

Electronically Filed
Apr 27 2021 10:15 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

1 **NOAS**
2 KURT C. FAUX, ESQ.
3 Nevada Bar No. 03407
4 JORDAN F. FAUX, ESQ.
5 Nevada Bar No. 12205
6 THE FAUX LAW GROUP
7 2625 N. Green Valley Pkwy., #100
8 Henderson, Nevada 89014
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13 *Attorneys for Western National Mutual*
14 *Insurance Company*

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

12 WILLIAM HARRY RESH, an individual,
13 Plaintiff,

14 v.

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

19 Defendants.

Case No.: A-18-775815-C
Dept. No.: 20

NOTICE OF APPEAL

21 Notice is hereby given that Western National Mutual Insurance Company (“WNMIC”),
22 defendant above named, hereby appeals to the Supreme Court of Nevada from the Findings of Fact
23 and Conclusions of Law and Order Granting Summary Judgment entered in this action on the 13th day
24 of October, 2020. WNMIC also hereby appeals to the Supreme Court of Nevada from the Order
25 granting Plaintiff’s Motion for Attorney’s Fees and Costs entered in this action on the 14th day of

26 ///

27 ///

28 ///

January, 2021. Both the Summary Judgment dated October 13, 2020, and the Attorney's Fees and Costs Judgment dated January 14, 2021, were certified as final by the District Court on April 14, 2021.

DATED this 20th day of April, 2021.

THE FAUX LAW GROUP

By: /s/ Jordan F. Faux
KURT C. FAUX, ESQ.
Nevada Bar No. 03407
JORDAN F. FAUX, ESQ.
Nevada Bar No. 12205
THE FAUX LAW GROUP
2625 N. Green Valley Pkwy., #100
Henderson, Nevada 89014
*Attorneys for Western National Mutual
Insurance Company*

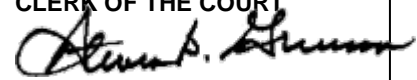
CERTIFICATE OF SERVICE

The undersigned, an employee of The Faux Law Group, hereby certifies that on the 20th day of April, 2021, I served a copy of the foregoing document, **NOTICE OF APPEAL** on the parties listed below via the Court's electronic service system:

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

Adam Knecht, Esq.
Alverson, Taylor, Mortensen, & Sanders
6605 Grand Montecito Pkwy, Suite 200
Las Vegas, Nevada 89149
Email: aknecht@alversontaylor.com
*Attorneys for Money Machine, LLC d/b/a
Compadres Auto Sales and Robert Legaspi*

/s/ Kathleen Fenn
An Employee of The Faux Law Group



ASTA
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jfaux@fauxlaw.com
*Attorneys for Western National Mutual
Insurance Company*

DISTRICT COURT
CLARK COUNTY, NEVADA

WILLIAM HARRY RESH, an individual,

Plaintiff,

Case No.: A-18-775815-C
Dept. No.: 20

v.

CASE APPEAL STATEMENT

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.

1. **Name of appellant filing this case appeal statement:** Western National Mutual Insurance Company.

2. **Identify the judge issuing the decision, judgment, or order appealed from:** Eric Johnson:

Findings of Fact and Conclusions of Law and Order Granting Summary Judgment; and Order granting Plaintiff's Motion for Attorney's Fees and Costs.

3. **Identify each appellant and the name and address of counsel for each appellant:**
Western National Mutual Insurance Company, c/o Kurt C. Faux, Esq., Jordan F. Faux, Esq., The Faux Law Group, 2625 N. Green Valley Pkwy, Suite 100, Henderson, NV 89014.

///

1 4. **Identify each respondent and the name and address of appellate counsel, if known,**
2 **for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as**
3 **much and provide the name and address of that respondent's trial counsel):** William Harry Resh.
4 Appellate counsel unknown. Trial Counsel: Frederic I. Berkley, Esq., Sklar Williams, PLLC, 410 S.
5 Rampart Blvd., Suite 350, Las Vegas, NV 89145.

6 5. **Indicate whether any attorney identified above in response to question 3 or 4 is not**
7 **licensed to practice law in Nevada and, if so, whether the district court granted that attorney**
8 **permission to appear under SCR 42 (attach a copy of any district court order granting such**
9 **permission):** Not applicable.

10 6. **Indicate whether appellant was represented by appointed or retained counsel in**
11 **the district court:** Retained counsel.

12 7. **Indicate whether appellant is represented by appointed or retained counsel on**
13 **appeal:** Retained counsel.

14 8. **Indicate whether appellant was granted leave to proceed in forma pauperis, and**
15 **the date of entry of the district court order granting such leave:** Not applicable.

16 9. **Indicate the date the proceedings commenced in the district court (e.g., date**
17 **complaint, indictment, information, or petition was filed):** Amended Complaint was filed July 11,
18 2019.

19 10. **Provide a brief description of the nature of the action and result in the district**
20 **court, including the type of judgment or order being appealed and the relief granted by the**
21 **district court:** This matter is a claim against a Motor Vehicle Dealer's License Bond. On October
22 13, 2020, summary judgment was granted in favor of William Harry Resh and against Western
23 National Mutual Insurance Company in the amount of \$100,000.00, the penal sum of the Bond. The
24 dispute is whether William Harry Resh qualifies as a "consumer" as defined by NRS 482.345(10) and
25 therefore entitled to make claim upon the Bond. Western National Mutual Insurance Company is now
26 appealing the Findings of Fact and Conclusions of Law and Order Granting Summary Judgment filed
27 on October 13, 2020.
28

Plaintiff subsequently filed a Motion for Attorney's Fees and Costs. On January 14, 2021, the District Court filed an Order Granting Plaintiff's Motion for Attorney's Fees and Costs. Western National Mutual Insurance Company is now appealing the Order Granting Plaintiff's Motion for Fees and Costs filed on January 14, 2021.

11. **Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:** On November 6, 2020, Western National Mutual Insurance Company appealed the District Court's Findings of Fact and Conclusions of Law and Order Granting Summary Judgment, which appeal is docketed as Supreme Court in Case No. 82087. On February 26, 2021, Case No. 82087 was dismissed based on the Nevada Supreme Court's conclusion that the summary judgment was not a final judgment.

On February 10, 2021, Western National Mutual Insurance Company appealed the District Court's Order granting Plaintiff's Motion for Attorney's Fees and Costs, which appeal is docketed as Supreme Court Case No. 82475. Case No. 82475 is pending before the Supreme Court. On April 13, 2021, the Nevada Supreme Court issued an order to show cause whether the judgment is final. Western National Mutual Insurance Company's response to the order to show cause is due on May 13, 2021.

12. **Indicate whether this appeal involves child custody or visitation:** Not applicable.

13. **If this is a civil case, indicate whether this appeal involves the possibility of settlement:** Possibility of settlement is unlikely.

DATED this 20th day of April, 2021.

THE FAUX LAW GROUP

By: /s/ Jordan F. Faux
KURT C. FAUX, ESQ.
Nevada Bar No. 03407
JORDAN F. FAUX, ESQ.
Nevada Bar No. 12205
THE FAUX LAW GROUP
2625 N. Green Valley Pkwy., #100
Henderson, Nevada 89014
*Attorneys for Western National Mutual
Insurance Company*

CERTIFICATE OF SERVICE

The undersigned, an employee of The Faux Law Group, hereby certifies that on the 20th day of April, 2021, I served a copy of the foregoing document, **CASE APPEAL STATEMENT** on the parties listed below via the Court's electronic service system:

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

Adam Knecht, Esq.
Alverson, Taylor, Mortensen, & Sanders
6605 Grand Montecito Pkwy, Suite 200
Las Vegas, Nevada 89149
Email: aknecht@alversontaylor.com
*Attorneys for Money Machine, LLC d/b/a
Compadres Auto Sales and Robert Legaspi*

/s/ Kathleen Fenn
An Employee of The Faux Law Group

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. A-18-775815-C**

William Resh, Plaintiff(s)
vs.
Money Machine LLC, Defendant(s)

§
§
§
§
§
§
§

Location: **Department 20**
 Judicial Officer: **Johnson, Eric**
 Filed on: **06/08/2018**
 Case Number History:
 Cross-Reference Case Number: **A775815**
 Supreme Court No.: **82087**
82475

CASE INFORMATIONCase Type: **Intentional Misconduct**

Case
Status: **06/08/2018 Open**





DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number A-18-775815-C
 Court Department 20
 Date Assigned 07/02/2018
 Judicial Officer Johnson, Eric

