPORATIONS VI through X, inclusive,

25 Defendants.

CASE NO.: A-19-807433-C  
DEPT NO.: XXIV

**ORDER DENYING THE EDGEWORTH**  
**DEFENDANTS' SPECIAL ANTI-SLAPP**  
**MOTION TO DISMISS PLAINTIFFS'**  
**AMENDED COMPLAINT PURSUANT**  
**TO NRS 41.637**

26 This matter having come before the Honorable Jim Crockett on October 1, 2020, regarding  
27 the Edgeworth Defendants' Special Anti-Slapp Motion to Dismiss Plaintiffs' Amended  
28 Complaint Pursuant to NRS 41.637, filed on August 27, 2020, with Peter S. Christiansen, Esq.  
and Kendelea L. Works, Esq. of CHRISTIANSEN LAW OFFICES appearing on behalf of  
Plaintiffs LAW OFFICE OF DANIEL S. SIMON, A PROFESSIONAL CORPORATION and

**CHRISTIANSEN LAW OFFICES**  
810 S. Casino Center Blvd., Suite 104  
Las Vegas, Nevada 89101  
702-240-7979 • Fax 866-412-6992

DANIEL S. SIMON, Patricia A. Marr, Esq. of PATRICIA A. MARR, LTD, appearing on behalf of Defendants ROBERT DARBY VANNAH ESQ., JOHN B. GREENE, ESQ., and ROBERT D. VANNAH, CHTD., dba VANNAH & VANNAH, and Renee M. Finch, Esq. and Christine L. Atwood, Esq., of MESSNER REEVES, LLP. and Patricia Lee, Esq., of HUTCHISON & STEFFEN, PLLC, appearing on behalf of Defendants EDGEWORTH FAMILY TRUST, AMERICAN GRATING, LLC, BRIAN EDGEWORTH and ANGELA EDGEWORTH (hereinafter collectively referred to as the “Edgeworth Parties”), the Court having heard the arguments of the parties and considering the moving papers and oppositions filed thereto, NOW THEREFORE, for good cause appearing, hereby finds:

1. When a party files a special motion to dismiss under Nevada’s anti-SLAPP statutes, NRS 41.635-NRS 41.670, that party bears the initial burden of production and persuasion. Here, the Edgeworth Defendants as the moving party, must first make a threshold showing that Plaintiffs’ claims against them are based on “[g]ood faith communication[s] in furtherance of the right to free speech in direct connection with an issue of public concern...which is truthful or made without knowledge of its falsehood.” NRS 41.637.
2. If an anti-SLAPP motion is filed, a court “shall” first ‘[d]etermine whether the moving party has established, by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern... which is truthful or is made without knowledge of its falsehood.” NRS 41.660(3)(a). “No communication falls within the purview of NRS 41.660 unless it is truthful or made without knowledge of its falsity.” *Shapiro v. Welt*, 133 Nev. 35, 40, 389 P.3d 262, 268 (2017)(internal citations omitted).
3. If a court finds “the moving party has met the burden pursuant to paragraph(a),” the court shall then “determine whether the plaintiff[s] ha[ve] demonstrated with prima facie evidence a probability of prevailing on the claim.”(NRS 41.660(3)(b), as defined in NRS 41.665(2).

- 1 4. THIS COURT FINDS that in Case No. A-16-738444-C in the Eighth Judicial  
2 District Court, Clark County, Nevada, the Honorable Tierra Jones entered orders,  
3 which included dismissing the underlying lawsuit against Simon and finding that the  
4 conversion claims against him, which give rise to the instant lawsuit, were not filed  
5 and/or maintained on reasonable grounds. In awarding attorney's fees and costs for  
6 Simon having to defend the groundless claims, Judge Jones expressly found "it was  
7 an impossibility for Mr. Simon to have converted the Edgeworths' property." This  
8 court will not disturb the findings of a sister court on this issue. *See Five Star Capital*  
9 *Corp. v. Ruby*, 124 Nev. 1048. 194 P.3d 709 (2008).
- 10 5. THE COURT FURTHER FINDS based on the evidence and briefings before it, that  
11 there could not be any good faith legal or factual basis for the underlying conversion  
12 claim against Simon when there was a pre-litigation accord and satisfaction reached  
13 between the parties about how dominion and control over the funds was to be  
14 exercised pending resolution of the attorney lien dispute.
- 15 6. THE COURT FURTHER FINDS, in light of the foregoing, that the Edgeworth Parties  
16 did not meet their burden under the first prong of the anti-SLAPP analysis because  
17 they cannot show, based on a preponderance of the evidence, that the underlying  
18 conversion claims against Simon were good faith communications, which were  
19 truthful and/or made without knowledge of falsity.
- 20 7. THE COURT FURTHER FINDS that it must only advance to the second prong of the  
21 Anti-SLAPP analysis in the event that the Edgeworth Parties met their burden to show  
22 by a preponderance of the evidence that their underlying claims against Simon were  
23 based upon good faith communications made in furtherance of the right to free speech  
24 in direct connection with an issue of public concern. Only then would the burden  
25 shift to Plaintiffs to show with prima facie evidence, a probability of prevailing on  
26 their claims. Because the Edgeworth Parties have not met their burden, this Court  
27 need not consider the second prong of the anti-SLAPP analysis.  
28

