

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

WESTERN NATIONAL MUTUAL
INSURANCE COMPANY, a Minnesota
corporation,
Appellant,

vs.

WILLIAM HARRY RESH, an individual,
Respondent

No. 82475

DOCKETING
CIVIL APPEALS

Electronically Filed
Mar 10 2021 10:25 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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 Department 20

County Clark Judge Eric Johnson

District Ct. Case No. A-18-775815-C

2. Attorney filing this docketing statement:

Attorney Jordan F. Faux Telephone (702) 458-5790

Firm The Faux Law Group

Address 2625 N. Green Valley Parkway, Suite 100, Henderson, NV 89014

Client(s) Western National Mutual Insurance Company

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

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

Attorney Frederic I. Berkley Telephone (702) 360-6000

Firm Sklar Williams PLLC

Address 410 South Rampart Blvd., Suite 350, Las Vegas, NV 89145

Client(s) William Harry Resh

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

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

- | | |
|---|--|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input checked="" type="checkbox"/> Other disposition (specify): <u>Fees and Costs</u> |

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:

Supreme Court Case No. 82087; Dkt. No. 20-41702

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:

Robert Jon Legaspi Chapter 7 Voluntary Bankruptcy Petition; Case No. 20-12626-mkn; United States Bankruptcy Court for the District of Nevada; August 27, 2020.

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

The underlying action involves a claim against a Motor Vehicle Dealer's License Bond. The dispute is whether Respondent William Harry Resh ("Resh") qualifies as a "consumer" as defined by NRS 482.345(1), as only a "consumer" has standing to make a claim upon the Bond. The district court granted summary judgment in favor of Resh and against Western National Mutual Insurance Company ("Western") in the amount of \$100,000.00, the penal sum of the Bond, finding that Resh was a "consumer" under the statute.

After Resh obtained summary judgment, Resh filed in the district court a Motion for Attorney's Fees and Costs to which Western objected. The district court granted Resh's motion and entered a judgment against Western in the amount of \$31,565.62 in fees and \$2,666.65 in costs. The district court's findings were based on NRCF 68 and the referenced Brunzell factors.

Western appealed both the summary judgment (Liability Appeal Dkt. No. 20-41702, dismissed without prejudice due to lack of jurisdiction) and attorney fees and costs judgment (Fee Appeal Dkt 21-04448).

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

The underlying principal issue regarding liability is whether Resh qualifies as a consumer under NRS 482.345(10) and therefore whether Resh is entitled to make claim or recover from the Bond. In general terms, the issue is whether a consignor is "any person who comes into possession of a vehicle as a final user for any purpose other than offering it for sale" and therefore statutorily entitled to make claim upon the Bond.

If Western prevails on the Liability Appeal and Resh is not found to qualify as a consumer under NRS 482.345(10), then Resh is not the prevailing party and such finding affects the Fee Appeal as it involves the same parties, is factually inextricably intertwined, pertains to the same legal issues and is substantively related to the Liability Appeal on liability and damages.

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

On February 26, 2021, this court dismissed the corresponding Liability Appeal, Supreme Court Case No. 82087, Dkt. 20-41702 for a jurisdictional issue.

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

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

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

☒ A substantial issue of first impression

☐ An issue of public policy

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

☐ A ballot question

If so, explain: This appeal involves whether a consignor qualifies as a consumer under NRS 482.345 and can therefore recover attorney fees and costs.

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

The case does not fall under any of the categories presumptively retained by the Supreme Court. The case falls under cases presumptively assigned to the Court of Appeals under NRAP 17(b)(7) - Appeals from post-judgment orders in civil cases.

The Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals because it is an appeal from a final judgment entered in an action or proceeding commenced in the court in which the judgment is rendered pursuant to NRAP 3A(b)(1). It is also substantially related to the Liability Appeal.

14. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? N/A

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from January 14, 2021

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

The Order granting Respondent's Motion for Attorney's Fees and Costs was signed by the judge and filed with the clerk on January 14, 2021.

The Notice of Entry was filed on January 14, 2021.

17. Date written notice of entry of judgment or order was served January 14, 2021

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

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

(b) Date of entry of written order resolving tolling motion _____

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

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed February 10, 2021

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:

The Notice of Appeal was filed in the Supreme Court on February 16, 2021.

