

FILED
FIFTH JUDICIAL DISTRICT

APR - 7 2021

Electronically Filed
Apr 09 2021 10:17 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

1 Leo P. Flangas, Esq.
2 Nevada Bar No.5637
3 Flangas Law Firm, Ltd.
4 600 S. Third Street
5 Las Vegas, Nevada 89101
6 Telephone: (702) 384-1990
7 Facsimile: (702) 384-1009
8 E-mail: Leo@FlangasLawFirm.com
9 Attorneys for Defendant John Chainyk

FIFTH JUDICIAL DISTRICT COURT
NYE COUNTY, NEVADA

10 ESTATE OF DONALD E. WEBSTER,

11 Plaintiff,

12 v.

13 JOHN CHAINYK, an individual; RICK
14 BERG, an individual; RON KNIGHT, an
15 individual; KEVIN MULGANLY; an
16 individual, and DOES 1 through 5; and DOES
17 6 through 10; collectively,

18 Defendants.

19 -

20 -

21 JOHN CHAINYK, an individual;

22 Counter-Claimant

23 v.

24 ESTATE OF DONALD E. WEBSTER;

25 Counter-Defendant

NOTICE OF APPEAL

Case No.

CV0040221

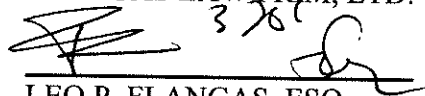
Judge Kimberly A. Wanker

NOTICE OF APPEAL

1 NOTICE IS HEREBY GIVEN THAT JOHN CHAINYK, the DEFENDANT above
2 named, hereby appeal to the Supreme Court of Nevada from the "Notice of Entry of Order
3 Denying Defendant Chainyk's Motion for Leave to Amend and Granting Plaintiff's Counter-
4 motion to Dismiss with Prejudice" entered in this action on March 11, 2021.
5

6 DATED this 7th of April 2021

7 FLANGAS LAW FIRM, LTD.

8 
9 LEO P. FLANGAS, ESQ.
10 600 South Third Street
11 Las Vegas, Nevada 89101
12 Attorney for Defendant

13 **CERTIFICATE OF SERVICE**

14 Pursuant to NRCP 5(b) and NEFCR 9, I certify that I, Natasha Smith am an employee
15 of Flangas Law Firm, Ltd., and that on the of 7th day of April 2021, I served the foregoing
16 document by depositing a true and correct copy of the same with the U.S. Postal Service, first-
17 class postage prepaid, at Las Vegas, Nevada to the following:

18 GALLIAN WELKER & BECKSTROM, L.C.

19 Nathan E. Lawrence, SBN 15060

20 540 East St. Louis Avenue

21 Las Vegas, Nevada 89104

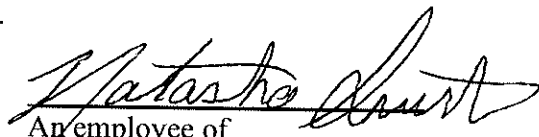
22 Telephone: (702) 892-3500

23 Facsimile: (702) 386-1946

24 nlawrence@vegascase.com

25 Attorneys for Plaintiff

26 DATED this 7th day of April 2021.

27 
28 An employee of
Flangas Law Firm, Ltd.

FILED
FIFTH JUDICIAL DISTRICT

APR - 7 2021

 Nye County Clerk
Deputy

1 Leo P. Flangas, Esq.
2 Nevada Bar No.5637
3 Flangas Law Firm, Ltd.
4 600 S. Third Street
5 Las Vegas, Nevada 89101
6 Telephone: (702) 384-1990
7 Facsimile: (702) 384-1009
8 E-mail: Leo@FlangasLawFirm.com
9 Attorneys for Defendant John Chainyk

FIFTH JUDICIAL DISTRICT COURT
NYE COUNTY, NEVADA

10 ESTATE OF DONALD E. WEBSTER,

11 Plaintiff,

12 v.

13 JOHN CHAINYK, an individual; RICK BERG,
14 an individual; RON KNIGHT, an individual;
15 KEVIN MULGANLY; an individual, and
16 DOES 1 through 5; and DOES 6 through 10;
17 collectively,

18 Defendants.

19
20 JOHN CHAINYK, an individual;

21 Counter-Claimant

22 v.

23 ESTATE OF DONALD E. WEBSTER;

24 Counter-Defendant
25

Case No.

CV0040221

Judge Kimberly A. Wanker

26 CASE APPEAL STATEMENT

27 COME NOW THE Appellant JOHN CHAINYK, by and through his attorney LEO P.
28 FLANGAS, ESQ., and hereby files his case appeal statement as follows:

1 1. Name of Appellant filing this case appeal statement;

2 John Chainyk

3 2. Judge who issued the judgment appealed from:

4 Honorable Kimberly A. Wanker

5 3. Name of each Appellant, and name and address of Appellant's counsel:

6 John Chainyk

7
8 Appellant's Counsel: Leo P. Flangas, Esq.
9 600 South Third Street
10 Las Vegas, Nevada 89101

11 4. Name of Respondent, and name and address of Respondent's Trial Counsel:

12 The Estate of Donald Webster

13
14 Respondent's Trial Counsel: GALLIAN WELKER & BECKSTROM, L.C.
15 Nathan E. Lawrence
16 540 East St. Louis Avenue
17 Las Vegas, Nevada 89104

18 5. The attorneys listed in (3) and (4) above are licensed to practice in Nevada.

19 6. Appellant John Chainyk was represented by retained counsel Leo P. Flangas, Esq. in
20 District Court.

21 7. Appellant is represented by retained counsel Leo P. Flangas, Esq. on appeal.

22 8. Appellant was not granted leave to proceed in *forma pauperis*.

23 9. Complaint was filed on July 3, 2019.

24 10. This action was a proceeding for Quiet Title and Summary Ejectment.

25 11. There is not a previous proceeding on appeal or by way of petition for writ, Supreme
26 Court case.

27 12. This case does not involve child custody or visitation.

28 ///

///

1
2 13. In Appellants' opinion, there is a possibility of settlement in this case.

3 DATED this 9th of April 2021

4 Respectfully submitted,

5  3201

6 LEO P. FLANGAS, ESQ.

7 Nevada Bar #5637

8 600 South Third Street

9 Las Vegas, Nevada 89101

10 *Attorney for Plaintiff*

11 **CERTIFICATE OF SERVICE**

12 Pursuant to NRCP 5(b) and NEFCR 9, I certify that I, Natasha Smith am an employee of
13 Flangas Law Firm, Ltd., and that on the of 7th day of April 2021, I served the foregoing document
14 by depositing a true and correct copy of the same with the U>S. Postal Service, first-class postage
15 prepaid, at Las Vegas, Nevada to the following:

16 GALLIAN WELKER & BECKSTROM, L.C.

17 Nathan E. Lawrence, SBN 15060

18 540 East St. Louis Avenue

19 Las Vegas, Nevada 89104

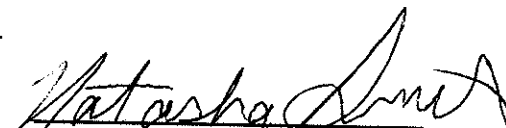
20 Telephone: (702) 892-3500

21 Facsimile: (702) 386-1946

22 nlawrence@vegascase.com

23 *Attorneys for Plaintiff*

24 DATED this 7th day of April 2021.

25 
26 An employee of
27 Flangas Law Firm, Ltd.
28

Fifth Judicial District Court - Nye County
Case Summary

Run: 04/07/2021
14:38:06

Page 1

Case #: CV0040221
Judge: WANKER, KIMBERLY
Date Filed: 07/03/2019 **Department:**
Case Type: REAL PROP/UNLAWFUL DETAIN

Defendant	Attorney(s)
CHAINYK, JOHN	CHRISTOPHERSON, IAN
Plaintiff	
THE ESTATE OF DONALD EDWIN WEBSTER	LAWRENCE, NATHAN E
Defendant	
BERG, RICK	No *Attorney 1* Listed
Defendant	
KNIGHT, RON	No *Attorney 1* Listed
Defendant	
MULGANLY, KEVIN	No *Attorney 1* Listed

Fees:

Date Assessed:	Fee	Total	Paid	Waived	Outstanding
07/03/2019	ELDERLY	\$9.50	\$9.50	\$0.00	\$0.00
07/03/2019	CRTIMP	\$99.00	\$99.00	\$0.00	\$0.00
07/03/2019	LAWLIB	\$30.00	\$30.00	\$0.00	\$0.00
07/03/2019	CRTSEC	\$20.00	\$20.00	\$0.00	\$0.00
07/03/2019	DRUGCRT	\$10.00	\$10.00	\$0.00	\$0.00
07/03/2019	INDIGNT	\$15.50	\$15.50	\$0.00	\$0.00
07/03/2019	STCIVIL	\$32.00	\$32.00	\$0.00	\$0.00
07/03/2019	CGENERA	\$29.00	\$29.00	\$0.00	\$0.00
08/05/2019	MISCFEE	\$1.00	\$1.00	\$0.00	\$0.00
09/06/2019	CGENERA	\$37.00	\$37.00	\$0.00	\$0.00
09/20/2019	CGENERA	\$7.00	\$7.00	\$0.00	\$0.00
03/20/2020	CRTIMP	\$200.00	\$200.00	\$0.00	\$0.00
03/20/2020	CRTSEC	\$20.00	\$20.00	\$0.00	\$0.00
04/07/2021	APLBOND	\$500.00	\$500.00	\$0.00	\$0.00

Hearings:

Date	Time	Hearing	Court Result
04/21/2020	9:00AM	50#HEARING FOR PARTIAL SUMMARY JUDGMENT/QUIET TITLE AND SUMMARY EJECTMENT	CANC
07/21/2020	1:30PM	90#PARTIAL SUMMARY JUDGMENT/QUIET TITLE AND SUMMARY EJECTMENT	
09/29/2020	9:00AM	29#MOTION TO VACATE ORDER NUNC PRO TUNC ***RELATED CASE PR8071***	
02/09/2021	9:00AM	60#MOTION FOR LEAVE TO AMEND ***RELATED CASE PR8071***	

Filings:

Date	Filing
07/03/2019	COMPLAINT FOR QUIET TITLE, SUMMARY EJECTMENT, AND DAMAGES
07/03/2019	SUMMONS-(ISSUED)
07/03/2019	NOTICE OF LIS PENDENS
07/08/2019	DECLARATION OF NATHAN LAWRENCE RE RECORDING OF NOTICE OF LIS PENDENS
08/05/2019	PROOF OF SERVICE (JOHN CHAINYK,AN INDIVIDUAL)
08/05/2019	PROOF OF SERVICE(DOES 1 THROUGH 10)
08/08/2019	APPLICATION TO PROCEED IN FORMA PAUPERIS (JOHN CHAINYK)
08/14/2019	ORDER TO PROCEED IN FORMA PAUPERIS(GRANTED JOHN CHAINYK)
09/05/2019	THREE-DAY NOTICE OF INTENT TO TAKE DEFAULT AND DEFAULT JUDGMENT
09/10/2019	ANSWER (JOHN CHAINYK)
10/29/2019	JOINT CASE CONFERENCE REPORT PURSUANT TO NEV. R. CIV. P. 16.0(B) AND (C)
11/18/2019	COUNTER COMPLAINT (BY JOHN CHAINYK)
02/07/2020	STIPULATION AND ORDER TO EXTEND DISCOVERY PLAN(FIRST REQUEST)
03/20/2020	MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO QUIET TITLE AND SUMMARY EJECTMENT (NO NOTICE) (SUBMITTED BY NATHAN E. LAWRENCE, ESQ., FOR PLAINTIFF)
03/20/2020	PAYMENT \$220.00 RECEIPT #1593
03/24/2020	NOTICE OF HEARING
04/20/2020	NOTICE OF APPEARANCE OF COUNSEL
06/05/2020	ORDER RESETTING HEARING (JULY 21, 2020 @ 1:30)
06/18/2020	AMENDED CERTIFICATION OF SERVICE
07/21/2020	COURT MINUTES
08/13/2020	ORDER GRANTING MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO QUIET TITLE AND SUMMARY EJECTMENT
08/27/2020	NOTICE OF ENTRY OF ORDER GRANTING MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO QUIET TITLE AND SUMMARY EJECTMENT
08/31/2020	MOTION TO VACATE ORDER NUNC PRO TUNC
09/17/2020	OPPOSITION TO MOTION TO VACATE ORDER NUNC PRO TUNC
09/25/2020	RESPONSE TO OPPOSITION TO MOTION TO VACATE ORDER NUNC PRO TUNC (SUBMITTED BY IAN CHRISTOPHERSON, ESQ., FOR DEFENDANT, JOHN CHAINYK)
09/28/2020	SUBSTITUTION OF ATTORNEY(JKN OUT-FLANGAS IN)
09/29/2020	COURT MINUTES
10/29/2020	ORDER DENYING MOTION TO VACATE ORDER NUNC PRO TUNC
11/02/2020	NOTICE OF ENTRY OF ORDER DENYING MOTION TO VACATE ORDER NUNC PRO TUNC
11/30/2020	RELEASE OF LIS PENDENS
12/29/2020	DEFENDANT CHAINYK'S MOTION FOR LEAVE TO AMEND(2/9/21)
01/14/2021	OPPOSITION TO DEFENDANT CHAINYK'S MOTION FOR LEAVE TO AMEND AND COUNTERMOTION TO DISMISS WITH PREJUDICE
02/02/2021	REPLY TO OPPOSITION TO CHAINYK MOTION FOR LEAVE TO AMEND AND COUNTERMOTION TO DISMISS WITH PREJUDICE
02/09/2021	COURT MINUTES
03/05/2021	ORDER DENYING DEFENDANT CHAINYK'S MOTION FOR LEAVE TO AMEND AND GRANTING PLAINTIFF'S COUNTERMOTION TO DISMISS WITH PREJUDICE
03/11/2021	NOTICE OF ENTRY OF ORDER DENYING DEFENDANT CHAINYK'S MOTION FOR LEAVE TO AMEND AND GRANTING PLAINTIFF'S COUNTERMOTION TO DISMISS WITH PREJUDICE
03/16/2021	ORDER DENYING DEFENDANT CHAINYK'S MOTIN FOR LEAVE TO AMEND AND GRANTING PLAINTIFF'S COUNTERMOTION TO DISMISS WITH PREJUDICE
04/07/2021	PAYMENT \$500.00 RECEIPT #5636

Run: 04/07/2021
14:38:08

Case Summary

Page 3

04/07/2021 NOTICE OF APPEAL
04/07/2021 CASE APPEAL STATEMENT

ORDR

GALLIAN WELKER & BECKSTROM, L.C.

Matthew D. Ekins, SBN 11114

Nathan E. Lawrence, SBN 15060

965 East 700 South, Suite 305

St. George, Utah 84790

Telephone: (435) 628-1682

Facsimile: (435) 628-5961

matt@utahcase.com

- or -

540 East St. Louis Avenue

Las Vegas, Nevada 89104

Telephone: (702) 892-3500

Facsimile: (702) 386-1946

nlawrence@vegascase.com

Attorneys for Plaintiff

FILED
FIFTH JUDICIAL DISTRICT

MAR 16 2021

Nye County Clerk
Deputy

**FIFTH JUDICIAL DISTRICT COURT
IN AND FOR NYE COUNTY, NEVADA**

THE ESTATE OF DONALD EDWIN
WEBSTER,

Plaintiff,

v.

JOHN CHAINYK, an individual; RICK
BERG, an individual; RON KNIGHT, an
individual; KEVIN MULGANLY, an
individual; DOES 1 through 5; and DOES 6
through 10; collectively,

Defendants.

Case No.: CV40221

Dept. No.: D1

**ORDER DENYING DEFENDANT
CHAINYK'S MOTION FOR LEAVE
TO AMEND and GRANTING
PLAINTIFF'S COUNTERMOTION TO
DISMISS WITH PREJUDICE**

This matter came before the Court on February 9, 2021, at 9:00 a.m. for the hearing on Defendant Chainyk's Motion for Leave to Amend (the "Motion") and Plaintiff's Countermotion to Dismiss with Prejudice, (the "Countermotion"), with appearances by Ian Christopherson, Esq.,

1 of the FLANGAS LAW FIRM, LTD., on behalf of Defendant JOHN CHAINYK ("Chainyk"), and
2 by Nathan E. Lawrence, Esq. of the law firm of GALLIAN WELKER & BECKSTROM, L.C., on
3 behalf of Plaintiff THE ESTATE OF DONALD EDWIN WEBSTER (the "Estate"). Upon due
4 consideration of the Motion and Countermotion, the papers and pleadings on file herein, argument
5 of counsel, and good cause appearing therefor, the Court hereby issues the following findings of
6 fact, conclusions of law, and orders:

7 **I. FINDINGS OF FACT**

8 1. On July 3, 2019, the Estate filed the Complaint in the instant matter, enumerating causes
9 of action for Quiet Title, Summary Ejectment, Trespass to Land, Unjust Enrichment, and Elder
10 Exploitation, seeking relief by way of a quieted title, ejectment of all named Defendants from the
11 subject property, and various economic damages with respect to the associated causes of action.