**CHRISTIANSEN LAW OFFICES**

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Las Vegas, Nevada 89101

702-240-7979 • Fax 866-412-6992

8. THE COURT FURTHER FINDS however, that if it reached the second prong of the Anti-SLAPP analysis, which it does not, Simon has shown prima facie evidence of a probability of prevailing on Plaintiffs' claims and that there are genuine issues of material fact at this stage in the litigation, which require discovery.

9. THE COURT FURTHER FINDS there are questions of fact as to whether or not what took place during the Edgeworth Parties' extrajudicial discussions with outside third parties, in particular, former Justice Miriam Shearing, Attorney Lisa Carteen and volleyball coach Rueben Herrera, were in direct connection with the lawsuit or not.

10. In light of the foregoing, IT IS HEREBY ORDERED that the Edgeworth Defendants' Special Anti-Slapp Motion to Dismiss Plaintiffs' Amended Complaint Pursuant to NRS 41.637, is DENIED.

Dated this 26th day of October, 2020

DATED this \_\_\_\_\_ day of October, 2020.

  
DISTRICT COURT JUDGE

Respectfully submitted:

**CHRISTIANSEN LAW OFFICES**

  
PETER S. CHRISTIANSEN, ESQ.

Nevada Bar No. 5254

KENDELEE WORKS, ESQ.

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Las Vegas, Nevada 89101

*Attorneys for Plaintiffs*

0CB F33 6FA2 EDF2  
Jim Crockett  
District Court Judge

Approved as to Form and Content  
**MESSNER REEVES, LLP**

RENEE M. FINCH, ESQ.

Nevada Bar No. 13118

8945 W. Russel Road, Ste. 300

Las Vegas, Nevada 89148

*Attorneys for Defendants Edgeworth Family  
Trust; American Grating; Brian Edgeworth  
and Angela Edgeworth*

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Law Office of Daniel S Simon,  
Plaintiff(s)

CASE NO: A-19-807433-C

7 vs.

DEPT. NO. Department 24

8  
9 Edgeworth Family Trust,  
Defendant(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 10/26/2020

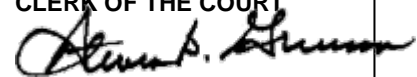
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18 Kendelea Leascher Works	kworks@christiansenlaw.com
19 R. Todd Terry	tterry@christiansenlaw.com
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23 Caleb Meyer	cmeyer@messner.com
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4	Patricia Lee	plee@hutchlegal.com
5	Patricia Marr	patricia@marrlawlv.com
6	Daniel Simon	lawyers@simonlawlv.com
7	Robert Vannah	rvannah@vannahlaw.com
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15	Ramez Ghally	rghally@hutchlegal.com
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18	David Gould	dgould@messner.com
19	Lisa Carteen	Lisa.Carteen@tuckerellis.com
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21		
22		
23		
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25		
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28		

**“EXHIBIT 3”**





**NEOJ**  
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Nevada Bar No. 5254  
**KENDELEE L. WORKS, ESQ.**  
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*Attorneys for Plaintiffs*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

LAW OFFICE OF DANIEL S. SIMON, A  
PROFESSIONAL CORPORATION;  
DANIEL S. SIMON;

Plaintiffs,

vs.

EDGEWORTH FAMILY TRUST;  
AMERICAN GRATING, LLC; BRIAN  
EDGEWORTH AND ANGELA  
EDGEWORTH, INDIVIDUALLY, AS  
HUSBAND AND WIFE; ROBERT DARBY  
VANNAH, ESQ.; JOHN BUCHANAN  
GREENE, ESQ.; and ROBERT D.  
VANNAH, CHTD. d/b/a VANNAH &  
VANNAH, and DOES I through V and ROE  
CORPORATIONS VI through X, inclusive,

Defendants.