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

NRAP4(a)

SUBSTANTIVE APPEALABILITY

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

(a)

- | | |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |

(b) Explain how each authority provides a basis for appeal from the judgment or order: WNMIC asserts that the Order granting the Motion for Attorney's Fees and Costs is a final judgment entered in an action or proceeding commenced in the court in which the judgment is rendered. It was granted after Resh's motion for summary judgment was granted which is the related appeal mentioned above. That appeal was dismissed without prejudice by the Court for lack of jurisdiction. WNMIC acknowledges that the Court may find a similar jurisdictional issue as in the related appeal (Case No: 82087) but must continue here in order to preserve its rights and prevent any waiver arguments, among other concerns.

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

(a) Parties:

William Harry Resh
Money Machine, LLC d/b/a Compadres Auto Sales
Robert Legaspi
Western National Mutual Insurance Company

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

Robert Legaspi ("Legaspi") filed for Chapter 7 Bankruptcy on June 1, 2020. Resh asserted that Money Machine, LLC d/b/a Compadres Auto Sales became part of the bankruptcy estate as it was wholly owned by Legaspi and that it was an alter ego of Legaspi. The district court determined that Resh could move forward against Western without proceeding against Legaspi or Money Machine and without need for a relief from stay from the bankruptcy court. For this reason, Western has checked "yes" to question No. 24.

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

Resh: Conversion and Caim upon statutory license bond; Summary Judgment granted in favor of Resh on October 13, 2020.

Resh: Attorneys' Fees and Costs; Order granting entered on January 14, 2021.

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

☒ Yes

☐ No

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

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

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

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

VERIFICATION

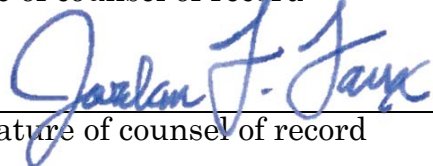
I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Western National Mutual Insurance Co
Name of appellant

Mar 10, 2021
Date

Clark County, Nevada
State and county where signed

Jordan F. Faux
Name of counsel of record


Signature of counsel of record

CERTIFICATE OF SERVICE

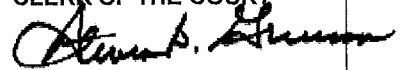
I certify that on the 10th day of March, 2021, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Frederic I. Berkley, Esq.
SKYLAR WILLIAMS, PLLC
410 S. Rampart Blvd., Suite 350
Las Vegas, NV 89145
Attorneys for Respondent William Harry Resh

Dated this 10th day of March, 2021


Signature



ACOM
SKLAR WILLIAMS PLLC
FREDERIC I. BERKLEY, ESQ.
Nevada Bar No.: 1798
410 South Rampart Boulevard, Ste. 350
Las Vegas, Nevada 89145
Telephone: (702) 360-6000
Facsimile: (702) 360-0000
Email: fberkley@sklar-law.com

*Attorneys for Plaintiff
William Resh*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

WILLIAM HARRY RESH, an individual,

Plaintiff,

Case No.: A-18-775815-C
Dept. No.: XX

v.

MONEY MACHINE, LLC, a Nevada limited
liability company dba COMPADRES AUTO
SALES; ROBERT LEGASPI, an individual,
WESTERN NATIONAL MUTUAL
INSURANCE COMPANY, a Minnesota
corporation; DOES I through X; and ROE
CORPORATIONS I THROUGH X.

Defendants.

AMENDED COMPLAINT

COMES NOW, Plaintiff WILLIAM HARRY RESH by and through his attorney
FREDERIC I. BERKLEY, ESQ., of the law firm of SKLAR WILLIAMS PLLC, and for his
Complaint against the named Defendants, alleges as follows:

1. Plaintiff William Harry Resh is, and at all times herein relevant was, a resident
of Clark County Nevada.

2. Plaintiff William Resh is, and at all times herein relevant was, the owner of a
2017 Audi R8 automobile, VIN No. WUAKBAFX0H7903087 (sometimes referred to herein
as "the vehicle").