12 2. On September 10, 2019, Chainyk, filed his *pro se* Answer to the Complaint, in which
13 Answer no counterclaims were presented.

14 3. On October 22, 2019, the parties filed their Joint Case Conference Report.

15 4. On February 7, 2020, the parties filed their Stipulation and Order to Extend Discovery
16 finalizing the mutually agreed discovery plan, as follows:

17 a. Close of discovery: February 28, 2020

18 b. Final date to file motions to amend pleadings/add parties: November 18, 2019

19 c. Final date for initial expert disclosures: November 18, 2019

20 d. Final date for rebuttal expert disclosures: December 18, 2019

21 e. Final date for dispositive motions: March 20, 2020

22 5. On February 18, 2020, the Estate took the deposition of Chainyk.

23 6. On February 28, 2020, discovery closed in the matter.

24 7. On March 20, 2020, the Estate filed a Motion for Partial Summary Judgment as to Quiet
25 Title and Summary Ejectment (the "MSJ"), the hearing for which was ultimately set for and held
26 on July 21, 2020.

27 8. On April 17, 2020, initial counsel for Chainyk entered his notice of appearance and was
28 present for and argued on behalf of Mr. Chainyk at the above-referenced MSJ hearing.

1 9. On July 21, 2020, the Estate's MSJ was granted, and the Order therefor was entered by
2 the Court on August 13, 2020, quieting the title in favor of the Estate and ordering Chainyk to
3 vacate the subject property by midnight on September 3, 2020.

4 10. On August 31, 2020, new legal counsel for Chainyk presented its Motion to Vacate Order
5 *Nunc Pro Tunc*, the hearing for which was set for and held on September 29, 2020.

6 11. On September 29, 2020, Chainyk's Motion to Vacate Order *Nunc Pro Tunc* was denied,
7 and the Order therefor was entered by the Court on October 29, 2020, finding that such Motion
8 was both improperly before the Court and insufficient on the merits.

9 12. On or about December 23, 2020, Chainyk filed the Motion for Leave to Amend (the
10 "Motion").

11 13. On January 14, 2021, the Estate filed its Opposition to the Motion and its Countermotion
12 to Dismiss with Prejudice (the "Countermotion").

13 14. On or about January 29, 2021, Chainyk filed his Reply in Support of the Motion.

14 II. CONCLUSIONS OF LAW

15 Consistent with its prior rulings in the instant matter, the Court reiterates and/or concludes
16 as follows:

17 1. The Estate, at all times relevant hereto, was the sole legal owner of the subject property
18 and entitled to exclusive possession thereof.

19 2. Chainyk, at all times relevant hereto, neither possessed nor held any legal interest in or to
20 the subject property.

21 3. Chainyk, at all times relevant hereto, was neither a Tenant¹ in the subject property nor a
22 party to any Rental Agreement² with respect to the subject property and was, therefore, at no time
23 legally in possession or occupancy of the subject property.

24 4. Chainyk's removal from the subject property, on or about September 3, 2020, was
25 properly effected and completed by the Estate pursuant to the Court's Order quieting title in favor
26

27 ¹ NRS 118A.170 "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the
exclusion of others.

28 ² NRS 118A.160 "Rental agreement" defined. "Rental agreement" means any oral or written agreement for the
use and occupancy of a dwelling unit or premises.

1 of the Estate, as entered on August 13, 2020.

2 5. Chainyk's Motion, submitted thirteen months and five days after the final date for
3 submission of motions to amend pleadings, was untimely under Nev. R. Civ. P. Rule 15(a)(2) and
4 *Kantor v. Kantor*, 116 Nev. 886, 891, 8 P.3d 825, 828 (2000).

5 6. Chainyk's certain proposed counterclaims, discussed by turn below, as enumerated in his
6 proposed amended Answer, are mooted and/or futile and, collectively, are insufficient to
7 overcome the untimeliness of the Motion:

- 8 a. Count One, Quiet Title, was previously adjudicated by the Court on the
9 Estate's MSJ and resolved in favor of the Estate and is therefore moot.
- 10 b. Count Three, Unjust Enrichment, is unsupported by any evidence produced
11 during discovery and is therefore both futile and mooted by the Court's prior
12 adjudication and dismissal of such claim in the July 21, 2020, hearing on
13 the Estate's MSJ.
- 14 c. Count Four, Wrongful Eviction, is moot in light of the Court's Order
15 quieting title and requiring Chainyk to vacate the subject property by
16 midnight on September 3, 2020.
- 17 d. Count Six, Violation of NRS § 118.460 is moot in light of the Court's Order
18 quieting title and requiring Chainyk to vacate the subject property by
19 midnight on September 3, 2020.

20 7. Chainyk has not timely asserted and possesses no extant counterclaims which would
21 preclude dismissal of the action under Nev. R. Civ. P. Rule 41(a)(2).

22 8. The Estate is entitled to dismissal of the action with prejudice, by leave of the Court,
23 pursuant to Nev. R. Civ. P. Rule 41(a)(2).

24
25 In consideration of the foregoing and good cause appearing therefor,

26
27 IT IS HEREBY ORDERED that Defendant John Chainyk's Motion for Leave to Amend
28 is DENIED.

1 IT IS FURTHER ORDERED that Plaintiff The Estate of Donald Edwin Webster's
2 Counter-motion to Dismiss with Prejudice is GRANTED, and the instant matter is hereby
3 dismissed with prejudice.

4
5 IT IS SO ORDERED.

6
7 DATED this 16th day of March 2021.

8
9
10 

11 DISTRICT COURT JUDGE

12
13
14
15
16
17 Respectfully submitted by:

18 GALLIAN WELKER & BECKSTROM, L.C

19
20 /s/ Nathan E. Lawrence

21 Nathan E. Lawrence, SBN 15060

22 540 East St. Louis Avenue

23 Las Vegas, Nevada 89104

24 Telephone: (702) 892-3500

25 nlawrence@vegascase.com

26 *Attorneys for Plaintiff*
27
28

Fifth Judicial District Court - Nye County

Run: 04/07/2021
14:38:25

Case Summary

Page 1

Case #: CV0040221

Judge: WANKER, KIMBERLY

Date Filed: 07/03/2019 Department:

Case Type: REAL PROP/UNLAWFUL DETAIN

Defendant	Attorney(s)
CHAINYK, JOHN	CHRISTOPHERSON, IAN
Plaintiff	
THE ESTATE OF DONALD EDWIN WEBSTER	LAWRENCE, NATHAN E
Defendant	
BERG, RICK	No *Attorney 1* Listed
Defendant	
KNIGHT, RON	No *Attorney 1* Listed
Defendant	
MULGANLY, KEVIN	No *Attorney 1* Listed

Fees:

Date Assessed:	Fee	Total	Paid	Waived	Outstanding
07/03/2019	ELDERLY	\$9.50	\$9.50	\$0.00	\$0.00
07/03/2019	CRTIMP	\$99.00	\$99.00	\$0.00	\$0.00
07/03/2019	LAWLIB	\$30.00	\$30.00	\$0.00	\$0.00
07/03/2019	CRTSEC	\$20.00	\$20.00	\$0.00	\$0.00
07/03/2019	DRUGCRT	\$10.00	\$10.00	\$0.00	\$0.00
07/03/2019	INDIGNT	\$15.50	\$15.50	\$0.00	\$0.00
07/03/2019	STCIVIL	\$32.00	\$32.00	\$0.00	\$0.00
07/03/2019	CGENERA	\$29.00	\$29.00	\$0.00	\$0.00
08/05/2019	MISCFEE	\$1.00	\$1.00	\$0.00	\$0.00
09/06/2019	CGENERA	\$37.00	\$37.00	\$0.00	\$0.00
09/20/2019	CGENERA	\$7.00	\$7.00	\$0.00	\$0.00
03/20/2020	CRTIMP	\$200.00	\$200.00	\$0.00	\$0.00
03/20/2020	CRTSEC	\$20.00	\$20.00	\$0.00	\$0.00
04/07/2021	APLBOND	\$500.00	\$500.00	\$0.00	\$0.00