PARTY INFORMATION

Plaintiff	Resh, William Harry	<i>Lead Attorneys</i> Berkley, Frederic I, ESQ <i>Retained</i> 702-360-6000(W)
Defendant	Legaspi, Robert	Bonds, Kurt R. <i>Retained</i> 702-384-7000(W)
	Money Machine LLC	Bonds, Kurt R. <i>Retained</i> 702-384-7000(W)
	Western National Mutual Insurance Company	Faux, Kurt C. <i>Retained</i> 7024585790(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

06/08/2018	 Initial Appearance Fee Disclosure <i>Initial Appearance Fee Disclosure</i>
06/08/2018	 Complaint Filed By: Plaintiff Resh, William Harry <i>Complaint</i>
06/08/2018	 Summons Electronically Issued - Service Pending Party: Plaintiff Resh, William Harry <i>Summons-Civil</i>
06/11/2018	 Declaration

CASE SUMMARY

CASE NO. A-18-775815-C

	Filed By: Plaintiff Resh, William Harry <i>Declaration of Service</i>
07/02/2018	Case Reassigned to Department 20 <i>Reassigned From Judge Leavitt - Dept 12</i>
07/02/2018	 Amended Affidavit of Service Party: Plaintiff Resh, William Harry <i>Amended Declaration of Service</i>
07/05/2018	 Default Filed By: Plaintiff Resh, William Harry <i>(10/31/18 Set Aside) Default Against - Money Machine, LLC, dba Compadres Auto Sales</i>
07/30/2018	 Motion to Set Aside Default Judgment Filed By: Defendant Money Machine LLC <i>Motion to Set Aside Default</i>
07/30/2018	 Initial Appearance Fee Disclosure <i>Initial Appearance Fee Disclosure</i>
08/08/2018	 Opposition to Motion Filed By: Plaintiff Resh, William Harry <i>Plaintiff's Opposition to Defendant's Motion to Set Aside Default</i>
08/10/2018	 Stipulation and Order Filed by: Plaintiff Resh, William Harry <i>Stipulation and Order</i>
08/13/2018	 Notice of Entry Filed By: Plaintiff Resh, William Harry <i>Notice of Entry</i>
10/31/2018	 Order Granting Motion Filed By: Defendant Money Machine LLC <i>Order Granting Defendant's Motion to Set Aside Default</i>
10/31/2018	 Notice of Entry of Order Filed By: Defendant Money Machine LLC <i>Notice of Entry of Order</i>
11/19/2018	 Answer Filed By: Defendant Money Machine LLC <i>Defendant Money Machine, LLC d/b/a Compadres Auto Sales' Answer To Complaint</i>
11/21/2018	 Notice of Early Case Conference Filed By: Plaintiff Resh, William Harry <i>Notice of Early Case Conference</i>
12/18/2018	 Request for Exemption From Arbitration Filed by: Plaintiff Resh, William Harry <i>Request for Exemption from Arbitration</i>
01/04/2019	 Commissioners Decision on Request for Exemption - Granted

CASE SUMMARY

CASE NO. A-18-775815-C

COMMISSIONER'S DECISION ON REQUEST FOR EXEMPTION - GRANTED

01/15/2019	 Case Conference Report Filed By: Plaintiff Resh, William Harry <i>Plaintiff's Case Conference Report</i>
01/25/2019	 Notice to Appear for Discovery Conference <i>Notice to Appear for Discovery Conference</i>
02/12/2019	 Joinder to Case Conference Report Filed By: Defendant Money Machine LLC <i>Defendant Money Machine LLC d/b/a Compadres Auto Sales Limited Joinder to Plaintiff's Case Conference Report</i>
02/27/2019	 Scheduling Order <i>Scheduling Order</i>
03/25/2019	 Order Setting Civil Non-Jury Trial <i>Order Setting Civil Non-Jury Trial</i>
05/29/2019	 Motion for Leave to File Party: Plaintiff Resh, William Harry <i>Plaintiff's Motion For Leave to File Amended Complaint</i>
05/29/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/31/2019	 Amended Certificate of Service <i>Amended Certificate of Service</i>
07/11/2019	 Order Granting Motion Filed By: Plaintiff Resh, William Harry <i>Order Granting Plaintiff's Motion for Leave to File Amended Complaint</i>
07/11/2019	 Notice of Entry of Order Filed By: Plaintiff Resh, William Harry <i>Notice of Entry of Order</i>
07/11/2019	 Amended Complaint Filed By: Plaintiff Resh, William Harry <i>Amended Complaint</i>
07/11/2019	 Summons Electronically Issued - Service Pending Party: Plaintiff Resh, William Harry <i>Summons-Civil</i>
07/11/2019	 Summons Electronically Issued - Service Pending Party: Plaintiff Resh, William Harry <i>Summons-Civil</i>
07/11/2019	 Summons Electronically Issued - Service Pending Party: Plaintiff Resh, William Harry <i>Summons-Civil</i>

CASE SUMMARY

CASE NO. A-18-775815-C

07/24/2019	 Acceptance of Service Filed By: Plaintiff Resh, William Harry <i>Acceptance of Service- Western National Mutual Insurance Company</i>
07/30/2019	 Declaration Filed By: Defendant Money Machine LLC <i>Declaration of Service- Robert Legaspi, an Individual</i>
07/30/2019	 Declaration Filed By: Plaintiff Resh, William Harry <i>Declaration of Service- Robert Legaspi, as an Authorized Owner</i>
07/30/2019	 Summons Filed by: Plaintiff Resh, William Harry <i>Summons- Robert Legaspi</i>
07/30/2019	 Summons Filed by: Plaintiff Resh, William Harry <i>Summons- Robert Legaspi, As Authorized Owner of MM</i>
08/20/2019	 Answer to Amended Complaint Filed By: Defendant Money Machine LLC <i>Defendants Money Machine LLC d/b/a/ Compadres Auto Sales and Robert Legaspi's Answer to Amended Complaint</i>
08/30/2019	 Motion to Dismiss Filed By: Defendant Western National Mutual Insurance Company <i>Motion to Dismiss and Motion for Attorney Fees and Costs</i>
08/30/2019	 Initial Appearance Fee Disclosure Filed By: Defendant Western National Mutual Insurance Company <i>Initial Appearance Fee Disclosure</i>
09/05/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
09/06/2019	 Opposition to Motion to Dismiss Filed By: Plaintiff Resh, William Harry <i>Plaintiff's Opposition to Defendant Western National Mutual Insurance Company's Motion to Dismiss and Motion for Attorney's Fees and Costs</i>
09/13/2019	 Stipulation and Order Filed by: Plaintiff Resh, William Harry <i>Stipulation and Order to Continue Hearing</i>
10/10/2019	 Reply to Opposition Filed by: Defendant Western National Mutual Insurance Company <i>Reply To Plaintiff's Opposition To Defendant Western National Mutual Insurance Company's Motion To Dismiss And Motion For Attorney Fees And Costs</i>
10/30/2019	 Order Filed By: Plaintiff Resh, William Harry <i>Order</i>

CASE SUMMARY

CASE NO. A-18-775815-C

10/31/2019	 Notice of Entry Filed By: Plaintiff Resh, William Harry <i>Notice of Entry</i>
11/20/2019	 Answer to Amended Complaint Filed By: Defendant Western National Mutual Insurance Company <i>Western National Mutual Insurance Company's Answer to Amended Complaint</i>
11/26/2019	 Offer of Judgment Filed By: Plaintiff Resh, William Harry <i>Offer of Judgment</i>
02/26/2020	 Stipulation and Order to Extend Discovery Deadlines Filed By: Defendant Western National Mutual Insurance Company <i>Stipulation and Order To Extend Discovery Deadlines Based on Trial Continuance</i>
02/26/2020	 Notice of Entry of Order Filed By: Defendant Western National Mutual Insurance Company <i>Notice of Entry of Order Granting Stipulation to Extend Discovery Deadlines</i>
03/20/2020	 Proof of Service Filed by: Plaintiff Resh, William Harry <i>Declaration of Service</i>
04/23/2020	 Pre-trial Memorandum Filed by: Plaintiff Resh, William Harry <i>Plaintiff's Pretrial Memorandum</i>
05/07/2020	 Filing Fee Remittance Filed By: Defendant Legaspi, Robert <i>Filing Fee Remittance</i>
06/01/2020	 Notice of Bankruptcy Filed By: Defendant Legaspi, Robert <i>Robert Legaspi Nevada's Notice of Bankruptcy Filing and Imposition of Automatic Stay</i>
06/15/2020	 Trial Brief Filed By: Plaintiff Resh, William Harry <i>Plaintiff's Trial Brief</i>
06/15/2020	 Trial Brief Filed By: Defendant Western National Mutual Insurance Company <i>Trial Brief for Western National Mutual Insurance Company</i>
06/18/2020	 Stipulation and Order Filed by: Defendant Money Machine LLC; Defendant Legaspi, Robert <i>Stipulation and Order to Continue Trial and Request to Set Status Check</i>
06/22/2020	 Notice of Entry of Stipulation and Order Filed By: Defendant Legaspi, Robert <i>Notice of Entry of Stipulation and Order</i>
07/14/2020	