1 3. Plaintiff is informed and believes and based on such information and belief
2 alleges that Defendant Money Machine, LLC is a Nevada limited liability company doing
3 business as Compadres Auto Sales at 1546 North Nellis Boulevard, Las Vegas, Nevada 89110.

4 4. The true names and capacities, whether corporate, individual, or otherwise, of
5 Defendant Does II through X and Roe Companies II through X, inclusive, are unknown to
6 Plaintiff, who, therefore, sues such Defendants by fictitious names. Plaintiff is informed and
7 believes and thereon alleges that each Defendant designated as a Doe and Roe Company is
8 legally responsible in some manner or means for the damages to the Plaintiff, as herein alleged,
9 either through their contractual duty, conduct or through the conduct of their agents, servants,
10 employees, or insurers, or due to their breach of note, or breach of implied covenant of good
11 faith and fair dealing, causing injury and damages to Plaintiff as alleged herein. Plaintiff will
12 ask leave of this Court to amend this Complaint to insert the true names and capacities of said
13 Defendant Does II through X and Roe Corporations II through X, inclusive, when the same
14 have been ascertained by Plaintiff, together with the appropriate charging allegations, and to
15 join said Defendant in this action.

16 5. Defendant Robert Legaspi is, and at all times herein relevant was, a resident of
17 Clark County, Nevada.

18 6. Plaintiff is informed and believes and therefore alleges that Defendant Western
19 National Mutual Insurance Company at all times herein relevant was a Minnesota corporation.

20 7. In February and March 2018 Plaintiff William Resh attempted to sell the vehicle
21 through auction with the assistance of one Robert Larson.

22 8. In order to sell the vehicle at auction, Robert Larson registered the vehicle with
23 the dealership named Compadres Auto Sales, which is the fictitious name for Defendant
24 Money Machine, LLC.

25 9. In order to effectuate the sale of his vehicle, Plaintiff was required to furnish the
26 title to said vehicle to the auction house known as Manheim.

1 10. The vehicle was sold for one hundred forty-three thousand eight hundred ninety-
2 five dollars (\$143,895) and a check in that amount was prepared by Manheim made payable
3 to Compadres Auto Sales.

4 11. In approximately mid-March 2018, Robert Larson furnished this check from
5 Manheim to Compadres Auto Sales for one hundred forty-three thousand eight hundred ninety-
6 five dollars (\$143,895) as payment for sale of the vehicle.

7 12. A duly authorized agent of Compadres Auto Sales assured Robert Larson that
8 once the Manheim check for one hundred forty-three thousand eight hundred ninety-five
9 dollars (\$143,895) cleared, the proceeds of sale (\$143,895) would immediately be paid to
10 Plaintiff William Resh.

11 13. That despite repeated demands, Compadres Auto Sales has refused to make
12 payment to William Resh for the proceeds of sale of his vehicle.

13 14. Money Machine, LLC, dba Compadres Auto Sales has wrongfully converted
14 the monies it received for the sale of William Resh's vehicle despite repeated demands for
15 payment and has wrongfully converted the sales proceeds of one hundred forty-three thousand
16 eight hundred ninety-five dollars (\$143,895).

17 15. Defendants wrongful conversion of the proceeds of sale of Plaintiff's vehicle is
18 without any legal justification whatsoever and is a result of Defendants' fraud, dishonesty,
19 malice, and deceit, entitling Plaintiff William Resh to punitive damages by way of example in
20 a sum in excess of ten thousand dollars (\$10,000).

21 16. As a result of Defendant's actions, Plaintiff William Resh has been required to
22 retain the services of Sklar Williams PLLC and is entitled to recovery of his attorney's fees
23 and costs of suit.

24 17. That Defendant Robert Legaspi is the alter-ego of Money Machine, LLC dba
25 Compadres Auto Sales.

18. Defendant Robert Legaspi, as an alter-ego of Money Machine, LLC dba Compadres Auto Sales is legally responsible for any and all damages ordered against Money Machine, LLC.

19. Defendant Western National Mutual Insurance Company furnished a penal bond in the sum of one hundred thousand dollars (\$100,000) for the benefit of consumers such as Plaintiff William Harry Resh.