Hearings:

Date	Time	Hearing	Court Result
04/21/2020	9:00AM	50#HEARING FOR PARTIAL SUMMARY JUDGMENT/QUIET TITLE AND SUMMARY EJECTMENT	CANC
07/21/2020	1:30PM	90#PARTIAL SUMMARY JUDGMENT/QUIET TITLE AND SUMMARY EJECTMENT	
09/29/2020	9:00AM	29#MOTION TO VACATE ORDER NUNC PRO TUNC ***RELATED CASE PR8071***	
02/09/2021	9:00AM	60#MOTION FOR LEAVE TO AMEND ***RELATED CASE PR8071***	

Run: 04/07/2021
14:38:27

Case Summary

Page 2

Filings:

Date	Filing
07/03/2019	COMPLAINT FOR QUIET TITLE, SUMMARY EJECTMENT, AND DAMAGES
07/03/2019	SUMMONS-(ISSUED)
07/03/2019	NOTICE OF LIS PENDENS
07/08/2019	DECLARATION OF NATHAN LAWRENCE RE RECORDING OF NOTICE OF LIS PENDENS
08/05/2019	PROOF OF SERVICE (JOHN CHAINYK,AN INDIVIDUAL)
08/05/2019	PROOF OF SERVICE(DOES 1 THROUGH 10)
08/08/2019	APPLICATION TO PROCEED IN FORMA PAUPERIS (JOHN CHAINYK)
08/14/2019	ORDER TO PROCEED IN FORMA PAUPERIS(GRANTED JOHN CHAINYK)
09/05/2019	THREE-DAY NOTICE OF INTENT TO TAKE DEFAULT AND DEFAULT JUDGMENT
09/10/2019	ANSWER (JOHN CHAINYK)
10/29/2019	JOINT CASE CONFERENCE REPORT PURSUANT TO NEV. R. CIV. P. 16.0(B) AND (C)
11/18/2019	COUNTER COMPLAINT (BY JOHN CHAINYK)
02/07/2020	STIPULATION AND ORDER TO EXTEND DISCOVERY PLAN(FIRST REQUEST)
03/20/2020	MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO QUIET TITLE AND SUMMARY EJECTMENT (NO NOTICE) (SUBMITTED BY NATHAN E. LAWRENCE, ESQ., FOR PLAINTIFF) - FILING FEE: \$220 (PAID)
03/20/2020	PAYMENT \$220.00 RECEIPT #1593
03/24/2020	NOTICE OF HEARING
04/20/2020	NOTICE OF APPEARANCE OF COUNSEL
06/05/2020	ORDER RESETTING HEARING (JULY 21, 2020 @ 1:30)
06/18/2020	AMENDED CERTIFICATION OF SERVICE

Run: 04/07/2021
14:38:27

Case Summary

Page 3

07/21/2020

COURT MINUTES - JUDGE: KIMBERLY A WANKER
CLERK: JUDY AYOTTE

BAILIFF: ERIC SCHLENER

APP: ATTORNEY NATHAN LAWRENCE, PRESENT, ON BEHALF OF THE PLAINTIFF, THE ESTATE OF DONALD EDWIN WEBSTER; ATTORNEY JONATHAN NELSON, PRESENT, ON BEHALF OF THE DEFENDANT, JOHN CHAINYK, PRESENT;
JUDGMENT/QUIET TITLE AND SUMMARY EJECTION
RELATED CASE PR8071

COURT CALLS THE MATTER 214. COURT CITES RELATED CASE PR8071. COURT REVIEWS HER UNDERSTANDING OF THE CASE. STATES ALL REAL ESTATE TRANSACTIONS MUST BE IN WRITING. MR CHAINYK CLAIMS HE WAS TOLD TWICE THAT MR WEBSTER WAS GOING TO GIVE HIM THE HOUSE BUT ADMITS THEY NEVER FORMALIZED THE TRANSACTION. MR CHAINYK STATES THE TAXES AND THE POWER WERE PAID BY THE DECEDENT AND HE WOULD PAY THE WATER. MR CHAINYK STATES HE OFFICIALLY HASN'T WORKED SINCE 2007 WHEN HE WAS AT THE NEVADA TEST SITE. MR NELSON STATES MR CHAINYK, SPENT YEARS REPAIRING THE HOUSE ON THE BELIEF IT WAS HIS, STATES HE HAD PEOPLE STAY WITH HIM BUT HE DIDN'T CHARGE THEM RENT AND ADMITS THERE WAS A TRAILER IN THE BACK THAT HE ALLOWED A FRIEND TO USE FOR STORAGE. MR LAWRENCE STATES THE DEFENDANT'S CLAIMS DO NOT MEET THE STANDARD OF LAW, STATES THERE HAS BEEN AMPLE OPPORTUNITY, AND THE PLAINTIFF HAS ENCOURAGED THE DEFENDANT, TO PRODUCE EVIDENCE TO SUPPORT ANY KIND OF EXPENDITURE, AND TO DATE THERE HASN'T BEEN ANY EVIDENCE SUBMITTED TO SUPPORT THE DEFENDANTS CLAIMS. MR CHAINYK STATES HE IS TOO OLD TO PAY A MORTGAGE. MR NELSON CLAIMS THE PARTIES ACTIONS SHOW THE HOUSE WAS INTENDED TO GO TO MR CHAINYK AND REQUESTS A STAY OF EJECTION TO ALLOW MR CHAINYK TO FIND ALTERNATIVE HOUSING. COURT ARGUES THE COMPLIANT WAS FILED 7/3/19, SENT UP FROM JUSTICE COURT AND THE THREAT OF THE REQUIREMENT TO GET OFF THE PROPERTY IS NOT A SURPRISE FOR MR CHAINYK. COURT STATES THE REAL ESTATE LAW IS VERY CLEAR, ALL TRANSFERS OF PROPERTY MUST BE IN WRITING, REVIEWS CHAIN OF TITLE, AND STATUTES OF FRAUD. FROM THE AUDIENCE, RICHARD BERG STATES HE WAS A WITNESS TO THE CASINO CONVERSATION WHERE MR WEBSTER GAVE MR CHAINYK THE HOUSE. COURT STATES THAT DOESN'T CHANGE THE FACT THAT ALL TRANSFERS MUST BE IN WRITING AND RECORDED WITH RECORDERS OFFICE, FROM 2014 TO 2018 NO TRANSFERS OCCURED. MR BERG STATES MR CHAINYK HAS PUT ALOT OF MONEY INTO THE HOUSE. COURT CITES THE 2/18/20 DEPOSITION OF MR CHAINYK AND STATES NO RECEIPTS HAVE BEEN PRODUCED DESPITE MR CHAINYK CLAIMING HE HAS BOXES OF RECEIPTS. COURT INFORMS MR BERG AND MR CHAINYK PLEADINGS IN COURT ARE DONE BY MOTION, NOT ORALLY. COURT STATES DISCOVERY IS CLOSED AND NOTHING HAS BEEN PRODUCED. COURT ASKS HOW QUICKLY CAN MR CHAINYK GET OUT OF THE HOUSE, INFORMS HIM HE WILL HAVE TO FIND SOMEPLACE ELSE TO LIVE SINCE HE IS NOT THE OWNER OF THE HOUSE. COURT STATES PICTURES MAY NEED TO BE TAKEN NOW AND AGAIN WHEN HE MOVES OUT TO ENSURE THE INTEGRITY OF THE PROPERTY. MR CHAINYK INQUIRES ABOUT ADVERSE POSSESSION AND IF IT APPLYS TO HIM. COURT INFORMS HE DIDN'T HOLD THE PROPERTY ADVERSLY, SINCE HE JUST TOLD THE COURT THAT THE DECEDENT GAVE IT TO HIM AND HE DOESN'T MEET THE ELEMENTS OF THAT CLAIM. COURT STATES AT A MINIMUM A QUICK CLAIM DEED SHOULD HAVE BEEN PREPARED AND RECORDED. MR BERG ASKS IF MR CHAINYK CAN TAKE THINGS WITH HIM WHEN HE LEAVES SINCE HE PUT MONEY INTO IT. COURT STATES NOT IF IT IS ATTACHED AND ASKS WHAT IMPROVEMENTS HAS HE MADE THAT HE WANTS TO TAKE WITH HIM. MR CHAINYK STATES THE REFRIGERATOR. COURT STATES ONLY IF HE HAS PROOF THAT IT IS HIS, BUT COURT STATES HE CLAIMS HE ONLY PAID \$35 FOR IT. COURT STATES IF HE BROUGHT TILE IN THAT HE BOUGHT FOR \$5, CAN'T CLAIM IT IS WORTH \$5,000. MR NELSON STATES MR CHAINYK WILL HAVE A LIST OF WHAT HE WANTS. COURT WILL SEND HER BAILIFF OVER TODAY TO SEE THE CONDITION OF THE HOUSE. MR LAWRENCE STATES MR CHAINYK CAN HAVE THE APPLIANCES SINCE THE PREVIOUS OWNERS TOOK THEIRS OUT. MR LAWRENCE CITES A CADILLAC THAT IS A PART OF THE ESTATE, AND STATES PARTIES CAN ITEMIZE AND WORK IT OUT. MR NELSON STATES THE CADILLAC IS NOT ON THE PROPERTY, IT IS DOWN THE STREET AND AROUND THE CORNER. COURT WILL SEND HER BAILIFF TO THE HOUSE WITH THEM TODAY, PARTIES AGREE. COURT WANTS PARTIES TO SEE CURRENT CONDITION OF THE HOUSE, MUST BE TENANT READY WHEN HE LEAVES. MR CHAINYK ARGUES HIS PUTTING MONEY INTO HOUSE, COURT ARGUES THE PLAINTIFF COULD CHARGE HIM RENT FOR THE TIME SINCE MR WEBSTERS DEATH AND

