

**ORIGINAL  
RECEIVED**

**FILED**

**APR 20 2021**

**2021 APR 20 PM 4:08**

**GAYLE A. KERN, ESQ.**

Nevada Bar No. 1620

**SOPHIE A. KARADANIS, ESQ.**

Nevada Bar No. 12006

**LEACH KERN GRUCHOW ANDERSON SONG**

5421 Kietzke Lane, Ste. 200

Reno, Nevada 89511

Tel: (775) 324-5930

E-Mail: gkern@lkglawfirm.com

E-Mail: skaradanis@lkglawfirm.com

**Douglas County  
District Court Clerk**

**BOBBIE R. WILLIAMS**

**CLERK**  
Electronically Filed  
Apr 28 2021 04:12 pm  
Elizabeth A. Brown  
Clerk of Supreme Court

**RICHARD H. BRYAN, ESQ.**

Nevada Bar No. 2029

**FENNEMORE CRAIG, P.C.**

300 S. Fourth St., Ste. 1400

Las Vegas, NV 89101

Tel: (702) 692-8000

E-Mail: rbryan@fennemorelaw.com

*Attorneys for Plaintiffs, Elk Point Country  
Club Homeowners Association, Inc.*

**IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

**IN AND FOR COUNTY OF DOUGLAS**

K. J. BROWN, L.L.C., a Nevada limited liability  
company; and TIMOTHY D. GILBERT and  
NANCY AVANZINO GILBERT, as trustees of  
the TIMOTHY D. GILBERT AND NANCY  
AVANZINO GILBERT REVOCABLE  
FAMILY TRUST DATED DECEMBER 27,  
2013,

Plaintiffs,

v.

ELK POINT COUNTRY CLUB  
HOMEOWNERS, ASSOCIATION, INC., also  
known as ELK POINT COUNTRY CLUB, INC.,  
a Nevada non-profit, non-stock corporation; and  
DOES 1-50, inclusive,

Defendant.

**CASE NO.: 2020 CV 00124**

**DEPT. NO.: 1**

**NOTICE OF APPEAL**

Notice is hereby given that Plaintiffs, K. J. BROWN, L.L.C. and TIMOTHY D. GILBERT  
and NANCY AVANZINO GILBERT, as trustees of the TIMOTHY D. GILBERT AND NANCY

1 AVANZINO GILBERT REVOCABLE FAMILY TRUST DATED DECEMBER 27, 2013, by  
2 and through their counsel of record, Gayle A. Kern and Sophie A. Karadanis of the law firm of  
3 Leach Kern Gruchow Anderson Song, and Senator Richard Bryan of the law firm of Fennemore  
4 Craig, P.C., hereby appeal to the Supreme Court of Nevada from the March 15, 2021 Order  
5 Granting Stay of Preliminary Injunction Pending Resolution of the Interlocutory Appeal. The  
6 Notice of Entry of the Order was filed March 23, 2021, and served upon the undersigned Counsel  
7 on or around March 22, 2021, attached as Exhibit 1.  
8

9 **AFFIRMATION**

10 Pursuant to NRS 239B.030, the undersigned does hereby affirm that *Notice of Appeal*  
11 filed in the above-entitled case (2020 CV 00124) does not contain the social security number of  
12 any person.  
13

14 DATED this 20<sup>th</sup> day of April, 2021.

15 ***LEACH KERN GRUCHOW ANDERSON SONG***

16 By: 

17 SOPHIE A. KARADANIS, ESQ.  
18 Nevada Bar No. 12006  
19 5421 Kietzke Lane, Ste. 200  
20 Reno, Nevada 89511  
21 Tel: (775) 324-5930  
22 E-mail: skaradanis@lkglawfirm.com

23 **RICHARD H. BRYAN, ESQ.**  
24 Nevada Bar No. 2029  
25 **FENNEMORE CRAIG, P.C.**  
26 300 S. Fourth St., Ste. 1400  
27 Las Vegas, NV 89101  
28 Tel: (702) 692-8000  
E-Mail: rbryan@fennemorelaw.com  
*Attorneys for Plaintiffs, Elk Point Country  
Club Homeowners Association, Inc*

1  
2  
3 **CERTIFICATE OF SERVICE**  
4

5 Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of Leach Kern  
6 Gruchow Anderson Song, and that on this date I served the foregoing document described as  
7 follows:  
8

9 ***NOTICE OF APPEAL***

10 On the party(s) set forth below by:

- 11 ☒ Placing an original or true copy thereof in a sealed envelope placed for collection  
12 and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following  
13 ordinary business practices.