CASE SUMMARY

CASE NO. A-18-775815-C

	 Notice of Telephonic Hearing Filed by: Defendant Money Machine LLC <i>Notice of Remote Appearance for Status Check</i>
07/14/2020	 Brief Filed By: Plaintiff Resh, William Harry <i>Plaintiff William Harry Resh's Brief Regarding Upcoming Status Check</i>
07/24/2020	 Brief Filed By: Defendant Western National Mutual Insurance Company <i>Western National Mutual Insurance Company s Brief Re; Status Check In Light Of Bankruptcy Of Robert Legaspi</i>
08/11/2020	 Motion for Summary Judgment Filed By: Plaintiff Resh, William Harry <i>Plaintiff's Motion for Summary Judgment</i>
08/25/2020	 Opposition to Motion For Summary Judgment Filed By: Defendant Western National Mutual Insurance Company <i>Opposition to Plaintiff's Motion for Summary Judgment</i>
09/01/2020	 Reply to Opposition Filed by: Plaintiff Resh, William Harry <i>Plaintiff's Reply to Opposition to Plaintiff's Motion for Summary Judgment</i>
10/01/2020	 Motion for Attorney Fees and Costs Filed By: Plaintiff Resh, William Harry <i>Plaintiff's Motion for Attorney's Fees and Costs</i>
10/02/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
10/13/2020	 Findings of Fact, Conclusions of Law and Order Filed By: Defendant Western National Mutual Insurance Company <i>Findings of Fact and Conclusions of Law and Order Granting Summary Judgment</i>
10/15/2020	 Opposition to Motion Filed By: Defendant Western National Mutual Insurance Company <i>Opposition to Plaintiff's Motion for Attorney Fees and Costs</i>
10/23/2020	 Reply to Opposition Filed by: Plaintiff Resh, William Harry <i>Plaintiff's Reply to Defendant's Opposition to Plaintiff's Motion for Attorney's Fees and Costs</i>
11/02/2020	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
11/06/2020	 Notice of Appeal Filed By: Defendant Western National Mutual Insurance Company <i>Notice of Appeal</i>
11/06/2020	 Case Appeal Statement Filed By: Defendant Western National Mutual Insurance Company <i>Case Appeal Statement</i>

CASE SUMMARY

CASE NO. A-18-775815-C

11/06/2020	 Supplement Filed by: Plaintiff Resh, William Harry <i>Supplement to Plaintiff's Motion for Attorney's Fees and Costs</i>
01/14/2021	 Order Filed By: Plaintiff Resh, William Harry <i>Order</i>
01/14/2021	 Notice of Entry of Order Filed By: Plaintiff Resh, William Harry <i>Notice of Entry of Order</i>
02/10/2021	 Notice of Appeal Filed By: Defendant Western National Mutual Insurance Company <i>Notice of Appeal</i>
02/10/2021	 Case Appeal Statement Filed By: Defendant Western National Mutual Insurance Company <i>Case Appeal Statement</i>
02/22/2021	 Notice of Filing Cost Bond Filed By: Defendant Western National Mutual Insurance Company <i>Western National Mutual Insurance Company's Notice of Posting Cash Bond for Costs on Appeal Pursuant to NRAP 7</i>
02/25/2021	 Notice of Posting Bond Filed By: Defendant Western National Mutual Insurance Company <i>Western National Mutual Insurance Company's Notice of Posting Supersedeas Bond</i>
03/03/2021	 Request Filed by: Defendant Western National Mutual Insurance Company <i>Request for Transcript of Proceedings</i>
03/25/2021	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>
03/26/2021	 Motion Filed By: Defendant Western National Mutual Insurance Company <i>Western National Mutual Insurance Company's Motion Requesting NRCP 54(b) Certification</i>
03/26/2021	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
04/01/2021	 Response Filed by: Plaintiff Resh, William Harry <i>Plaintiff's Response to Western National Mutual Insurance Company's Motion Requesting NRCP 54(b) Certification</i>
04/08/2021	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings: Motion to Dismiss, October 16, 2019</i>
04/08/2021	 Recorders Transcript of Hearing

CASE SUMMARY

CASE NO. A-18-775815-C

Recorder's Transcript of Proceedings: Motion for Attorney Fees and Costs, November 4, 2020

04/14/2021



Stipulation and Order

Stipulation and Order Certifying Judgments As Final

04/14/2021



Notice of Entry of Order

Filed By: Defendant Western National Mutual Insurance Company

Notice of Entry of Order

04/20/2021



Notice of Appeal

Filed By: Defendant Western National Mutual Insurance Company

Notice of Appeal

04/20/2021



Case Appeal Statement

Filed By: Defendant Western National Mutual Insurance Company

Case Appeal Statement

DISPOSITIONS

10/13/2020

Summary Judgment (Judicial Officer: Johnson, Eric)

Debtors: Western National Mutual Insurance Company (Defendant)

Creditors: William Harry Resh (Plaintiff)

Judgment: 10/13/2020, Docketed: 10/14/2020

Total Judgment: 100,000.00

01/14/2021

Order (Judicial Officer: Johnson, Eric)

Debtors: Money Machine LLC (Defendant), Robert Legaspi (Defendant), Western National Mutual Insurance Company (Defendant)

Creditors: William Harry Resh (Plaintiff)

Judgment: 01/14/2021, Docketed: 01/15/2021

Total Judgment: 34,232.27

03/25/2021

Clerk's Certificate (Judicial Officer: Johnson, Eric)

Debtors: Western National Mutual Insurance Company (Defendant)

Creditors: William Harry Resh (Plaintiff)

Judgment: 03/25/2021, Docketed: 04/08/2021

Comment: Supreme Court No. 82087 Appeal Dismissed

HEARINGS

09/20/2018



Minute Order (1:30 PM) (Judicial Officer: Johnson, Eric)

Minute Order - No Hearing Held;

Journal Entry Details:

Defendant Money Machine, LLC filed a Motion to Set Aside Default on July 30, 2018. The matter was subsequently scheduled for hearing on September 26, 2018. After considering the pleadings, the Court hereby GRANTS Defendant's Motion to Set Aside Default. The Court finds that good cause has been show and there is minimal prejudice to either side in setting aside the default. The Court finds that the Defendant's lack of filing an Answer was due to excusable neglect and the Defendant was diligent in filing the instant motion to set aside once the Default was discovered. The Court also finds parties are not prejudiced by setting aside the Default because there has not been such a delay that Plaintiff's ability to pursue his claim will be hindered. The Court hereby VACATES the September 26, 2018 hearing. Counsel for Defendant is directed to prepare a proposed order and to circulate it to opposing counsel for approval as to form and content before submitting it to chambers for signature. ;

09/26/2018

CANCELED Motion to Set Aside (10:30 AM) (Judicial Officer: Johnson, Eric)

Vacated

Defendant's Motion to Set Aside Default

02/12/2019



Discovery Conference (10:00 AM) (Judicial Officer: Bulla, Bonnie)

CASE SUMMARY

CASE NO. A-18-775815-C

Notice to Appear for Discovery Conference

Scheduling Order Will Issue;

Journal Entry Details:

Dates provided are not workable with Rule 16.1. Colloquy re: discovery cutoff is 6-28-19; adding parties, amended pleadings, and initial expert disclosures DUE 3-29-19; rebuttal expert disclosures DUE 4-29-19; file dispositive motions by 7-29-19. Mr. Berkley stated a car was sold one year ago for \$143,000. Mr. Knecht filed a Joinder with amended dates. Counsel anticipate 1 to 2 days for trial re: Intentional misconduct; no Settlement Conference requested. COMMISSIONER RECOMMENDED, discovery cutoff is 6-28-19; adding parties and amended pleadings are 3-29-19; expert disclosures are Not Applicable; file dispositive motions by 7-29-19. Trial ready the first part of Fall 2019. Scheduling Order will issue. Counsel can approach the Judge to go to Trial earlier. Commissioner suggested a Mandatory Settlement Conference, and work with Department 30 earlier rather than later.;