THE PLAINTIFF IS ENTITLED TO THE FAIR MARKET VALUE. COURT GIVES MR CHAINYK 30 DAYS TO VACATE THE PROPERTY. MR NELSON OBJECTS, HE IS ELDERLY, ASKS FOR 60 DAYS. MR LAWRENCE COMPROMISES AT 45 DAYS. COURT INFORMS MR CHAINYK IF HE WANTS TO STAY LONGER, HE HAS TO PAY RENT. COURT TAKES A RECESS TO CHECK TO SEE IF THE MORATORIUM ON EVICTIONS HAS BEEN LIFTED 242. COURT RECALLS THE MATTER 253. MR NELSON DISCUSSES TWO MEMBERS OF THE AUDIENCE RICK BERG AND BRIAN KNIGHT AND THEIR INVOLVEMENT IN THE CASE. COURT REVIEWS THE EVICTION MORATORIUM, WHEN A NON PAYER OF RENT, EVICTIONS WILL BE ALLOWED TO PROCEED STARTING SEPTEMBER 1. COURT INFORMS MR CHAINYK HE WILL NEED TO BE OUT BY MIDNIGHT SEPTEMBER 3, PARTIES ARE FREE TO NEGOTIATE SOMETHING ELSE AFTER PARTIES SEE THE HOUSE. MR LAWRENCE BELIEVES HIS CLIENT WILL BE OKAY WITH SEPTEMBER 3. MR CHAINYK STATES HE WILL TRY TO BE OUT IN 45 DAYS, HE HAS A HEART PROBLEM. COURT INFORMS MR CHAINYK ON THE 45TH DAY WHATEVER HE LEAVES, WILL BELONG TO THE ESTATE. COURT GRANTS THE ORDER FOR PARTIAL SUMMARY JUDGEMENT, NOT COMPLETE JUDGEMENT, AND ASKS MR LAWRENCE TO PREPARE THE ORDER FOR THE COURTS SIGNATURE. COURT REQUESTS MR LAWRENCE IS ALLOWED TO SEE THE HOUSE AND THE CONDITION OF IT TODAY BEFORE HE LEAVES TOWN. PARTIES ARE IN AGREEMENT THAT THE BAILIFF WILL NOT BE NEEDED FOR PARTIES TO VIEW THE HOUSE TODAY.

08/13/2020	ORDER GRANTING MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO QUIET TITLE AND SUMMARY EJECTMENT
08/27/2020	NOTICE OF ENTRY OF ORDER GRANTING MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO QUIET TITLE AND SUMMARY EJECTMENT
08/31/2020	MOTION TO VACATE ORDER NUNC PRO TUNC
09/17/2020	OPPOSITION TO MOTION TO VACATE ORDER NUNC PRO TUNC
09/25/2020	RESPONSE TO OPPOSITION TO MOTION TO VACATE ORDER NUNC PRO TUNC (SUBMITTED BY IAN CHRISTOPHERSON, ESQ., FOR DEFENDANT, JOHN CHAINYK)
09/28/2020	SUBSTITUTION OF ATTORNEY(JKN OUT-FLANGAS IN)

Run: 04/07/2021
14:38:27

Case Summary

Page 5

09/29/2020

COURT MINUTES - JUDGE: KIMBERLY A WANKER
CLERK: JUDY AYOTTE

BAILIFF: ERIC SCHLENER

APP: ATTORNEY NATHAN LAWRENCE, PRESENT, ON BEHALF OF THE PLAINTIFF, THE ESTATE OF DONALD EDWIN WEBSTER; ATTORNEY LEO FLANGAS AND IAN CHRISTOPHERSON PRESENT, ON BEHALF OF THE DEFENDANT, JOHN CHAINYK;
MOTION TO VACATE ORDER NUNC PRO TUNC
RELATED CASE PR8071