20. Plaintiff William Harry Resh has made demand on the penal bond furnished by Defendant Western National Mutual Insurance Company but said Defendant has denied Plaintiff's demand.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment, against Defendants, Money Machine, LLC and Robert Legaspi as follows:


1. For compensatory damages in the sum of one hundred forty-three thousand eight hundred ninety-five dollars (\$143,895) wrongfully converted;
2. For punitive damages in a sum in excess of ten thousand dollars (\$10,000);
3. For his reasonable attorney's fees and costs of suit; and
4. For such other and further relief as the Court deems appropriate under the circumstances.

In addition, Plaintiff demands judgment, against Defendant Western National Mutual Insurance Company, as follows:

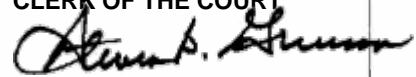
1. For the full amount of the penal bond in the amount of one hundred thousand dollars (\$100,000);
2. For his reasonable attorney's fees and costs of suit; and
3. For such other and further relief as the Court deems appropriate under the circumstances.

DATED this 11th day of July, 2019.

SKLAR WILLIAMS PLLC

By 
FREDERIC I. BERKLEY, ESQ.
Nevada Bar No.: 1798
410 South Rampart Boulevard
Las Vegas, Nevada 89145
Telephone: (702) 360-6000
Facsimile: (702) 360-0000

*Attorneys for Plaintiff
William Harry Resh*



1 **NEOJ**

2 FREDERIC I. BERKLEY, ESQ.

3 Nevada Bar No.: 1798

4 SKLAR WILLIAMS PLLC

5 410 South Rampart Blvd., Suite 350

6 Las Vegas, Nevada 89145

7 Telephone: (702) 360-6000

8 Facsimile: (702) 360-0000

9 Email: fberkley@sklar-law.com

10 *Attorneys for Plaintiff*

11 *William Harry Resh*

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 WILLIAM HARRY RESH, an individual,

15 Plaintiff,

16 v.

17 MONEY MACHINE, LLC, a Nevada limited
18 liability company dba COMPADRES AUTO
19 SALES; ROBERT LEGASPI, an individual,
20 WESTERN NATIONAL MUTUAL
21 INSURANCE COMPANY, a Minnesota
22 corporation; DOES I through X; and ROE
23 CORPORATIONS I THROUGH X.

24 Defendants.

Case No.: A-18-775815-C

Dept. No.: XX

NOTICE OF ENTRY OF ORDER

25 PLEASE TAKE NOTICE that on the 14th day of January, 2021, an Order was entered in
26 the above-entitled matter, a copy of which is attached hereto.

27 DATED this 14 day of January, 2021.

28 **SKLAR WILLIAMS PLLC**

By 
FREDERIC I. BERKLEY, ESQ.

Nevada Bar No. 1798

410 S. Rampart Blvd., Suite 350

Las Vegas, Nevada 89145

Telephone: (702) 360-6000

Facsimile: (702) 360-0000

Attorney for Plaintiff

William Harry Resh

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 14th day of January, 2021, a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER** was submitted electronically for filing and service with the Eighth Judicial District Court. Electronic Service of the foregoing document shall be made to *all parties* listed on the Odyssey EFileNV Service Contact List.


An employee of SKLAR WILLIAMS PLLC

ORDR

FREDERIC I. BERKLEY, ESQ.

Nevada Bar No.: 1798

SKLAR WILLIAMS PLLC

410 South Rampart Blvd., Suite 350

Las Vegas, Nevada 89145

Telephone: (702) 360-6000

Facsimile: (702) 360-0000

Email: fberkley@sklar-law.com

Attorneys for Plaintiff

William Harry Resh

DISTRICT COURT

CLARK COUNTY, NEVADA

WILLIAM HARRY RESH, an individual,

Plaintiff,

v.

MONEY MACHINE, LLC, a Nevada limited liability company dba COMPADRES AUTO SALES; ROBERT LEGASPI, an individual, WESTERN NATIONAL MUTUAL INSURANCE COMPANY, a Minnesota corporation; DOES I through X; and ROE CORPORATIONS I THROUGH X.

Defendants.