07/02/2019



Minute Order (12:19 PM) (Judicial Officer: Johnson, Eric)

Minute Order Re: Motion for Leave

Minute Order - No Hearing Held;

Journal Entry Details:

Plaintiff William Harry Resh filed a Motion for Leave to File Amended Complaint on May 29, 2019. The matter was subsequently scheduled for hearing on July 3, 2019. No opposition having been filed and good cause showing, pursuant to EDCR 2.20(e) and EDCR 2.23(c) the Court hereby GRANTS the Motion for Leave to File Amended Complaint. The Court hereby VACATES the July 3, 2019 hearing. Counsel for Plaintiff is directed to prepare a proposed order and to circulate it to opposing counsel for approval as to form and content before submitting it to chambers for signature. Law Clerk to notify the parties. ;

07/03/2019

CANCELED Motion for Leave (8:30 AM) (Judicial Officer: Johnson, Eric)

Vacated - per Law Clerk

Plaintiff's Motion for Leave to File Amended Complaint

10/16/2019



Motion to Dismiss (8:30 AM) (Judicial Officer: Johnson, Eric)

Defendant Motion to Dismiss and Motion for Attorney Fees and Costs

Motion Denied;

Journal Entry Details:

Court agreed the doctor falls within the concept of consumer under the statute. Argument by Mr. Faux that the issue is not whether Dr. Resh is in the business of buying and selling cars, but in the nature of this transaction. Court noted the doctor got the car intending to be the final user and not for sale. Argument by Mr. Berkley that Dr. Resh determined during divorce proceedings that it was best to get rid of his vehicles, noting there is nothing in the statute that would indicate that a consumer like Dr. Resh loses the protection of NRS 482.345 because he decided to sell his car at auction. COURT FINDS, Dr. Resh intended to be the final user of the car and ORDERED, Motion to Dismiss DENIED; Motion for Attorney Fees and Costs DENIED. Mr. Berkley to prepare the order.;

10/23/2019



Calendar Call (8:30 AM) (Judicial Officer: Johnson, Eric)

Reset;

Journal Entry Details:

Upon Court's inquiry, Mr. Faux advised he is not ready for trial, needs discovery, maybe will need depositions and would like to review the transaction in more detail. Following colloquy, Mr. Berkley feels it will be a one day bench trial and has no objection to a short continuance. COURT ORDERED, trial date VACATED, RESET and also SET for status check to see if this trial date is viable. 11/20/19 8:30 AM STATUS CHECK 1/22/20 8:30 AM CALENDAR CALL 2/10/20 9:00 AM BENCH TRIAL;

11/18/2019

CANCELED Bench Trial (9:30 AM) (Judicial Officer: Johnson, Eric)

Vacated

11/20/2019



Status Check (8:30 AM) (Judicial Officer: Johnson, Eric)

Matter Heard;

Journal Entry Details:

Colloquy regarding remaining depositions and a bench trial estimate of one (1) day. Counsel indicated they were prepared to proceed on the February 10, 2020 Bench Trial date. COURT

CASE SUMMARY

CASE NO. A-18-775815-C

ORDERED, matter heard.;

01/22/2020



Calendar Call (8:30 AM) (Judicial Officer: Johnson, Eric)

Trial Date Set;

Journal Entry Details:

Upon Court's inquiry, Mr. Berkley advised he is still doing discovery, that in speaking with counsel and experts, the dates of 5/6 or 5/7 will work as they feel this is a one day trial. Mr. Faux and Mr. Williams concurred. Further, following colloquy, counsel to submit a Stipulation as to the close of discovery. COURT ORDERED, a FIRM trial date to be set. 5/6/20 9:30 AM BENCH TRIAL;

02/10/2020

CANCELED Bench Trial (9:00 AM) (Judicial Officer: Johnson, Eric)

Vacated

05/06/2020

CANCELED Bench Trial - FIRM (9:30 AM) (Judicial Officer: Johnson, Eric)

Vacated

06/22/2020

CANCELED Bench Trial (9:00 AM) (Judicial Officer: Johnson, Eric)

Vacated - per Stipulation and Order

06/30/2020

CANCELED Status Check (8:30 AM) (Judicial Officer: Johnson, Eric)

Vacated

07/28/2020



Status Check (8:30 AM) (Judicial Officer: Johnson, Eric)

Matter Heard;

Journal Entry Details:

Mr. Berkley, Mr. Faux, and Mr. Knecht appeared by phone via Blue Jeans. Court noted it had received Plaintiff's brief and Defendant's response. Upon Court's inquiry, Mr. Berkley stated he also received Defendant's brief. Arguments by Mr. Berkley and Mr. Faux. Court stated the automatic stay protects the assets of the debtor. Mr. Berkley argued there are no factual disputes and a bond for \$100,000.00 has been posted. Court suggested the Plaintiff move for summary judgment on this case, and if the case is not available for summary judgment at that time or he finds issues of fact requiring a trial, he will set the case for trial. Further, Court stated it would revisit the issue of the automatic stay as it pertains to going forward with trial. Following colloquy, COURT ORDERED, matter SET for Motion for Summary Judgment and the parties were notified of the following briefing schedule: Plaintiff's Motion due by 8/11/2020, Defendant's Response due by 8/25/2020, And Plaintiff's reply is due by 9/1/2020. 9/16/20 8:30 AM MOTION FOR SUMMARY JUDGMENT;

09/15/2020



Minute Order (3:00 AM) (Judicial Officer: Johnson, Eric)

Minute Order - No Hearing Held;

Journal Entry Details:

Plaintiff William Harry Resh filed a Motion for Summary Judgment on August 11, 2020. The matter was subsequently scheduled for hearing on September 16, 2020. After considering the pleadings and argument of counsel, the Court GRANTS Plaintiff Resh's Motion for Summary Judgment. The Court finds Plaintiff Resh falls within the definition of consumer as set forth in NRS 482.345 and Plaintiff intended to be the final user of the vehicle at issue. As no genuine issue of material fact remains, the Court finds summary judgment is appropriate. The Court hereby VACATES the September 16, 2020 hearing. Counsel for Plaintiff Resh is directed to prepare a proposed order including detailed findings of fact and conclusions of law, which is to be approved by opposing counsel as to form and content prior to submitting the order to chambers in Microsoft word format, by email to dept20lc@clarkcountycourts.us. Law Clerk to notify parties. ;

09/16/2020

CANCELED Motion for Summary Judgment (8:30 AM) (Judicial Officer: Johnson, Eric)

Vacated - Duplicate Entry

Motion for Summary Judgment (to be filed by August 11, 2020)

09/16/2020


CANCELED Motion for Summary Judgment (8:30 AM) (Judicial Officer: Johnson, Eric)

Vacated - per Law Clerk

Plaintiff's Motion for Summary Judgment

CASE SUMMARY

CASE NO. A-18-775815-C

11/04/2020	 Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer: Johnson, Eric) <i>Plaintiff's Motion for Attorney's Fees and Costs</i> Granted; Journal Entry Details: <i>Mr. Faux argued he would rely on the papers and arguments asserted in their pleadings. Mr. Berkley argued they made an offer of judgment and the surety did not obtain a more favorable verdict or judgment, therefore, under NRCP 68 they should be entitled to attorney's fees and costs. Further, Mr. Berkley requested the Court consider NRS 18.010. Mr. Faux started to argue in terms of NRS 18.010 and Court interjected; the Court will not find on NRS 18.010 as it does not believe Deft. has reached the level of frivolousness or vexatiousness that the statute requires. Mr. Faux argued under the Beattie factors Western National's rejection of the offer of judgement was reasonable and justified under the facts of this case. Mr. Faux requested if the Court is inclined to award fees, that those fees should be discounted based on the block billing and the high minimum hourly entry. COURT FINDS under Rule 68 considering the Beattie factors, the Plaintiff's claim was brought in good faith, the offer was reasonable and in good faith both as to timing and in amount; as to whether the rejection of the offer and proceeding to trial was grossly unreasonable or bad faith, if it wasn't grossly unreasonable, but it was unreasonable in an obvious way, therefore, COURT ORDERED motion GRANTED. COURT DIRECTED Pltf. prepare an order setting out the Courts findings as it relates to the Rule 68 under Beattie and under Brunzell and leave the amount for attorney's fees open. Mr. Berkley requested to be allowed to file a supplemental demonstrating his time for September and October. There being no opposition, COURT ORDERED, request GRANTED. ;</i>
04/28/2021	CANCELED Motion (10:30 AM) (Judicial Officer: Johnson, Eric) <i>Vacated - per Stipulation and Order</i> <i>Western National Mutual Insurance Company's Motion Requesting NRCP 54(b) Certification</i>