CASE NO.: A-19-807433-C  
DEPT NO.: XXIV

**NOTICE OF ENTRY OF ORDER  
DENYING DEFENDANTS ROBERT  
DARBY VANNAH, ESQ., JOHN  
BUCHANAN GREENE, ESQ., and  
ROBERT D. VANNAH, CHTD. d/b/a  
VANNAH & VANNAH'S MOTION TO  
DISMISS PLAINTIFFS' AMENDED  
COMPLAINT**

PLEASE TAKE NOTICE, that an Order on Defendants Robert Darby Vannah, Esq., John  
Buchanan Greene, Esq., and Robert D. Vannah, Chtd. d/b/a Vannah & Vannah's Motion to

///

///

///

1 Dismiss Plaintiffs' Amended Complaint, was entered in the above-entitled matter on the 26<sup>th</sup> day  
2 of October, 2020, a copy of which is attached hereto.

3 DATED this 27<sup>th</sup> day of October, 2020.

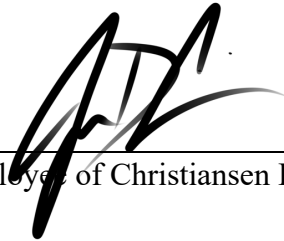
4 **CHRISTIANSEN LAW OFFICES**

5  
6 

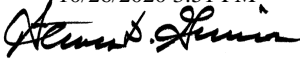
7 PETER S. CHRISTIANSEN, ESQ.  
8 Nevada Bar No. 5254  
9 KENDELEE WORKS, ESQ.  
10 Nevada Bar No. 9611  
11 810 S. Casino Center Blvd., Ste. 104  
12 Las Vegas, Nevada 89101  
13 *Attorneys for Plaintiffs*  
14  
15  
16  
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18  
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27  
28

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of CHRISTIANSEN LAW OFFICES, and that on this 27<sup>th</sup> day of October, 2020 I caused the foregoing document entitled ***NOTICE OF ENTRY OF ORDER DENYING DEFENDANTS ROBERT DARBY VANNAH, ESQ., JOHN BUCHANAN GREENE, ESQ., and ROBERT D. VANNAH, CHTD. d/b/a VANNAH & VANNAH'S MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT*** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.



\_\_\_\_\_  
An employee of Christiansen Law Offices

  
CLERK OF THE COURT

**CHRISTIENSEN LAW OFFICES**  
810 S. Casino Center Blvd., Suite 104  
Las Vegas, Nevada 89101  
702-240-7979 • Fax 866-412-6992

**ORDR**  
**PETER S. CHRISTIANSEN, ESQ.**  
Nevada Bar No. 5254  
**KENDELEE L. WORKS, ESQ.**  
Nevada Bar No. 9611  
pete@christiansenlaw.com  
**CHRISTIENSEN LAW OFFICES**  
810 South Casino Center Blvd., Suite 104  
Las Vegas, Nevada 89101  
Telephone: (702) 240-7979  
*Attorneys for Plaintiffs*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

LAW OFFICE OF DANIEL S. SIMON, A  
PROFESSIONAL CORPORATION;  
DANIEL S. SIMON;

Plaintiffs,

vs.

EDGEWORTH FAMILY TRUST;  
AMERICAN GRATING, LLC; BRIAN  
EDGEWORTH AND ANGELA  
EDGEWORTH, INDIVIDUALLY, AS  
HUSBAND AND WIFE; ROBERT DARBY  
VANNAH, ESQ.; JOHN BUCHANAN  
GREENE, ESQ.; and ROBERT D.  
VANNAH, CHTD. d/b/a VANNAH &  
VANNAH, and DOES I through V and ROE  
CORPORATIONS VI through X, inclusive,

Defendants.

CASE NO.: A-19-807433-C  
DEPT NO.: XXIV

**ORDER DENYING DEFENDANTS**  
**ROBERT DARBY VANNAH, ESQ.,**  
**JOHN BUCHANAN GREENE, ESQ.,**  
**and ROBERT D. VANNAH, CHTD. d/b/a**  
**VANNAH & VANNAH'S MOTION TO**  
**DISMISS PLAINTIFFS' AMENDED**  
**COMPLAINT**

This matter having come before the Honorable Jim Crockett on October 1, 2020, regarding Defendants Robert Darby Vannah, Esq., John Buchanan Greene, Esq., and Robert D. Vannah, Chtd. d/b/a Vannah & Vannah's Motion to Dismiss Plaintiffs' Amended Complaint, filed on August 26, 2020, with Peter S. Christiansen, Esq. and Kendele L. Works, Esq. of CHRISTIANSEN LAW OFFICES appearing on behalf of Plaintiffs LAW OFFICE OF DANIEL S. SIMON, A PROFESSIONAL CORPORATION and DANIEL S. SIMON, Patricia A. Marr,