COURT CALLS THE MATTER 930. COURT REVIEWS THE HISTORY OF THE CASE AND NOTES THERE HAS NOT BEEN A SUBSTITUTION OF COUNSEL FOR MR CHRISTOPHERSON FILED. COURT REVIEWS THE MOTION TO VACATE THE ORDER NUNC PRO TUNC AND STATES IT IS NOT CORRECT AND SHE WILL TREAT IT AS A MOTION FOR RECONSIDERATION. COURT READS RULE 13 SUBSECTION 7. COURT STATES THERE WAS NO OPPOSITION FILED. COURT REVIEWS THE ARGUMENTS FROM THE LAST HEARING. COURT STATES SHE IS NOT SURE IT IS PROPERLY IN FRONT OF HER TODAY TO GRANT THE MOTION ASKING HER TO RECONSIDER, STATES SOMETHING HAS TO BE PRESENTED THAT WAS NOT PRESENTED AT THE ORIGINAL HEARING AND THERE IS NOTHING NEW IN ANY OF THE PLEADINGS THAT SHE HAS READ. COURT STATES ANY OF THOSE ARGUMENTS COULD HAVE BEEN RAISED PRIOR TO THE LAST HEARING. MR CHRISTOPHERSON ARGUES THE NO RESPONSE POSITION OF THE COURT STATES SHE CAN DEEM IT ADMITTED. COURT STATES THE THEORY WAS THIS WAS AN ORAL GIFT, BUT MR WEBSTER HAD A WILL AND A PROBATE CASE, AND THERE WAS NO CHALLENGE TO THE WILL. COURT STATES MR CHAINYK NEVER CAME IN ON THE PROBATE CASE STATING HE OWNED THE PROPERTY, HE NEVER RAISED ANYTHING IN WRITING. MR CHRISTOPHERSON STATES HE LOOKED AT THE PROBATE CASE, ARGUES HE HAS A CLAIM OF FRAUD AND THIS CASE COMES DOWN TO ARGUMENTS WERE RAISED BUT NOT RAISED WELL AND CITES THE COURT MINUTES. COURT STATES THE ORDER CONTROLS, NOT THE COURT MINUTES. MR CHRISTOPHERSON STATES THE PANDEMIC IS GROUNDS TO RECONSIDER. COURT DISAGREES, STATES THE CLERKS OFFICE HAS BEEN OPEN EVERY DAY DURING THE PANDEMIC. MR CHRISTOPHERSON REVIEWS THE STAY ON EVICTIONS. COURT ARGUES MR CHAINYK WAS NOT A TENANT AND WAS NEVER A TENANT, HE CLAIMED HE WAS THE OWNER. THIS WASNT AN EVICTION ISSUE IT WAS A REAL PROPERTY RIGHTS ISSUE, A DETERMINATION OF WHO OWNED THE PROPERTY AND ONCE IT WAS FOUND MR CHAINYK DID NOT OWN THE PROPERTY HE HAD TO LEAVE AND THE COURT GAVE HIM SUFFICIENT TIME TO GET OUT. MR CHRISTOPHERSON ARGUES EJECTMENT. COURT STATES SHE GRANTED PARTIAL SUMMARY JUDGMENT. MR CHRISTOPHERSON ARGUES IT LOOKS LIKE THE COURT IS MAKING AN EJECTMENT AND THERE IS NO EJECTMENT IN NEVADA, ARGUES FORCIBLE DETAINER, AND THE CASE IN JUSTICE COURT. COURT STATES THE BIGGEST HURDLE HAS NOT BEEN TAKEN CARE OF TODAY WHICH IS THE MOTION FOR RECONSIDERATION AND STATES THIS IS A TRIAL COURT NOT SMALL CLAIMS COURT. COURT HAS NOT HEARD ANYTHING THAT COULD NOT HAVE BEEN PUT INTO A PLEADING AND ARGUED ON JULY 21ST, STATES IGNORANCE OF THE LAW IS NOT AN EXCUSE. COURT STATES NO OPPOSITION WAS EVER FILED, AND NOW RAISING ARGUMENTS TODAY THAT SHOULD HAVE BEEN RAISED ON JULY 21. COURT DOESN'T JUST REHEAR AND LET PARTIES REHASH THE ARGUMENTS, SHE HAS NOT HEARD ANYTHING NEW TODAY OTHER THAN THAT SHE IS WRONG. COURT STATES SHE MAY BE BUT SHE DOESN'T SEE IT THAT WAY. MR CHRISTOPHERSON ARGUES. COURT STATES NOTHING WAS FILED AND HIS CLIENT DIDNT HAVE ANY INTEREST IN THE PROPERTY. MR CHRISTOPHERSON CONTINUES TO ARGUE, QUESTIONS IF THERE WERE SUFFICIENT FACTS TO GRANT SUMMARY JUDGMENT. COURT STATES IT SHOULD BE BASED ON NEW EVIDENCE BUT ALL SHE HAS HEARD TODAY IS NOT NEW. MR CHRISTOPHERSON ARGUES MORATORIUM, AND EVICTION STATUTES, CAN DO AN ORDER FOR RESITITUION AND EJECTMENT, ARGUES FORCIBLE DETAINER IS THEIR ONLY REMEDY OTHER THAN AN UNLAWFUL RETAINER, CLAIMS UNDER THE STATUTE IT IS CLEAR IT CAME UNDER THE MORATORIUM AND COURT SHOULD NOT HAVE GRANTED THE JUDGMENT, ARGUES JULY 21 JUDGMENT NEEDS TO BE REVERSED, CLAIMS DEFENDANT IS WILLING TO MAKE PAYMENTS WHILE HE IS ON THE PROPERTY, CLAIMS THE PROPERTY IS BEING LOOTED. COURT INFORMS MR CHRISTOPHERSON THIS CASE IS NOT GOING TO BE REOPENED AND DISCOVERY IS CLOSED. COURT STATES THIS CASE IS READY TO GO TO TRIAL, AND SHE STILL HAS NOT HEARD WHY SHE SHOULD GRANT RECONSIDERATION. COURT STATES THE EVICTION IS FOR TENANTS AND MR CHRISTOPHERSONS CLIENT HAS NEVER BEEN A TENANT, HE CLAIMED HE OWNED THE PROERTY. MR CHAINYK HAS NEVER BEEN ON ANY PAPERWORK TO INDICATE OWNERSHIP OF THE PROPERTY, AND THIS WAS NOT AN

EVICTON, MR CHAINYK CLAIMED HE OWNED THE PROPERTY SINCE IT WAS GIFTED, THEN CLAIMED THAT HE HAD THE PROPERTY BY ADVERSE PPOSSESSION, THOUGH IT DIDNT MEET THE REQUIREMENTS. MR LAWRENCE ARGUES HIS CASE, CLAIMS THE FACTS WERE CLEAR BEFORE THE COURT AND THE ORDER SIGNED BY THE COURT WAS CLEAR, CITES NRS 40, REVIEWS THE ISSUES, THERE ARE NO FACTS BEFORE THE COURT THAT ARE IN DISPUTE, DISCOVERY IS CLOSED AND MR CHAINYK NEVER PRODUCED ANY EVIDENCE, JUSTICE COURT DISMISSED THE CASE BECAUSE THEY DIDN'T HAVE JURISDICTION, THIS IS NOT AN APPEAL FROM JUSTICE COURT THEREFORE IS NOT RELATED TO THE JUSTICE COURT CASE. MR CHAINYKS STATEMENTS UNDER OATH WERE THAT HE WAS GIFTED THE PROPERTY, NOW THE DEFENSE IS TRYING TO SAY IT WAS AN ORAL CONTRACT, ARGUES MAINTENACE AND REPAIR WERE DONE ON HOUSE BUT DESPITE DISCOVERY MR CHAINYK NEVER PRODUCED THAT EVIDENCE. MR CHRISTOPHERSON NOTES THIS WAS AN EVICTION CASE SUBJECT TO TITLE 40 BECAUSE IN JUSTICE COURT THEY SOUGHT AN EVICTION UNDER TITLE 40. COURT READS THE ORDER FROM JUSTICE COURT. COURT STATES THERE WAS NO MORATORIUM BACK ON 5/7/19 AND THE JUSTICE COURT REAL ESTATE ISSUE BELONGS IN DISTRICT COURT. COURT REVIEWS QUIET TITLE ACTION, REAL PROPERTY IS OWNED BY ESTATE OF MR WEBSTER AND NOTHING WAS PRESENTED IN THIS CASE TO DISPUTE THAT, STATES IT WAS A BALD CLAIM THAT THE PROPERTY WAS GIFTED TO HIM AND THAT IS NOT SUFFICIENT TO DEFEAT A MOTION FOR SUMMARY JUDGMENT. COURT ARUGES WHEN THERE IS A FAILURE TO FILE A PLEADING, THE COURT CAN MAKE A DETERMINATION THAT FAILURE TO FILE A PLEADING ALLOWS THE COURT ON A PROCEEDURAL BASIS TO MAKE THE DETERMINATION THAT FAILURE TO FILE A RESPONSE OF PLEADING IS AN ADMISSION AS TO THE FACTS OF THE CASE, AND COURT CAN FIND, AND DID FIND, IN JULY AS A MATTER OF LAW YOU CAN RAISE FACTS BUT CANT RAISE BALD FACTS AND SAY YOU DEFEATED A SUMMARY JUDGMENT. COURT DENIES THE MOTION TO RECONSIDER THE MOTION. MR CHRISTPHERSON ASKS WILL THE COURT CONSIDER RULE 54B CERTIFICATION ON THE PRINCIPLE CLAIM. COURT STATES SHE DOESN'T DO ANYTHING ORALLY, EVERYTHING NEEDS TO BE IN WRITING, WHATEVER HE WANTS TO FILE HE CAN FILE AND ALL WILL NEED THE OPPPORTUNITY TO RESPOND.