DATE

FINANCIAL INFORMATION

Defendant Legaspi, Robert	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 4/22/2021	0.00
Defendant Money Machine LLC	
Total Charges	223.00
Total Payments and Credits	223.00
Balance Due as of 4/22/2021	0.00
Defendant Western National Mutual Insurance Company	
Total Charges	518.00
Total Payments and Credits	518.00
Balance Due as of 4/22/2021	0.00
Plaintiff Resh, William Harry	
Total Charges	585.50
Total Payments and Credits	585.50
Balance Due as of 4/22/2021	0.00
Defendant Western National Mutual Insurance Company	
Appeal Bond Balance as of 4/22/2021	500.00

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

Department 12

Case No. _____

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): WILLIAM HARRY RESH, an individual	Defendant(s) (name/address/phone): MONEY MACHINE, LLC, a Nevada limited liability company dba COMPADRES AUTO SALES
Attorney (name/address/phone): FREDERIC I. BERKLEY, ESQ. SKLAR WILLIAMS PLLC 410 S. RAMPART BLVD., STE.350, LAS VEGAS NV 89145 (702) 360-6000	Attorney (name/address/phone):

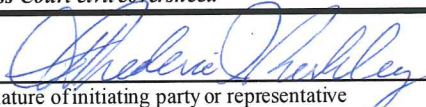
II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input checked="" type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

6/7/2018

Date


 Signature of initiating party or representative

See other side for family-related case filings.

Heather S. Linn

CLERK OF THE COURT

FFCO

KURT C. FAUX, ESQ.
Nevada Bar No. 003407
JORDAN F. FAUX, ESQ.
Nevada Bar No. 12205
THE FAUX LAW GROUP
2625 N. Green Valley Parkway, #100
Henderson, Nevada 89014
Telephone: (702) 458-5790
Facsimile: (702) 458-5794
Email: kfaux@fauxlaw.com
jfaux@fauxlaw.com
*Attorneys for Western National Mutual
Insurance Company*

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.: 20

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND
ORDER GRANTING
SUMMARY JUDGMENT**

This matter having come before the Court on Plaintiff's Motion for Summary Judgment, and the Court having considered the aforementioned Plaintiff's Motion for Summary Judgment, the Opposition to Plaintiff's Motion for Summary Judgment and Plaintiff's Reply to Opposition to Plaintiff's Motion for Summary Judgment, and all of the pleadings on file herein, this Court enters the following Findings of Fact and Conclusion of Law:

FINDINGS OF FACT

1. Plaintiff William Harry Resh (hereinafter referred to as "Dr. Resh") is a Board-certified cardiologist with Nevada Heart and Vascular Center and is, and was during all times relevant herein, a resident of the state of Nevada.

CONCLUSIONS OF LAW

4. WNMIC is liable to Dr. Resh under the terms of the Vehicle Industry Business License Bond number 37029.

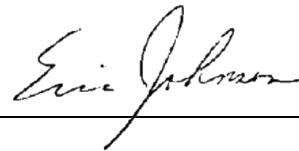
5. Any Conclusion of Law which should more properly be set forth as a Finding of Fact is hereby deemed a Finding of Fact, and vice versa.

ORDER GRANTING SUMMARY JUDGMENT

Based on the aforementioned Findings of Fact and Conclusions of Law, and this Court specifically finding that there are no remaining genuine issues of material fact, this Court hereby grants Plaintiff's Motion for Summary Judgement against Defendant Western National Mutual Insurance Company and finds that Dr. Resh shall have Judgment against this Defendant in the amount of \$100,000.

DATED this ____ day of September, 2020.

Dated this 13th day of October, 2020



DISTRICT COURT JUDGE

16B 532 E326 9824
Eric Johnson
District Court Judge

Submitted by:

THE FAUX LAW GROUP

Kurt C. Faux, Esq.
Jordan F. Faux, Esq.
2625 N. Green Valley Pkwy., Suite 100
Henderson, NV 89014
Attorneys for Western National Mutual Insurance Company

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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 Findings of Fact, Conclusions of Law and Order was served via the
14 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

15 Service Date: 10/13/2020

16 Jordan Faux

jfaux@fauxlaw.com

17 Gene Crawford

gcrawford@sklar-law.com

18 Frederic Berkley

fberkley@sklar-law.com

19 Kathy Fenn

kfenn@fauxlaw.com

20 Copy Room

efile@alversontaylor.com

21 Kurt Bonds

kbonds@alversontaylor.com

22 Adam Knecht

aknecht@alversontaylor.com

23 Kurt Faux

kfaux@fauxlaw.com

24 Foniah Abbott

fabbott@fauxlaw.com

25 Terri Scott

tscott@sklar-law.com

26
27
28

1 If indicated below, a copy of the above mentioned filings were also served by mail
2 via United States Postal Service, postage prepaid, to the parties listed below at their last
3 known addresses on 10/14/2020

4 Kurt Bonds Alverson Taylor & Sanders
5 Attn: Kurt R. Bonds
6 6605 Grand Montecito Pkwy., Suite 200
7 Las Vegas, NV, 89149
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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

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1 **CSERV**

2
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CLARK COUNTY, NEVADA

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6 William Resh, Plaintiff(s)

CASE NO: A-18-775815-C

7 vs.

DEPT. NO. Department 20

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24 Foniah Abbott

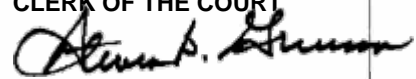
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1 **NEOJ**

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
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*Attorneys for Plaintiff
William Harry Resh*

By: /s/ Jordan F. Faux
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Nevada Bar No.: 12205
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Facsimile: (702) 458-5794

*Attorneys for Defendant Western National
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Mr. Berkley,

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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**

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3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 William Resh, Plaintiff(s)

CASE NO: A-18-775815-C

7 vs.

DEPT. NO. Department 20

8 Money Machine LLC,
9 Defendant(s)

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22 Adam Knecht

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24 Foniah Abbott

fabbott@fauxlaw.com

25 Terri Scott

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1 **SAO**
2 KURT C. FAUX, ESQ.
3 Nevada Bar No. 03407
4 JORDAN F. FAUX, ESQ.
5 Nevada Bar No. 12205
6 THE FAUX LAW GROUP
7 2625 N. Green Valley Pkwy., #100
8 Henderson, Nevada 89014
9 Telephone: (702) 458-5790
10 Facsimile: (702) 458-5794
11 Email: kfaux@fauxlaw.com
12 jfaux@fauxlaw.com
13 *Attorneys for Western National Mutual*
14 *Insurance Company*

15 **DISTRICT COURT**
16 **CLARK COUNTY, NEVADA**

17 WILLIAM HARRY RESH, an individual,
18
19 Plaintiff,

20 v.

21 MONEY MACHINE, LLC, a Nevada limited
22 liability company dba COMPADRES AUTO
23 SALES; ROBERT LEGASPI, an individual,
24 WESTERN NATIONAL MUTUAL
25 INSURANCE COMPANY, a Minnesota
26 corporation; DOES I through X; and ROE
27 CORPORATIONS I through X,
28

Defendants.

Case No. A-18-775815-C
Dept. No.: 20

**STIPULATION AND ORDER
CERTIFYING JUDGMENTS AS FINAL
PURSUANT TO NRCP 54(b)**

Defendant Western National Mutual Insurance Company (“WNMIC”) and Plaintiff William Harry Resh (“Resh”), by and through their respective counsel of record, respectfully submit the following Stipulation and Order granting WNMIC’s Motion Requesting 54(b) Certification.

The Court granted judgment in favor of Resh and against WNMIC as follows:

- (1) Summary judgment dated October 13, 2020 in the amount of \$100,000.00, the penal sum of the Motor Vehicle Dealer’s License Bond issued by WNMIC with Money Machine, LLC d/b/a Compadres Auto Sales (“Compadres”) as Principal (“Liability Judgment”); and
- (2) Attorneys’ Fees and Costs Judgment dated January 14, 2021 in the total amount of \$34,232.17 (“Fee Judgment”).

///

1 During the course of this case, Defendant Robert Legaspi, the alleged alter ego of Compadres,
2 voluntarily petitioned for Chapter 7 bankruptcy. *See*, U.S. Bankruptcy Court, District of Nevada
3 Petition No.: 20-12626-mkn. On or about August 24, 2020, the Bankruptcy Court discharged any and
4 all debts against Robert Legaspi. The Chapter 7 case was thereafter closed.