Esq. of PATRICIA A. MARR, LTD, appearing on behalf of Defendants ROBERT DARBY VANNAH ESQ., JOHN B. GREENE, ESQ., and ROBERT D. VANNAH, CHTD., dba VANNAH & VANNAH, and Renee M. Finch, Esq. and Christine L. Atwood, Esq., of MESSNER REEVES, LLP. and Patricia Lee, Esq., of HUTCHISON & STEFFEN, PLLC, appearing on behalf of Defendants EDGEWORTH FAMILY TRUST, AMERICAN GRATING, LLC, BRIAN EDGEWORTH and ANGELA EDGEWORTH, the Court having heard the arguments of the parties and considering the moving papers and oppositions filed thereto, NOW THEREFORE, for good cause appearing as follows:

1. THIS COURT FINDS that in Case No. A-16-738444-C in the Eighth Judicial District Court, Clark County, Nevada, the Honorable Tierra Jones entered orders, which included dismissing the underlying lawsuit against Simon and finding that the conversion claims against him, which give rise to the instant lawsuit, were not filed and/or maintained on reasonable grounds. In awarding attorney's fees and costs for Simon having to defend the groundless claims, Judge Jones expressly found "it was an impossibility for Mr. Simon to have converted the Edgeworths' property." This court will not disturb the findings of a sister court on this issue. *See Five Star Capital Corp. v. Ruby*, 124 Nev. 1048. 194 P.3d 709 (2008).
2. THE COURT FURTHER FINDS based on the evidence and briefings before it, that there could not be any good faith legal or factual basis for the underlying conversion claim against Simon when there was a pre-litigation accord and satisfaction reached between the parties about how dominion and control over the funds was to be exercised pending resolution of the attorney lien dispute.
3. THE COURT FURTHER FINDS that All Defendants did not meet their burden and lacked good faith in filing and maintaining the underlying conversion allegations against Simon and therefore, the litigation privilege does not apply.
4. THE COURT FURTHER FINDS that even if the litigation privilege was deemed to apply, it would not bar a claim for abuse of process under the facts as alleged in this case.

1 5. THE COURT FURTHER FINDS that Plaintiffs have properly pled all of the causes  
2 of actions in the amended complaint.

3 6. IT IS HEREBY ORDERED that Defendants Robert Darby Vannah, Esq., John  
4 Buchanan Greene, Esq., and Robert D. Vannah, Chtd. d/b/a Vannah & Vannah's  
5 Motion to Dismiss Plaintiffs' Amended Complaint, is DENIED. <sup>Dated this 26th day of October, 2020</sup>


6 DATED this \_\_\_\_\_ day of October, 2020.

7  
8   
9 DISTRICT COURT JUDGE

10 Respectfully submitted:

11 **CHRISTIANSEN LAW OFFICES**

9F9 938 4AA3 8EB5  
Jim Crockett  
District Court Judge

12   
13 PETER S. CHRISTIANSEN, ESQ.  
14 Nevada Bar No. 5254  
15 KENDELEE WORKS, ESQ.  
16 Nevada Bar No. 9611  
810 S. Casino Center Blvd., Ste. 104  
Las Vegas, Nevada 89101  
Attorneys for Plaintiffs

17  
18 Approved as to Form and Content:

19 **PATRICIA A. MARR, LTD.**

20  
21 /s/Patricia A. Marr, Esq.  
22 PATRICIA A. MARR, ESQ.  
23 Nevada Bar No. 8846  
24 2470 St. Rose Parkway, Ste. 110  
25 Henderson, Nevada 89074  
26 Attorneys for Defendants Robert Darby  
27 Vannah, Esq.; John B. Greene, Esq.; and  
28 Robert D. Vannah, Chtd., dba Vannah & Vannah

From: **Kendeleee Works** [kworks@christiansenlaw.com](mailto:kworks@christiansenlaw.com)  
Subject: Re: Proposed order denying Vannah 12(b)(5) MTD  
Date: October 15, 2020 at 1:37 PM