10/29/2020	ORDER DENYING MOTION TO VACATE ORDER NUNC PRO TUNC
11/02/2020	NOTICE OF ENTRY OF ORDER DENYING MOTION TO VACATE ORDER NUNC PRO TUNC
11/30/2020	RELEASE OF LIS PENDENS
12/29/2020	DEFENDANT CHAINYK'S MOTION FOR LEAVE TO AMEND(2/9/21)
01/14/2021	OPPOSITION TO DEFENDANT CHAINYK'S MOTION FOR LEAVE TO AMEND AND COUNTERMOTION TO DISMISS WITH PREJUDICE
02/02/2021	REPLY TO OPPOSITION TO CHAINYK MOTION FOR LEAVE TO AMEND AND COUNTERMOTION TO DISMISS WITH PREJUDICE

02/09/2021

COURT MINUTES - JUDGE: KIMBERLY A WANKER
CLERK: JUDY AYOTTE

BAILIFF: ERIC SCHLENER

APP: ATTORNEY NATHAN LAWRENCE, PRESENT, ON BEHALF OF THE PLAINTIFF, THE ESTATE OF DONALD EDWIN WEBSTER; ATTORNEY IAN CHRISTOPHERSON PRESENT, ON BEHALF OF THE DEFENDANT, JOHN CHAINYK, PRESENT;
MOTION FOR LEAVE TO AMEND
RELATED CASE PR8071

COURT CALLS THE MATTER 1033. COURT REVIEWS THE FILINGS THAT HAVE BEEN SUBMITTED. MR CHRISTOPHERSON STATES THE JULY EVICTION ORDER OCCURED IN SEPTEMBER, MR CHAINYK WAS PRO PER IN JULY, HE HADN'T FILED AN ANSWER AND COUNTERCLAIM, THE MOTION IS STRAIGHT FORWARD, JUSTICE MANDATES CAUSE OF ACTION TO ACCRUE UPON EVICTION AND NOT BEFORE, SO IT IS NOT UNTIMELY AND THERE WAS NO DELAY, IF HE HAD NOT BEEN EVICTED IT WOULDNT HAVE WRONGFUL EVICTION, DOESN'T ACCRUE UNTIL SEPTEMBER AT THE EARLIEST, ARGUES THE MOTION TO AMEND IS TIMELY AND JUST REQUIRES A NEW CAUSE OF ACTION TO BE ALLOWED, IF COURT DENIES WOULD BE ABLE TO APPEAL THE MOTION TO DISMISS, NEED FACTUAL PROOF TO GRANT MOTION TO DISMISS. MR LAWRENCE ARGUES THE MOTION OF OPPOSITION WERE CLEAR, WITH RESPECT TO THE IDEA NRCP 15 DOES ALLOW AN AMENDMENT TO THE PLEADINGS TO BE MADE AT THE TIME OF TRIAL IS INAPPLICABLE HERE, THAT ALLOWANCE IS WITH RESPECT TO MODIFYING OR AMENDING THE PLEADING TO GO WITH THE EVIDENCE THAT HAS BEEN PRODUCED THUS FAR, IF PARTIES PROCEEDED TO TRIAL NO EVIDENCE TO CLAIMS AND NO REASON TO AMEND, EVICTION ONLY OCCURED BECAUSE OF THE COURT ORDER, THE EVICTION WAS DONE, ALL OTHER THINGS THAT LIE INSIDE THIS MOTION ARE FUNCTIONALLY ALL COMPULSORY COUNTER CLAIMS, ALL ARE RELATED TO THE SAME CAUSE OF ACTION, ALL ARE IN REGARDS TO MR CHAINYKS POSSESSION OF THE HOUSE ON BRONCO STREET, WHETHER IT WAS THE QUIET TITLE, THE EVICTION, UNPAID RENT, DAMAGES TO PROPERTY, CLAIMS THAT WERE NEVER MADE, THEY SHOULD HAVE BEEN COUNTER CLAIMS AND WERE NOT, ARGUES THE PLAINTIFF HAS BEEN VERY ACCOMODATING TO MR CHAINYKS CLAIMS OF PUTTING MONEY INTO THE HOUSE, THERE WERE MANY MONTHS THEY ALLOWED MR CHAINYK TO BRING HIS EVIDENCE FORWARD AND NOTHING WAS EVER SUBMITTED, NO COUNTER CLAIM, NO EVIDENCE, IF THE AMENDMENT IS ALLOWED, IT WILL STILL BE FUTILE BECAUSE THERE IS NO CLAIM, DISCOVERY HAS RUN, THERE HAS BEEN NO EVIDENCE PRESENTED, PARTIES WOULD HAVE TO START OVER WHICH IS UNJUST TO THE PLAINTIFF, THEY HAD REACHED A POINT OF RESOLUTION WHERE PLAINTIFF RECOVERED THE HOME, SHOULDN'T HAVE TO GO TO TRIAL NOW, MR LAWRENCE ASKS THE COURT TO ALLOW THE MOTION TO DISMISS WITH PREJUDICE. MR CHRISTOPHERSON OBJECTS TO MR LAWRENCE'S CLAIMS. COURT ARGUES EVICTION IS NOT THE CORRECT WORD AS MR CHAINYK WAS A SQUATTER WHO WAS REMOVED, NO EVIDENCE WAS EVER SUBMITTED TO THE COURT THAT HE WAS EVER ON THE TITLE OR THAT HE WAS THE RIGHTFUL OWNER, ONLY MR CHAINYKS CLAIM THAT AT THE CASINO, HE WAS GIFTED THE HOUSE BY MR WEBSTER, THIS WAS NOT AN EVICTION HE HAD NO RIGHT TO BE ON THE PROPERTY, NO RENT WAS EVER PAID, HE WAS A SQUATTER, COURT MADE THE DETERMINATION OF QUIET TITLE, COURT REJECTED THE ARGUMENTS, NOW THE MOTION IS TO UNDO THE COURTS ORDER ON THE QUIET TITLE, COURT STATES AN APPEAL COULD HAVE BEEN FILED WITH THE SUPREME COURT, NOW THE DEFENSE WANTS TO TAKE A SECOND PASS AT SOMETHING THAT THEY HAVE ALREADY LOST, THE ESTATE OWNS THE HOME, THERE IS NO EVIDENCE THAT MR CHAINYK OWNS THE HOME, HE HAD CLAIMS THAT HE PUT A LOT OF MONEY INTO THE HOUSE BUT NEVER PROVIDED RECEIPTS OF THE WORK HE CLAIMED HE HAD DONE, THERE IS NO NEED TO RELITIGATE THESE ISSUES. MR CHRISTOPHERSON ARGUES QUIET TITLE AND STATUE OF FRAUDS, EVICTION, REMOVAL OF MR CHAINYK, CLAIMS THIS WILL GO UP TO THE SUPREME COUR., COURT QUESTIONS IF IT IS TIMELY, BELIEVES IT SHOULD HAVE GONE UP IN JULY. MR CHRISTOPHERSON ARGUES THE SUPREME COURT AND IT NOT BEING APPEALABLE IN JULY, ARGUES UNJUST ENRICHMENT, RESTITUTION FROM 2011, ONLY NEEDS TO SAY THE VALUE OF THE PROPERTY WAS INCREASED BY THE IMPROVEMENTS, ARGUES MR CHAINYK WAS PUT IN THE HOUSE BY MR WEBSTER TO BE THE CARETAKER OF THE HOUSE, ARGUES HE HAD A CLAIM ON THE PROPERTY, CLAIMS THAT MR CHAINYK CONTRIBUTED TO THE UPKEEP OF THE PROPERTY WITHOUT PAY AT THE REQUEST OF MR WEBSTER, BELIEVES THIS CASE IF VERY VIABLE, AND CLEARLY A CLAIM ON UNJUST ENRICHMENT. COURT ARGUES THIS HOUSE WAS KNOWN AS A DRUG HOUSE IN TOWN. MR LAWRENCE AND MR NELSON DID GO