5 WNMIC appealed the Liability Judgment to the Supreme Court on November 6, 2020
6 (“Liability Appeal”). *See*, Supreme Court Case No. 82087; Dkt. No. 20-41702 (the appeal was
7 docketed with the Supreme Court on November 16, 2020). WNMIC appealed the Fee Judgment on
8 February 10, 2021 (“Fee Appeal”). *See*, Supreme Court No. 82475; Dkt. 21-04448 (the appeal was
9 docketed with the Supreme Court on February 16, 2021).

10 On February 26, 2021, the Liability Appeal was dismissed by the Supreme Court for a
11 jurisdictional defect stating that Resh’s claims against Compadres and Robert Legaspi remain pending
12 in the District Court such that the District Court’s Liability Judgment was not final and therefore not
13 appealable. *See*, Supreme Court Case No. 82087, Dkt. No. 21-05690. Remittitur was issued on March
14 24, 2021. *Id.* Dkt. No. 21-08374. The Fee Appeal remains pending before the Nevada Supreme Court.

15 On March 26, 2021, WNMIC filed with this court a Motion Requesting NRCP 54(b)
16 Certification of the Liability Judgment and the Fee Judgment, thereby assuring both to be appealable
17 under NRAP 3A(b)(1). Pursuant to NRCP 54(b), the District Court is authorized to grant NRCP 54(b)
18 certification on orders or judgments that dispose of either an entire claim or all claims against one
19 party:

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

26 The Court can certify as final the Liability Judgment and the Fee Judgment as each one
27 disposes of all Plaintiff’s claims against WNMIC. Therefore, the parties stipulate as follows:
28

1 **IT IS HEREBY STIPULATED AND AGREED** that the Court make an express
2 determination that there is no just reason for delay in certifying as final the Liability Judgment and the
3 Fee Judgment pursuant to NRCP 54(b).

4 **IT IS HEREBY FURTHER STIPULATED AND AGREED** that Bond No. 60049 posted by
5 WNMIC on February 25, 2021, remain in effect as the Supersedeas Bond throughout the appeal
6 process pursuant to NRCP 62.

7 DATED this ____ day of April, 2021.

DATED this ____ day of April, 2021.

8 THE FAUX LAW GROUP

SKLAR WILLIAMS PLLC

9 By: /s/ Jordan F. Faux
10 KURT C. FAUX, ESQ.
Nevada Bar No. 03407
11 JORDAN F. FAUX, ESQ.
Nevada Bar No. 12205
12 2625 N. Green Valley Pkwy., #100
Henderson, Nevada 89014
13 Telephone: (702) 458-5790
Facsimile: (702) 458-5794
14 Email: kfaux@fauxlaw.com
jfaux@fauxlaw.com
15 *Attorneys for Western National Mutual
Insurance Company*

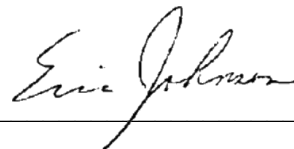
By: /s/ Frederic I. Berkley
FREDERIC I. BERKLEY, ESQ.
Nevada Bar No.: 1798
410 South Rampart Boulevard, Ste. 350
Las Vegas, Nevada 89145
Telephone: (702) 360-6000
Facsimile: (702) 360-0000
Email: fberkley@sklar-law.com
Attorneys for William Harry Resh

16 **ORDER**

17 Based upon the facts and claims in this lawsuit and the stipulation of WNMIC and Resh as set
18 forth above, the Court expressly determines that there is no just reason for delay and directs entry by
19 this Order that the Liability Judgment and Fee Judgment are final judgments pursuant to NRCP 54(b)
20 as of the date of the entry of this Order.
21

22 IT IS SO ORDERED:

23 Dated this 14th day of April, 2021

24
25 
26

27 AD9 294 8C2B 1CBC
Eric Johnson
28 District Court Judge

From: Frederic Berkley <fberkley@sklar-law.com>
Sent: Thursday, April 8, 2021 10:17 AM
To: Jordan Faux
Cc: Frederic Berkley
Subject: Resh v. Money Machine

Dear Mr. Faux,

I have reviewed your proposed Stipulation and Order Certifying Judgments as Final Pursuant to NRCP 54(b). It is acceptable to me and you may affix my electronic signature. Please let me know when it has been delivered to Judge Johnson for his signature.

Frederic I. Berkley, Esq.
Sklar Williams PLLC
410 South Rampart Boulevard
Suite 350
Las Vegas, NV 89145
Phone: (702) 360-6000
Fax: (702) 360-0000
fberkley@sklar-law.com

This e-mail transmission, and any documents, files or previous e-mail messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of any of the information contained in or attached to this transmission is prohibited. If you have received this transmission in error, please immediately notify us by reply e-mail, by forwarding this to fberkley@sklar-law.com, or by telephone at (702) 360-6000, and destroy the original transmission and its attachments without reading or saving them in any manner. Thank you.

Any tax advice contained in this e-mail was not intended to be used, and cannot be used, by you (or any other taxpayer) to avoid penalties under the Internal Revenue Code of 1986, as amended.

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 Stipulation and 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: 4/14/2021

15 Jordan Faux

jfaux@fauxlaw.com

16 Gene Crawford

gcrawford@sklar-law.com

17 Frederic Berkley

fberkley@sklar-law.com

18 Willi Siepmann

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20 Kathy Fenn

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21 Copy Room

efile@alversontaylor.com

22 Kurt Bonds

kbonds@alversontaylor.com

23 Adam Knecht

aknecht@alversontaylor.com

24 Kurt Faux

kfaux@fauxlaw.com

25 Terri Scott

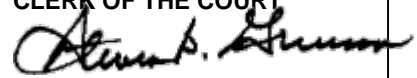
tscott@sklar-law.com

26 Alyson Milner

amilner@fauxlaw.com

27
28

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KURT C. FAUX, ESQ.
Nevada Bar No. 03407
JORDAN F. FAUX, ESQ.
Nevada Bar No. 12205
THE FAUX LAW GROUP
2625 N. Green Valley Pkwy., #100
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Facsimile: (702) 458-5794
Email: kfaux@fauxlaw.com
jfaux@fauxlaw.com
*Attorneys for Western National Mutual
Insurance Company*

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.: 20

NOTICE OF ENTRY OF ORDER

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

DATED this 14th day of April, 2021.

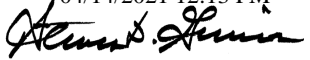
THE FAUX LAW GROUP

By: /s/ Kurt C. Faux
Kurt C. Faux, Esq.
2625 N. Green Valley Pkwy., Suite 100
Henderson, NV 89014
*Attorneys for Western National Mutual
Insurance Company*

CERTIFICATE OF SERVICE

The undersigned, an employee of The Faux Law Group, hereby certifies that on the 14th day of April, 2021, I served a copy of the foregoing document, **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 the parties listed on the Odyssey E-FileNV Service Contact List.

/s/ Kelly McManamon
An Employee of The Faux Law Group


CLERK OF THE COURT

1 **SAO**
2 KURT C. FAUX, ESQ.
3 Nevada Bar No. 03407
4 JORDAN F. FAUX, ESQ.
5 Nevada Bar No. 12205
6 THE FAUX LAW GROUP
7 2625 N. Green Valley Pkwy., #100
8 Henderson, Nevada 89014
9 Telephone: (702) 458-5790
10 Facsimile: (702) 458-5794
11 Email: kfaux@fauxlaw.com
12 jfaux@fauxlaw.com
13 *Attorneys for Western National Mutual*
14 *Insurance Company*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 WILLIAM HARRY RESH, an individual,
11
12 Plaintiff,

12 v.

13 MONEY MACHINE, LLC, a Nevada limited
14 liability company dba COMPADRES AUTO
15 SALES; ROBERT LEGASPI, an individual,
16 WESTERN NATIONAL MUTUAL
17 INSURANCE COMPANY, a Minnesota
18 corporation; DOES I through X; and ROE
19 CORPORATIONS I through X,

17 Defendants.

Case No. A-18-775815-C
Dept. No.: 20

**STIPULATION AND ORDER
CERTIFYING JUDGMENTS AS FINAL
PURSUANT TO NRCP 54(b)**

19 Defendant Western National Mutual Insurance Company (“WNMIC”) and Plaintiff William
20 Harry Resh (“Resh”), by and through their respective counsel of record, respectfully submit the
21 following Stipulation and Order granting WNMIC’s Motion Requesting 54(b) Certification.