KW

To: [patricia@marrlawlv.com](mailto:patricia@marrlawlv.com)  
Cc: Patricia Lee [plee@hutchlegal.com](mailto:plee@hutchlegal.com), Christine L. Atwood [catwood@messner.com](mailto:catwood@messner.com), Carteen, Lisa I. [lisa.carteten@tuckerellis.com](mailto:lisa.carteten@tuckerellis.com),  
Peter S. Christiansen [pete@christiansenlaw.com](mailto:pete@christiansenlaw.com), Jonathan Crain [jcrain@christiansenlaw.com](mailto:jcrain@christiansenlaw.com)  
Bcc: Daniel Simon [dan@simonlawlv.com](mailto:dan@simonlawlv.com), Ashley Ferrel [Ashley@SIMONLAWLV.COM](mailto:Ashley@SIMONLAWLV.COM)

Thanks Patricia. We cannot agree to remove paragraph 8. Although not expressly stated at the time of the hearing, the transcript contains numerous references to there being issues of fact such that the court could not rule as a matter of law at this juncture - implicitly finding discovery is required which goes directly to prong 2 of the analysis. In particular, please reference the transcript at 34:5-12, 36:21-23 and 37:13-20.

We will affix your electronic signature to the 12(b)(5) order and submit that to the court today. Please let us know if you can agree on paragraph 8 and if not, we will submit our proposed order with a cover letter confirming that the parties conferred but were unable to agree as to that paragraph in particular.

Thank you,  
Kendeleee

On Oct 15, 2020, at 11:30 AM, Patricia Marr <[patricia@marrlawlv.com](mailto:patricia@marrlawlv.com)> wrote:

Dear Ms. Works:

The Order for the 12(b)(5) Motion is appropriate and you may affix my electronic signature to the same. However, I have reviewed the record of the hearing in this matter and will sign off as to form and content with respect to the Anti-SLAPP Order IF you will remove paragraph 8 from the proposed order in its entirety. I find that the Judge never said anything about the second prong. Let me know your intentions as to that paragraph or alternatively tell me in writing where you find this comment

Very truly yours,

Patricia A. Marr, Esq.  
PATRICIA A. MARR, LTD.  
2470 St. Rose Parkway, Ste. 110  
Henderson, Nevada 89074  
(702) 353-4225 (telephone)  
(702) 912-0088 (facsimile)  
[patricia@marrlawlv.com](mailto:patricia@marrlawlv.com)

CONFIDENTIALITY NOTE: This transmission and any documents accompanying this transmission contain information from PATRICIA A. MARR, LTD. which is confidential and/or privileged. The information is intended to be for the use of the individual or entity named as the intended recipient of this transmission. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is PROHIBITED. If you received this transmission in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original documents at no cost to you.

On Wednesday, October 14, 2020, 05:55:06 PM PDT, Kendeleee Works  
<[kworks@christiansenlaw.com](mailto:kworks@christiansenlaw.com)> wrote:

Draft order attached for review. Please let us know if you are willing to sign off as to form and content.

Thank you,  
Kendeleee

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Law Office of Daniel S Simon,  
Plaintiff(s)

CASE NO: A-19-807433-C

7 vs.

DEPT. NO. Department 24

8  
9 Edgeworth Family Trust,  
Defendant(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 10/26/2020

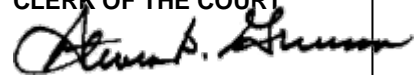
16 Peter Christiansen	pete@christiansenlaw.com
17 Whitney Barrett	wbarrett@christiansenlaw.com
18 Kendelea Leascher Works	kworks@christiansenlaw.com
19 R. Todd Terry	tterry@christiansenlaw.com
20 Keely Perdue	keely@christiansenlaw.com
21 Jonathan Crain	jcrain@christiansenlaw.com
22 Renee Finch	rfinch@messner.com
23 Caleb Meyer	cmeyer@messner.com
24 Suzanne Morehead	smorehead@hutchlegal.com
25 Chandi Melton	chandi@christiansenlaw.com

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1	Jessie Church	jromero@vannahlaw.com
2	Bridget Salazar	bsalazar@vannahlaw.com
3	John Greene	jgreene@vannahlaw.com
4	Patricia Lee	plee@hutchlegal.com
5	Patricia Marr	patricia@marrlawlv.com
6	Daniel Simon	lawyers@simonlawlv.com
7	Robert Vannah	rvannah@vannahlaw.com
8	Esther Barrios Sandoval	esther@christiansenlaw.com
9	Christine Atwood	catwood@messner.com
10	Jackie Olivo	jolivo@messner.com
11	Nicholle Pendergraft	npendergraft@messner.com
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14	Heather Bennett	hshepherd@hutchlegal.com
15	Ramez Ghally	rghally@hutchlegal.com
16	Jessica Adams	jessica@marrlawlv.com
17	Michelle Ordway	mordway@messner.com
18	David Gould	dgould@messner.com
19	Lisa Carteen	Lisa.Carteen@tuckerellis.com
20	Britteena Stafford	britteena.stafford@tuckerellis.com
21		
22		
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**“EXHIBIT 4”**