Case No.: A-18-775815-C

Dept. No.: XX

ORDER

This matter having come before the Court on the 4th day of November, 2020, on Plaintiff's Motion for Attorney's Fees and Costs, the Opposition to Plaintiff's Motion for Attorney's Fees and Costs, Plaintiff's Reply to Defendant's Opposition to Plaintiff's Motion for Attorney's Fees and Costs and Supplement to Plaintiff's Motion for Attorney's Fees and Costs, and the Court having considered same and the arguments of counsel, hereby finds as follows:

This Court finds that Plaintiff shall be granted attorney's fees and costs under NRCP 68 rather than NRS 18.010 as the Court does not believe that Defendant has demonstrated a level of frivolousness or vexatiousness that NRS 18.010 requires.

This Court has considered the *Beattie* factors and finds that the Plaintiff's claim was

1 brought in good faith, that the Offer of Judgment was reasonable and in good faith in both its
2 timing and amount, that if Defendant's decision to reject and to proceed to trial was not grossly
3 unreasonable, it was unreasonable in an obvious way and that the fees being sought by Plaintiff
4 are reasonable and justified in amount.

5 In addition, this Court carefully considered the *Brunzell* factors in determining the amount
6 of attorney's fees to be awarded and specifically considered the qualities of the advocate: his
7 ability, training, education, experience, professional standing and skill, the character of the work
8 that was done, the work actually performed by Plaintiff's counsel and the result achieved by
9 Plaintiff's counsel and the benefits derived.

10 Based on these findings, this Court awards Plaintiff attorney's fees in the amount of
11 \$ 31565.62, plus costs in the amount of \$ 2666.65.

12 This Order is reduced to Judgment in favor of Plaintiff William Harry Resh against
13 Defendant Western National Mutual Insurance Company. Dated this 14th day of January, 2021

14 DATED this _____ day of November, 2020.

15 

16
17 **DISTRICT COURT JUDGE**
18 **ATA 37D E6C9 43C9**
19 **Eric Johnson**
20 **District Court Judge**

21 Prepared by:

Read and approved by:

22 SKLAR WILLIAMS PLLC

FAUX LAW GROUP

23 By: /s/ Frederic I. Berkley
24 FREDERIC I. BERKLEY, ESQ.
25 Nevada Bar No.: 1798
26 410 South Rampart Boulevard
27 Las Vegas, Nevada 89145
28 Telephone: (702) 360-6000
Facsimile: (702) 360-0000

*Attorneys for Plaintiff
William Harry Resh*

By: /s/ Jordan F. Faux
JORDAN F. FAUX, ESQ.
Nevada Bar No.: 12205
2625 N. Green Valley Pkwy., #100
Henderson, Nevada 89014
Telephone: (702) 458-5790
Facsimile: (702) 458-5794

*Attorneys for Defendant Western National
Mutual Insurance Company*

From: Frederic Berkley
Sent: Monday, November 16, 2020 9:21 AM
To: Gene Crawford
Subject: FW: Resh v. Money Machine, et al.

From: Jordan Faux <jfaux@fauxlaw.com>
Sent: Friday, November 13, 2020 5:21 PM
To: Frederic Berkley <fberkley@sklar-law.com>
Subject: RE: Resh v. Money Machine, et al.

Mr. Berkley,

You may affix my electronic signature. If you need a wet signature, please let me know and I will provide.

Please also let me know regarding stipulating to waive the appeal bond at your convenience.

Thanks,
--Jordan

Jordan F. Faux, Esq. | THE FAUX LAW GROUP | 2625 N. Green Valley Pkwy, Suite 100, Henderson, NV 89074 | T: 702.458.5790 | F: 702.458.5794 | jfaux@fauxlaw.com

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 William Resh, Plaintiff(s)

CASE NO: A-18-775815-C

7 vs.

DEPT. NO. Department 20

8 Money Machine LLC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 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:

14 Service Date: 1/14/2021

15 Jordan Faux

jfaux@fauxlaw.com

16 Gene Crawford

gcrawford@sklar-law.com

17 Frederic Berkley

fberkley@sklar-law.com

18 Willi Siepmann

wsiepmann@fauxlaw.com

19 Kathy Fenn

kfenn@fauxlaw.com

20 Copy Room

efile@alversontaylor.com

21 Kurt Bonds

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