22 The Court granted judgment in favor of Resh and against WNMIC as follows:

- 23 (1) Summary judgment dated October 13, 2020 in the amount of \$100,000.00, the penal sum
24 of the Motor Vehicle Dealer’s License Bond issued by WNMIC with Money Machine,
25 LLC d/b/a Compadres Auto Sales (“Compadres”) as Principal (“Liability Judgment”); and
26 (2) Attorneys’ Fees and Costs Judgment dated January 14, 2021 in the total amount of
27 \$34,232.17 (“Fee Judgment”).

28 ///

1 During the course of this case, Defendant Robert Legaspi, the alleged alter ego of Compadres,
2 voluntarily petitioned for Chapter 7 bankruptcy. *See*, U.S. Bankruptcy Court, District of Nevada
3 Petition No.: 20-12626-mkn. On or about August 24, 2020, the Bankruptcy Court discharged any and
4 all debts against Robert Legaspi. The Chapter 7 case was thereafter closed.

5 WNMIC appealed the Liability Judgment to the Supreme Court on November 6, 2020
6 (“Liability Appeal”). *See*, Supreme Court Case No. 82087; Dkt. No. 20-41702 (the appeal was
7 docketed with the Supreme Court on November 16, 2020). WNMIC appealed the Fee Judgment on
8 February 10, 2021 (“Fee Appeal”). *See*, Supreme Court No. 82475; Dkt. 21-04448 (the appeal was
9 docketed with the Supreme Court on February 16, 2021).

10 On February 26, 2021, the Liability Appeal was dismissed by the Supreme Court for a
11 jurisdictional defect stating that Resh’s claims against Compadres and Robert Legaspi remain pending
12 in the District Court such that the District Court’s Liability Judgment was not final and therefore not
13 appealable. *See*, Supreme Court Case No. 82087, Dkt. No. 21-05690. Remittitur was issued on March
14 24, 2021. *Id.* Dkt. No. 21-08374. The Fee Appeal remains pending before the Nevada Supreme Court.

15 On March 26, 2021, WNMIC filed with this court a Motion Requesting NRCP 54(b)
16 Certification of the Liability Judgment and the Fee Judgment, thereby assuring both to be appealable
17 under NRAP 3A(b)(1). Pursuant to NRCP 54(b), the District Court is authorized to grant NRCP 54(b)
18 certification on orders or judgments that dispose of either an entire claim or all claims against one
19 party:

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

26 The Court can certify as final the Liability Judgment and the Fee Judgment as each one
27 disposes of all Plaintiff’s claims against WNMIC. Therefore, the parties stipulate as follows:
28

IT IS HEREBY STIPULATED AND AGREED that the Court make an express determination that there is no just reason for delay in certifying as final the Liability Judgment and the Fee Judgment pursuant to NRCP 54(b).

IT IS HEREBY FURTHER STIPULATED AND AGREED that Bond No. 60049 posted by WNMIC on February 25, 2021, remain in effect as the Supersedeas Bond throughout the appeal process pursuant to NRCp 62.

DATED this day of April, 2021.

DATED this day of April, 2021.

THE FAUX LAW GROUP

SKLAR WILLIAMS PLLC

By: /s/ Jordan F. Faux

By: /s/ Frederic I. Berkley

KURT C. FAUX, ESQ.

FREDERIC I. BERKLEY, ESQ.

Nevada Bar No. 03407

Nevada Bar No.: 1798

JORDAN F. FAUX, ESQ.

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Email: fberkley@sklar-law.com

Facsimile: (702) 458-5794

Attorneys for William Harry Resh

Email: kfaux@fauxlaw.com

jfaux@fauxlaw.com

*Attorneys for Western National Mutual
Insurance Company*

ORDER

Based upon the facts and claims in this lawsuit and the stipulation of WNMIC and Resh as set forth above, the Court expressly determines that there is no just reason for delay and directs entry by this Order that the Liability Judgment and Fee Judgment are final judgments pursuant to NRCP 54(b) as of the date of the entry of this Order.

IT IS SO ORDERED:

Dated this 14th day of April, 2021

Eric Johnson

AD9 294 8C2B 1CBC
Eric Johnson
District Court Judge

From: Frederic Berkley <fberkley@sklar-law.com>
Sent: Thursday, April 8, 2021 10:17 AM
To: Jordan Faux
Cc: Frederic Berkley
Subject: Resh v. Money Machine

Dear Mr. Faux,

I have reviewed your proposed Stipulation and Order Certifying Judgments as Final Pursuant to NRCP 54(b). It is acceptable to me and you may affix my electronic signature. Please let me know when it has been delivered to Judge Johnson for his signature.

Frederic I. Berkley, Esq.
Sklar Williams PLLC
410 South Rampart Boulevard
Suite 350
Las Vegas, NV 89145
Phone: (702) 360-6000
Fax: (702) 360-0000
fberkley@sklar-law.com

This e-mail transmission, and any documents, files or previous e-mail messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of any of the information contained in or attached to this transmission is prohibited. If you have received this transmission in error, please immediately notify us by reply e-mail, by forwarding this to fberkley@sklar-law.com, or by telephone at (702) 360-6000, and destroy the original transmission and its attachments without reading or saving them in any manner. Thank you.

Any tax advice contained in this e-mail was not intended to be used, and cannot be used, by you (or any other taxpayer) to avoid penalties under the Internal Revenue Code of 1986, as amended.

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 Stipulation and 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: 4/14/2021

15 Jordan Faux

jfaux@fauxlaw.com

16 Gene Crawford

gcrawford@sklar-law.com

17 Frederic Berkley

fberkley@sklar-law.com

18 Willi Siepmann

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20 Kathy Fenn

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21 Copy Room

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22 Kurt Bonds

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23 Adam Knecht

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24 Kurt Faux

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25 Terri Scott

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27 Alyson Milner

amilner@fauxlaw.com

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

September 20, 2018

A-18-775815-C William Resh, Plaintiff(s)
vs.
Money Machine LLC, Defendant(s)

September 20, 2018 1:30 PM Minute Order

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Defendant Money Machine, LLC filed a Motion to Set Aside Default on July 30, 2018. The matter was subsequently scheduled for hearing on September 26, 2018.

After considering the pleadings, the Court hereby GRANTS Defendant's Motion to Set Aside Default. The Court finds that good cause has been show and there is minimal prejudice to either side in setting aside the default. The Court finds that the Defendant's lack of filing an Answer was due to excusable neglect and the Defendant was diligent in filing the instant motion to set aside once the Default was discovered. The Court also finds parties are not prejudiced by setting aside the Default because there has not been such a delay that Plaintiff's ability to pursue his claim will be hindered.

The Court hereby VACATES the September 26, 2018 hearing. Counsel for Defendant is directed to prepare a proposed order and to circulate it to opposing counsel for approval as to form and content before submitting it to chambers for signature.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

February 12, 2019

A-18-775815-C	William Resh, Plaintiff(s)
	vs.
	Money Machine LLC, Defendant(s)

February 12, 2019 10:00 AM Discovery Conference

HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT:	Berkley, Frederic I, ESQ	Attorney
	Knecht, Adam R.	Attorney

JOURNAL ENTRIES

- Dates provided are not workable with Rule 16.1. Colloquy re: discovery cutoff is 6-28-19; adding parties, amended pleadings, and initial expert disclosures DUE 3-29-19; rebuttal expert disclosures DUE 4-29-19; file dispositive motions by 7-29-19. Mr. Berkley stated a car was sold one year ago for \$143,000. Mr. Knecht filed a Joinder with amended dates.

Counsel anticipate 1 to 2 days for trial re: Intentional misconduct; no Settlement Conference requested. COMMISSIONER RECOMMENDED, discovery cutoff is 6-28-19; adding parties and amended pleadings are 3-29-19; expert disclosures are Not Applicable; file dispositive motions by 7-29-19. Trial ready the first part of Fall 2019. Scheduling Order will issue. Counsel can approach the Judge to go to Trial earlier. Commissioner suggested a Mandatory Settlement Conference, and work with Department 30 earlier rather than later.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

July 02, 2019

A-18-775815-C William Resh, Plaintiff(s)
vs.
Money Machine LLC, Defendant(s)

July 02, 2019 12:19 AM Minute Order

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Plaintiff William Harry Resh filed a Motion for Leave to File Amended Complaint on May 29, 2019. The matter was subsequently scheduled for hearing on July 3, 2019. No opposition having been filed and good cause showing, pursuant to EDCR 2.20(e) and EDCR 2.23(c) the Court hereby GRANTS the Motion for Leave to File Amended Complaint.