**NEOJ**  
**PETER S. CHRISTIANSEN, ESQ.**  
Nevada Bar No. 5254  
**KENDELEE L. WORKS, ESQ.**  
Nevada Bar No. 9611  
pete@christiansenlaw.com  
**CHRISTIANSEN LAW OFFICES**  
810 South Casino Center Blvd., Suite 104  
Las Vegas, Nevada 89101  
Telephone: (702) 240-7979  
*Attorney for Plaintiffs*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

LAW OFFICE OF DANIEL S. SIMON, A  
PROFESSIONAL CORPORATION;  
DANIEL S. SIMON;

Plaintiffs,

vs.

EDGEWORTH FAMILY TRUST;  
AMERICAN GRATING, LLC; BRIAN  
EDGEWORTH AND ANGELA  
EDGEWORTH, INDIVIDUALLY, AS  
HUSBAND AND WIFE; ROBERT DARBY  
VANNAH, ESQ.; JOHN BUCHANAN  
GREENE, ESQ.; and ROBERT D.  
VANNAH, CHTD. d/b/a VANNAH &  
VANNAH, and DOES I through V and ROE  
CORPORATIONS VI through X, inclusive,

Defendants.

CASE NO.: A-19-807433-C  
DEPT NO.: XXIV

**NOTICE OF ENTRY OF ORDER  
DENYING THE SPECIAL MOTION OF  
ROBERT DARBY VANNAH, ESQ.,  
JOHN BUCHANAN GREENE, ESQ.,  
AND ROBERT D. VANNAH, CHTD.  
d/b/a VANNAH & VANNAH, TO  
DISMISS PLAINTIFFS' AMENDED  
COMPLAINT: ANTI-SLAPP**

PLEASE TAKE NOTICE, that an Order on Defendants Robert Darby Vannah, Esq., John  
Buchanan Greene, Esq., and Robert D. Vannah, Chtd. d/b/a Vannah & Vannah's Motion to

///

///

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Dismiss Plaintiffs' Amended Complaint: Anti-SLAPP, was entered in the above-entitled matter on the 26<sup>th</sup> day of October, 2020, a copy of which is attached hereto.

DATED this 27<sup>th</sup> day of October, 2020.

**CHRISTIANSEN LAW OFFICES**

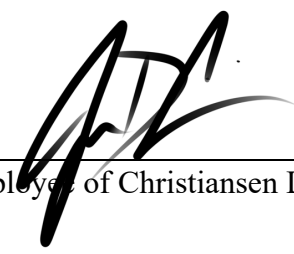


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PETER S. CHRISTIANSEN, ESQ.  
Nevada Bar No. 5254  
KENDELEE WORKS, ESQ.  
Nevada Bar No. 9611  
810 S. Casino Center Blvd., Ste. 104  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of CHRISTIANSEN LAW OFFICES, and that on this 27<sup>th</sup> day of October, 2020 I caused the foregoing document entitled ***NOTICE OF ENTRY OF ORDER DENYING THE SPECIAL MOTION OF ROBERT DARBY VANNAH, ESQ., JOHN BUCHANAN GREENE, ESQ., AND ROBERT D. VANNAH, CHTD. d/b/a VANNAH & VANNAH, TO DISMISS PLAINTIFFS' AMENDED COMPLAINT: ANTI-SLAPP*** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

  
\_\_\_\_\_  
An employee of Christiansen Law Offices

**CHRISTIANSEN LAW OFFICES**  
810 S. Casino Center Blvd., Suite 104  
Las Vegas, Nevada 89101  
702-240-7979 • Fax 866-412-6992

**ORDR**  
**PETER S. CHRISTIANSEN, ESQ.**  
Nevada Bar No. 5254  
**KENDELEE L. WORKS, ESQ.**  
Nevada Bar No. 9611  
pete@christiansenlaw.com  
**CHRISTIANSEN LAW OFFICES**  
810 South Casino Center Blvd., Suite 104  
Las Vegas, Nevada 89101  
Telephone: (702) 240-7979  
*Attorney for Plaintiffs*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

LAW OFFICE OF DANIEL S. SIMON, A  
PROFESSIONAL CORPORATION;  
DANIEL S. SIMON;

Plaintiffs,

vs.