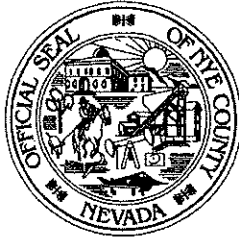
OVER TO THE HOUSE, TOOK PHOTOS, IT WAS NOT IN A GREAT STATE OF REPAIR, THERE WERE MULTIPLE PEOPLE LIVING THERE, THE ROOF WAS INTACT, BUT NOT WELL TENDED. MR LAWRENCE CORRECTS THE RECORD STATING IT IS NOT CLEAR THAT MR WEBSTER INSTALLED ME CHAINYK IN THE HOUSE, PLAINTIFF HAS NEVER CONCEDED THAT PREMISE, INITIAL ACTION WAS UNDERTAKEN IN JUSTICE COURT DOESN'T IMPLY THAT THERE WAS ANY BASIS OR CONCESSION TO THE IDEA THAT MR CHAINYK RIGHTFULLY BELONGED IN THE HOME, CAN BRING EVICTION NOTICE WITH RESPECT TO A SQUATTER OR FORCEFUL DETAINER IN JUSTICE COURT, DOESN'T MEAN THE PERSON HAS ANY RIGHT TO BE THERE. MR CHAINYK ARGUED THE TITLE WAS CLOUDED, JUSTICE COURT DOES NOT MAKE RULINGS ON CLOUDED TITLE, IT IS NOT THEIR JURISDICTION, ARGUES THE REMOVAL WAS PROPER AS MR CHAINYK HAD NO CLAIM TO THE HOME, A COMPLAINT ON MR CHAINYK'S PART IS AGAINST THE COURT, NOT AGAINST THE PLAINTIFF, HE WAS REMOVED DUE TO A LEGITIMATE COURT ORDER, PLAINTIFF CAN'T BE HELD LIABLE BECAUSE HE FOLLOWED A COURT ORDER. MR CHRISTOPHERSON ACKNOWLEDGES THERE ISN'T A GREAT FACTUAL RECORD IN THIS CASE, CLAIMS THE HOUSE WAS IN VERY BAD SHAPE WHEN MR WEBSTER HAD MR CHAINYK MOVE IN, ARGUES AMENDMENTS AND GOOD CAUSE. COURT REVIEWS DURING DISCOVERY MR CHAINYK WAS ASKED TO PROVIDE PROOF OF HIS IMPROVEMENTS, HE NEVER DID, REVIEWS HISTORY OF THE CASE AND VARIOUS FILINGS, AND DEADLINES, DISCOVERY HAS RUN, NOW ASKING TO REOPEN THE ENTIRE CASE, HAVE ANOTHER JOINT CASE CONFERENCE AND SET NEW DATES. MR CHAINYK APPEARED AT THE JOINT CASE CONFERENCE, THEY WOULD HAVE BEEN AGREED UPON DATES, NO ONE ASKED FOR A SETTLEMENT CONFERENCE AND BOTH SIDES SIGNED, THIS CASE IS READY FOR TRIAL, EXCEPT THE PLAINTIFF IS SAYING THE COMPLAINT THAT WAS FILED WAS FOR QUIET TITLE, SUMMARY EJECTMENT AND DAMAGES. NOW ASKING FOR DISMISSAL OF REMAINING CLAIM OF DAMAGES. MR LAWRENCE AGREES, ASKS COURT TO DISMISS WITH PREJUDICE, BY DISMISSING WITHOUT IT FORCES THE PLAINTIFF TO GO TO TRIAL, THOSE ISSUES SHOULD HAVE BEEN BROUGHT AND THEY WEREN'T, DAMAGES ARE MOOT AS THERE IS NO WAY TO COLLECT THEM, PLAINTIFFS FEEL JUSTLY COMPENSATED WITH THE COURT'S ORDER, NO NEED TO LABOR THIS ANY LONGER. COURT STATES

MR CHRISTOPHERSON WANTS THIS CASE TO GO ON AND HIS CLIENT CAN FILE A COUNTERCLAIM, NOW THEY ARE JUST REHASHING WHAT THE COURT HAS ALREADY RULED ON THROUGH A COUNTERCLAIM. MR CHRISTOPHERSON ARGUES EVICTION IN JUSTICE COURT DOESN'T PRECLUDE A WRONGFUL EVICTION. COURT THIS ISN'T JUSTICE COURT AND THIS WASN'T AN EVICTION FROM A LANDLORD TENANT, JUDGE CHAMLEE RIGHTFULLY DISMISSED IN MAY OF 2019 DID AN AMENDED ORDER OF DISMISSAL WITHOUT PREJUDICE, SHE FOUND THAT THE DEFENDANT/TENANT CLAIMING OWNERSHIP OF THE PROPERTY, JUSTICE COURTS HAVE NO JURISDICTION OVER REAL ESTATE OWNERSHIP DISPUTES AND SENT IT TO THE DISTRICT COURT, AND THAT IS WHEN THE QUIET TITLE ACTION CAME UP. COURT ARGUES IF THE PLAINTIFF FOLLOWS THE COURT ORDER, HOW CAN THE PLAINTIFF BE LIABLE FOR THAT. STATES THE SUPREME COURT WILL HAVE TO FIND THAT SHE WAS WRONG ON THE QUIET TITLE AND THEN THAT THE REMOVAL WAS WRONG AND THE TWO WILL GO HAND IN HAND, WHEN THE MORATORIUM WAS DONE ON THE RENT, THEY COULDN'T EVICT, BUT THE RENT WAS STILL DUE, MR CHAINYK NEVER PAID RENT. IF THE COURT WERE TO GRANT THE MOTION TO AMEND, IT IS MUCH TOO LATE, TIMES HAVE RUN. COURT GRANTS THE PLAINTIFF'S MOTION TO DISMISS WITH PREJUDICE. MR LAWRENCE IS TO RUN THE ORDER BY MR CHRISTOPHERSON AND SUBMIT TO THE COURT.

03/05/2021 ORDER DENYING DEFENDANT CHAINYK'S MOTION FOR LEAVE TO AMEND AND GRANTING PLAINTIFF'S COUNTERMOTION TO DISMISS WITH PREJUDICE
03/11/2021 NOTICE OF ENTRY OF ORDER DENYING DEFENDANT CHAINYK'S MOTION FOR LEAVE TO AMEND AND GRANTING PLAINTIFF'S COUNTERMOTION TO DISMISS WITH PREJUDICE
03/16/2021 ORDER DENYING DEFENDANT CHAINYK'S MOTION FOR LEAVE TO AMEND AND GRANTING PLAINTIFF'S COUNTERMOTION TO DISMISS WITH PREJUDICE
04/07/2021 PAYMENT \$500.00 RECEIPT #5636
04/07/2021 NOTICE OF APPEAL
04/07/2021 CASE APPEAL STATEMENT

**OFFICE OF THE NYE COUNTY CLERK
SANDRA L. MERLINO**

Tonopah Office
Nye County Courthouse
P.O. Box 1031
101 Radar Road
Tonopah, Nevada 89049
Phone (775) 482-8127
Fax (775) 482-8133



Pahrump Office
Government Complex
1520 East Basin Avenue
Pahrump, Nevada 89060
Phone (775) 751-7040
Fax (775) 751-7047

CERTIFICATION OF COPY

**STATE OF NEVADA
COUNTY OF NYE**


I, **SANDRA L. MERLINO**, the duly elected, qualifying and acting Clerk of Nye County, in the State of Nevada, and Ex-Officio Clerk of the District Court, do hereby certify that the foregoing is a true, full and correct copy of the original documents in the action entitled:

ESTATE OF DONALD E. WEBSTER,)	Case No. CV40221
)	
Plaintiff,)	
)	
vs.)	
)	
JOHN CHAINYK, an individual; RICK BERG,)	
an individual; RON KNIGHT, an individual;)	
KEVIN MULGANLY, an individual; and)	
DOES 1 through 5; and DOES 6 through 10;)	
collectively,)	
)	
Defendant.)	

now on file and of record in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Court at my office, Pahrump, Nevada, this 22nd day of April, 2019.

**SANDRA L. MERLINO
NYE COUNTY CLERK**

By: 
Brittani K. Smith
Deputy Clerk, Pahrump

**OFFICE OF THE NYE COUNTY CLERK
SANDRA L. MERLINO**

Tonopah Office
Nye County Courthouse
P.O. Box 1031
101 Radar Road
Tonopah, Nevada 89049
Phone (775) 482-8127
Fax (775) 482-8133



Pahrump Office
Government Complex
1520 East Basin Avenue
Pahrump, Nevada 89060
Phone (775) 751-7040
Fax (775) 751-7047

Wednesday April 7, 2021

NOTICE OF DEFICIENCY:

NON-REMITTANCE OF \$24 FILING FEE PAYABLE TO NYE COUNTY CLERKS

SENT VIA E-FILE

Supreme Court Clerk
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

Re: CV40221
ESTATE OF DONALD E. WEBSTER, Plaintiff, vs.
JOHN CHAINYK, an individual; RICK BERG, an individual; RON
KNIGHT, an individual; KEVIN MULGANLY, an individual; and
DOES 1 through 5; and DOES 6 through 10; collectively, Defendant.


Dear Clerk of Court:

I am submitting an appeal packet for a cross-appeal filed April 7, 2021 in the above referenced matter. Please note, Cross-Appellant DID NOT remit the \$24 Filing Fee payable to Nye County Clerk, but did remit the \$250 Filing Fee payable to the Nevada Supreme Court and \$500 Bond payable to Nye County Clerk.

Please feel free to contact me with any questions or concerns.

Sincerely,

**SANDRA L. MERLINO
NYE COUNTY CLERK**

By 
Brittani K. Smith
Deputy Clerk, Pahrump

cc: Nathan E. Lawrence, Attorney for Plaintiff
Leo Flangas, Esq. Attorney for Defendant
Honorable Kimberly A. Wanker