The Court hereby VACATES the July 3, 2019 hearing. Counsel for Plaintiff is directed to prepare a proposed order and to circulate it to opposing counsel for approval as to form and content before submitting it to chambers for signature.

Law Clerk to notify the parties.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

October 16, 2019

A-18-775815-C	William Resh, Plaintiff(s)
	vs.
	Money Machine LLC, Defendant(s)

October 16, 2019 8:30 AM Motion to Dismiss

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Michaela Tapia

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT:	Berkley, Frederic I, ESQ	Attorney
	Faux, Jordan	Attorney

JOURNAL ENTRIES

- Court agreed the doctor falls within the concept of consumer under the statute. Argument by Mr. Faux that the issue is not whether Dr. Resh is in the business of buying and selling cars, but in the nature of this transaction. Court noted the doctor got the car intending to be the final user and not for sale. Argument by Mr. Berkley that Dr. Resh determined during divorce proceedings that it was best to get rid of his vehicles, noting there is nothing in the statute that would indicate that a consumer like Dr. Resh loses the protection of NRS 482.345 because he decided to sell his car at auction. COURT FINDS, Dr. Resh intended to be the final user of the car and ORDERED, Motion to Dismiss DENIED; Motion for Attorney Fees and Costs DENIED. Mr. Berkley to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

October 23, 2019

A-18-775815-C William Resh, Plaintiff(s)
vs.
Money Machine LLC, Defendant(s)

October 23, 2019 8:30 AM Calendar Call

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT:	Berkley, Frederic I, ESQ	Attorney
	Faux, Jordan	Attorney
	Knecht, Adam R.	Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. Faux advised he is not ready for trial, needs discovery, maybe will need depositions and would like to review the transaction in more detail. Following colloquy, Mr. Berkley feels it will be a one day bench trial and has no objection to a short continuance. COURT ORDERED, trial date VACATED, RESET and also SET for status check to see if this trial date is viable.

11/20/19 8:30 AM STATUS CHECK

1/22/20 8:30 AM CALENDAR CALL

2/10/20 9:00 AM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

November 20, 2019

A-18-775815-C William Resh, Plaintiff(s)
vs.
Money Machine LLC, Defendant(s)

November 20, 2019 8:30 AM Status Check

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Natalie Ortega

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Berkley, Frederic I, ESQ Attorney
 Knecht, Adam R. Attorney

JOURNAL ENTRIES

- Colloquy regarding remaining depositions and a bench trial estimate of one (1) day. Counsel indicated they were prepared to proceed on the February 10, 2020 Bench Trial date. COURT ORDERED, matter heard.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

January 22, 2020

A-18-775815-C	William Resh, Plaintiff(s) vs. Money Machine LLC, Defendant(s)
---------------	--

January 22, 2020 8:30 AM Calendar Call

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT:	Berkley, Frederic I, ESQ Attorney Faux, Jordan Attorney Williams, Alexander P. Attorney
-----------------	--

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. Berkley advised he is still doing discovery, that in speaking with counsel and experts, the dates of 5/6 or 5/7 will work as they feel this is a one day trial. Mr. Faux and Mr. Williams concurred. Further, following colloquy, counsel to submit a Stipulation as to the close of discovery. COURT ORDERED, a FIRM trial date to be set.

5/6/20 9:30 AM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

July 28, 2020

A-18-775815-C William Resh, Plaintiff(s)
vs.
Money Machine LLC, Defendant(s)

July 28, 2020 **8:30 AM** **Status Check**

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Samantha Albrecht
Andrea Natali

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT:	Berkley, Frederic I, ESQ	Attorney
	Faux, Jordan	Attorney
	Knecht, Adam R.	Attorney

JOURNAL ENTRIES

- Mr. Berkley, Mr. Faux, and Mr. Knecht appeared by phone via Blue Jeans.

Court noted it had received Plaintiff's brief and Defendant's response. Upon Court's inquiry, Mr. Berkley stated he also received Defendant's brief. Arguments by Mr. Berkley and Mr. Faux. Court stated the automatic stay protects the assets of the debtor. Mr. Berkley argued there are no factual disputes and a bond for \$100,000.00 has been posted. Court suggested the Plaintiff move for summary judgment on this case, and if the case is not available for summary judgment at that time or he finds issues of fact requiring a trial, he will set the case for trial. Further, Court stated it would revisit the issue of the automatic stay as it pertains to going forward with trial.

Following colloquy, COURT ORDERED, matter SET for Motion for Summary Judgment and the parties were notified of the following briefing schedule:

Plaintiff's Motion due by 8/11/2020,
Defendant's Response due by 8/25/2020,
And Plaintiff's reply is due by 9/1/2020.

PRINT DATE: 04/22/2021

Page 8 of 12

Minutes Date: September 20, 2018

9/16/20 8:30 AM MOTION FOR SUMMARY JUDGMENT

September 15, 2020

A-18-775815-C William Resh, Plaintiff(s)
vs.
Money Machine LLC, Defendant(s)

**PARTIES
PRESENT:**

The Court hereby VACATES the September 16, 2020 hearing. Counsel for Plaintiff Resh is directed to prepare a proposed order including detailed findings of fact and conclusions of law, which is to be approved by opposing counsel as to form and content prior to submitting the order to chambers in Microsoft word format, by email to dept20lc@clarkcountycourts.us. Law Clerk to notify parties.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct**COURT MINUTES****November 04, 2020**

A-18-775815-C William Resh, Plaintiff(s)
vs.
Money Machine LLC, Defendant(s)

**November 04, 2020 9:00 AM Motion for Attorney Fees
and Costs**

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Carina Bracamontez-Munguia

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Berkley, Frederic I, ESQ Attorney
Faux, Jordan Attorney

JOURNAL ENTRIES

- Mr. Faux argued he would rely on the papers and arguments asserted in their pleadings. Mr. Berkley argued they made an offer of judgment and the surety did not obtain a more favorable verdict or judgment, therefore, under NRCp 68 they should be entitled to attorney s fees and costs. Further, Mr. Berkley requested the Court consider NRS 18.010. Mr. Faux started to argue in terms of NRS 18.010 and Court interjected; the Court will not find on NRS 18.010 as it does not believe Deft. has reached the level of frivolousness or vexatiousness that the statute requires. Mr. Faux argued under the Beattie factors Western National's rejection of the offer of judgement was reasonable and justified under the facts of this case. Mr. Faux requested if the Court is inclined to award fees, that those fees should be discounted based on the block billing and the high minimum hourly entry.

COURT FINDS under Rule 68 considering the Beattie factors, the Plaintiff's claim was brought in good faith, the offer was reasonable and in good faith both as to timing and in amount; as to whether the rejection of the offer and proceeding to trial was grossly unreasonable or bad faith, if it wasn't grossly unreasonable, but it was unreasonable in an obvious way, therefore, COURT ORDERED motion GRANTED. COURT DIRECTED Pltf. prepare an order setting out the Courts findings as it relates to the Rule 68 under Beattie and under Brunzell and leave the amount for attorney's fees open.

Mr. Berkley requested to be allowed to file a supplemental demonstrating his time for September and October. There being no opposition, COURT ORDERED, request GRANTED.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

KURT C. FAUX, ESQ.
2625 N. GREEN VALLEY PKWY., #100
HENDERSON, NV 89014

DATE: April 22, 2021
CASE: A-18-775815-C

RE CASE: WILLIAM HARRY RESH vs. MONEY MACHINE, LLC dba COMPADRES AUTO SALES; ROBERT LEGASPI; WESTERN NATIONAL MUTUAL INSURANCE COMPANY

NOTICE OF APPEAL FILED: April 20, 2021

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☒ Notice of Entry of Order (*for Order filed 10/13/2020*)

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

***Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.*

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER GRANTING SUMMARY JUDGMENT; ORDER; NOTICE OF ENTRY OF ORDER; STIPULATION AND ORDER CERTIFYING JUDGMENTS AS FINAL PURSUANT TO NRCP 54(B); NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

WILLIAM HARRY RESH ,

Plaintiff(s),

vs.

MONEY MACHINE, LLC dba COMPADRES
AUTO SALES; ROBERT LEGASPI;
WESTERN NATIONAL MUTUAL
INSURANCE COMPANY,

Defendant(s),

Case No: A-18-775815-C

Dept No: XX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 22 day of April 2021.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