EDGEWORTH FAMILY TRUST;  
AMERICAN GRATING, LLC; BRIAN  
EDGEWORTH AND ANGELA  
EDGEWORTH, INDIVIDUALLY, AS  
HUSBAND AND WIFE; ROBERT DARBY  
VANNAH, ESQ.; JOHN BUCHANAN  
GREENE, ESQ.; and ROBERT D.  
VANNAH, CHTD. d/b/a VANNAH &  
VANNAH, and DOES I through V and ROE  
CORPORATIONS VI through X, inclusive,

Defendants.

CASE NO.: A-19-807433-C  
DEPT NO.: XXIV

**ORDER DENYING THE SPECIAL**  
**MOTION OF ROBERT DARBY**  
**VANNAH, ESQ., JOHN BUCHANAN**  
**GREENE, ESQ., AND ROBERT D.**  
**VANNAH, CHTD. d/b/a VANNAH &**  
**VANNAH, TO DISMISS PLAINTIFFS'**  
**AMENDED COMPLAINT:**  
**ANTI-SLAPP**

This matter having come before the Honorable Jim Crockett on October 1, 2020, regarding Defendants Robert Darby Vannah, Esq., John Buchanan Greene, Esq., and Robert D. Vannah, Chtd. d/b/a Vannah & Vannah's Motion to Dismiss Plaintiffs' Amended Complaint: Anti-SLAPP, filed on August 25, 2020, with Peter S. Christiansen, Esq. and Kendele L. Works, Esq. of CHRISTIANSEN LAW OFFICES appearing on behalf of Plaintiffs LAW OFFICE OF

DANIEL S. SIMON, A PROFESSIONAL CORPORATION and DANIEL S. SIMON, Patricia A. Marr, Esq. of PATRICIA A. MARR, LTD, appearing on behalf of Defendants ROBERT DARBY VANNAH ESQ., JOHN B. GREENE, ESQ., and ROBERT D. VANNAH, CHTD., dba VANNAH & VANNAH, (hereinafter collectively referred to as the “Vannah Defendants”), and Renee M. Finch, Esq. and Christine L. Atwood, Esq., of MESSNER REEVES, LLP. and Patricia Lee, Esq., of HUTCHISON & STEFFEN, PLLC, appearing on behalf of Defendants EDGEWORTH FAMILY TRUST, AMERICAN GRATING, LLC, BRIAN EDGEWORTH and ANGELA EDGEWORTH (hereinafter collectively referred to as the “Edgeworth Defendants”), the Court having heard the arguments of the parties and considering the moving papers and oppositions filed thereto, NOW THEREFORE, for good cause appearing, hereby finds:

1. When a party files a special motion to dismiss under Nevada’s anti-SLAPP statutes, NRS 41.635-NRS 41.670, that party bears the initial burden of production and persuasion. Here, the Vannah Defendants as the moving party, must first make a threshold showing that Plaintiffs’ claims against them are based on “[g]ood faith communication[s] in furtherance of the right to free speech in direct connection with an issue of public concern...which is truthful or made without knowledge of its falsehood.” NRS 41.637.
2. If an anti-SLAPP motion is filed, a court “shall” first ‘[d]etermine whether the moving party has established, by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern... which is truthful or is made without knowledge of its falsehood.” NRS 41.660(3)(a). “No communication falls within the purview of NRS 41.660 unless it is truthful or made without knowledge of its falsity.” *Shapiro v. Welt*, 133 Nev. 35, 40, 389 P.3d 262, 268 (2017)(internal citations omitted).
3. If a court finds “the moving party has met the burden pursuant to paragraph(a),” the court shall then “determine whether the plaintiff[s] ha[ve] demonstrated with prima

1           facie evidence a probability of prevailing on the claim.”(NRS 41.660(3)(b), as defined  
2           in NRS 41.665(2).

