

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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Elizabeth A. Brown
Clerk of Supreme Court

DARIA HARPER; DANIEL WININGER

Appellants,

vs.

COPPERPOINT MUTUAL INSURANCE HOLDING COMPANY, AN ARIZONA CORPORATION; COPPERPOINT GENERAL INSURANCE COMPANY, AN ARIZONA CORPORATION; LAW OFFICES OF MARSHALL SILBERBERG, P.C., A CALIFORNIA CORPORATION; KENNETH MARSHALL SILBERBERG AKA MARSHALL SILBERBERG AKA K. MARSHALL SILBERBERG, AN INDIVIDUAL; THOMAS S. ALCH AKA THOMAS STEVEN ALCH, AN INDIVIDUAL; SHOOP, A PROFESSIONAL LAW CORPORATION, A CALIFORNIA CORPORATION,

Respondents.

Supreme Court Case No.: 82158

District Court Case No.: A814541

**RESPONDENTS LAW OFFICES OF MARSHALL SILBERBERG, P.C.
AND KENNETH MARSHALL SILBERBERG AKA MARSHALL
SILBERBERG'S MOTION FOR LEAVE TO JOIN IN APPEAL**

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Respondents, Law Offices of Marshall Silberberg, P.C. and Kenneth Marshall Silberberg AKA Marshall Silberberg, by and through their counsel of record, Robert C. McBride, Esq. and Heather S. Hall, Esq. of the law firm of McBride Hall and ROBERT L. McKENNA, III, ESQ., JAMES J. KJAR, ESQ., and JON R. SCHWALBACH, ESQ. of the law firm of KJAR McKENNA & STOCKALPER, LLP, hereby present this Motion for Leave to Join in Appeal. This Motion is made and based upon the Notice of Appeal, Docketing Statement and Case Appeal Statement submitted by Appellants.

Law Offices of Marshall Silberberg, P.C. and Kenneth Marshall Silberberg AKA Marshall Silberberg are party Defendants in the underlying district court case, which seeks to recover for legal malpractice against these Respondents. In rendering its decision on Copperpoint's Motion to Dismiss, or Alternatively, Motion for Summary Judgment, the district court determined that NRS 42.021 is inapplicable to settlements in a medical malpractice matter. Resolution of this appeal affects the rights and interests of these Respondents. Whether or not NRS 42.021 applies to preclude lien recovery after settlement will have a significant impact on the remaining legal malpractice claims, irrespective of whether Copperpoint is no longer party to the litigation.

The Case Appeal Statement Appellants submitted states: "Because the legal malpractice case is case is predicated on the negligence of the attorney-defendants

in ignoring CopperPoint’s worker’s compensation lien, the determination of whether or not there is a lien affects the legal malpractice defendants.” Respondents deny all allegations of negligence or ignoring Copperpoint’s lien but agree that the district court’s ruling on NRS 42.021 will impact the remaining attorney defendants. As Appellants’ position on the applicability of NRS 42.021 to settlements in medical malpractice claims is closely aligned with the position of these Respondents on this important issue, Respondents request leave to join in the appeal.

Accordingly, Respondents, Law Offices of Marshall Silberberg, P.C. and Kenneth Marshall Silberberg AKA Marshall Silberberg, request leave of this Court to Join in the appeal filed by Appellants Daria Harper and Daniel Wininger and adopt the following:

(a) Notice of Appeal filed December 3, 2020;

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(b) Docketing Statement filed December 18, 2020; and

(c) Case Appeal Statement filed December 31, 2020.

Dated this 29th day of January, 2021.

McBRIDE HALL

/s/Heather S. Hall

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NRAP 28.2 ATTORNEY’S CERTIFICATE OF COMPLIANCE

1. I, Heather S. Hall, hereby certify that this Motion complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32 (a)(6) because:

[X] It has been prepared in proportionally spaced typeface using Word in 14 point Times New Roman Font.

2. I further certify that this brief complies with the page-or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is:

[X] Proportionally spaced, has a typeface font of 14 points or more, and contains 364 words.

3. I hereby further certify that I have read Respondents Law Offices of Marshall Silberberg, P.C. and Kenneth Marshall Silberberg AKA Marshall Silberberg’s Motion for Leave to Join in Appeal and, to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purposes.

4. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, including Rule 28(e).

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5. I also acknowledge that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements to the Nevada Rules of Appellate Procedure.

Dated this 29th day of January, 2021.

McBRIDE HALL

/s/Heather S. Hall

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of January, 2021, service of the foregoing **RESPONDENTS LAW OFFICES OF MARSHALL SILBERBERG, P.C. AND KENNETH MARSHALL SILBERBERG AKA MARSHALL SILBERBERG'S MOTION FOR LEAVE TO JOIN IN APPEAL** was served electronically to all parties of interest through the Court's CM/ECF system as follows:

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