- 3           4. THIS COURT FINDS that in Case No. A-16-738444-C in the Eighth Judicial  
4           District Court, Clark County, Nevada, the Honorable Tierra Jones entered orders,  
5           which included dismissing the underlying lawsuit against Simon and finding that the  
6           conversion claims against him, which give rise to the instant lawsuit, were not filed  
7           and/or maintained on reasonable grounds. In awarding attorney’s fees and costs for  
8           Simon having to defend the groundless claims, Judge Jones expressly found “it was  
9           an impossibility for Mr. Simon to have converted the Edgeworths’ property.” This  
10          court will not disturb the findings of a sister court on this issue. *See Five Star Capital*  
11          *Corp. v. Ruby*, 124 Nev. 1048. 194 P.3d 709 (2008).
- 12          5. THE COURT FURTHER FINDS based on the evidence and briefings before it, that  
13          there could not be any good faith legal or factual basis for the underlying conversion  
14          claim against Simon when there was a pre-litigation accord and satisfaction reached  
15          between the parties about how dominion and control over the funds was to be  
16          exercised pending resolution of the attorney lien dispute.
- 17          6. THE COURT FURTHER FINDS, in light of the foregoing, that the Vannah  
18          Defendants did not meet their burden under the first prong of the anti-SLAPP analysis  
19          because they cannot show, based on a preponderance of the evidence, that the  
20          underlying conversion claims against Simon were good faith communications, which  
21          were truthful and/or made without knowledge of falsity.
- 22          7. THE COURT FURTHER FINDS that it must only advance to the second prong of the  
23          Anti-SLAPP analysis in the event that the Vannah Defendants met their burden to  
24          show by a preponderance of the evidence that their underlying claims against Simon  
25          were based upon good faith communications made in furtherance of the right to free  
26          speech in direct connection with an issue of public concern. Only then would the  
27          burden shift to Plaintiffs to show with prima facie evidence, a probability of prevailing  
28



**CHRISTIANSEN LAW OFFICES**

810 S. Casino Center Blvd., Suite 104  
Las Vegas, Nevada 89101  
702-240-7979 • Fax 866-412-6992

on their claims. Because the Vannah Defendants have not met their burden, this Court need not consider the second prong of the anti-SLAPP analysis.

8. THE COURT FURTHER FINDS however, that if it reached the second prong of the Anti-SLAPP analysis, which it does not, Simon has shown prima facie evidence of a probability of prevailing on Plaintiffs' claims and that there are genuine issues of material fact at this stage in the litigation, which require discovery.

9. In light of the foregoing, IT IS HEREBY ORDERED that the Vannah Defendants' Special Anti-Slapp Motion to Dismiss Plaintiffs' Amended Complaint Pursuant to NRS 41.637, is DENIED.  
Dated this 26th day of October, 2020

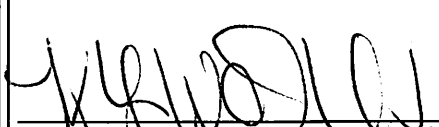
DATED this \_\_\_\_\_ day of October, 2020.

  
DISTRICT COURT JUDGE

Respectfully submitted:


**CHRISTIANSEN LAW OFFICES**

819 FCF DFB7 1E8F  
Jim Crockett  
District Court Judge

  
PETER S. CHRISTIANSEN, ESQ.  
Nevada Bar No. 5254  
KENDELEE WORKS, ESQ.  
Nevada Bar No. 9611  
810 S. Casino Center Blvd., Ste. 104  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiffs*

Approved as to Form and Content:

**PATRICIA A. MARR, LTD.**

  
PATRICIA A. MARR, ESQ.  
Nevada Bar No. 8846  
2470 St. Rose Parkway, Ste. 110  
Henderson, Nevada 89074  
*Attorneys for Defendants Robert Darby Vannah, Esq.; John B. Greene, Esq.; and Robert D. Vannah, Chtd., dba Vannah & Vannah*

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Law Office of Daniel S Simon,  
7 Plaintiff(s)

CASE NO: A-19-807433-C

8 vs.

DEPT. NO. Department 24

9 Edgeworth Family Trust,  
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 10/26/2020

16 Peter Christiansen	pete@christiansenlaw.com
17 Whitney Barrett	wbarrett@christiansenlaw.com
18 Kendelea Leascher Works	kworks@christiansenlaw.com
19 R. Todd Terry	tterry@christiansenlaw.com
20 Keely Perdue	keely@christiansenlaw.com
21 Jonathan Crain	jcrain@christiansenlaw.com
22 Renee Finch	rfinch@messner.com
23 Caleb Meyer	cmeyer@messner.com
24 Suzanne Morehead	smorehead@hutchlegal.com
25 Chandi Melton	chandi@christiansenlaw.com

26  
27  
28

1	Jessie Church	jromero@vannahlaw.com
2	Bridget Salazar	bsalazar@vannahlaw.com
3	John Greene	jgreene@vannahlaw.com
4	Patricia Lee	plee@hutchlegal.com
5	Patricia Marr	patricia@marrlawlv.com
6	Daniel Simon	lawyers@simonlawlv.com
7	Robert Vannah	rvannah@vannahlaw.com
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