14 William E. Peterson, Esq.  
15 Janine C. Prupas, Esq.  
16 Kelly H. Dove, Esq.  
17 SNELL & WILMER, L.L.P.  
18 50 West Liberty St., Ste. 510  
19 Reno, NV 89501

Prescott Jones, Esq.  
Joshua Ang, Esq.  
RESNICK & LOUIS, P.C.  
8925 W. Russell Road, Ste. 220  
Las Vegas, NV 89148

Richard H. Bryan, Esq.  
FENNEMORE CRAIG, P.C.  
300 S. Fourth St., Ste. 1400  
Las Vegas, NV 89101

- 20 ☐ Electronically filing the foregoing with the Clerk of the Court by using the  
21 electronic filing system, which will send a notice of electronic filing to the  
22 following:

- 23 ☐ Courtesy copies sent via email to the following:

24 DATED this 20<sup>th</sup> day of April 2021.

25  
26  
27  
28  
  
ARIELLE NAVARRO

**INDEX OF EXHIBITS**

EXH	DESCRIPTION	PAGES
I.	Notice of Entry of Order.	8

EXHIBIT "1"

EXHIBIT "1"

FILED

2021 APR -7 PH 2:44

BOBBIE R. WILLIAMS  
CLERK

BY Mearney DEPUTY

RECEIVED

APR - 7 2021

Douglas County  
District Court Clerk

1 GAYLE A. KERN, ESQ.

Nevada Bar No. 1620

2 SOPHIE A. KARADANIS, ESQ.

Nevada Bar No. 12006

3 LEACH KERN GRUCHOW

4 ANDERSON SONG /

5421 Kietzke Lane, Ste. 200

5 Reno, Nevada 89511

6 Tel: (775) 324-5930

7 Fax: (775) 324-6173

8 E-Mail: gkern@lkglawfirm.com

E-Mail: skaradanis@lkglawfirm.com

9 RICHARD H. BRYAN, ESQ.

Nevada Bar No. 2029

10 FENNEMORE CRAIG, P.C.

300 S. Fourth St., Ste. 1400

11 Las Vegas, NV 89101

12 Tel: (702) 692-8000

E-Mail: rbryan@fennemorelaw.com

13 Attorneys for Plaintiffs

14 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

15 IN AND FOR COUNTY OF DOUGLAS

17 K. J. BROWN, L.L.C., a Nevada limited  
18 liability company; and TIMOTHY D.  
19 GILBERT and NANCY AVANZINO  
20 GILBERT, as trustees of the TIMOTHY D.  
21 GILBERT AND NANCY AVANZINO  
22 GILBERT REVOCABLE FAMILY TRUST  
23 DATED DECEMBER 27, 2013,

24 Plaintiffs,

25 v.

26 ELK POINT COUNTRY CLUB  
27 HOMEOWNERS, ASSOCIATION, INC., also  
28 known as ELK POINT COUNTRY CLUB,  
INC., a Nevada non-profit, non-stock  
corporation; and DOES 1-50, inclusive,

Defendant.

CASE NO.: 2020 CV 00124

DEPT. NO.: I

NOTICE OF ENTRY OF ORDER  
GRANTING PLAINTIFFS' MOTION  
FOR ORDER SHORTENING TIME

1 PLEASE TAKE NOTICE that this Court entered an Order Granting Plaintiffs' Motion for  
2 Order Shortening Time ("Order") on the 6<sup>th</sup> day of April 2021, in the above-captioned matter. A  
3 copy of the Order is attached hereto.  
4

5 Pursuant to NRS 239B.030, the undersigned does hereby affirm that the *Notice of Entry*  
6 *of Order* filed in the above-entitled case (2020 CV 00124) does not contain the social security  
7 number of any person.

8 DATED this 7<sup>th</sup> day of April, 2021.

9  
10 **LEACH KERN GRUCHOW  
ANDERSON SONG**

11 /s/ Sophie A. Karadanis, Esq.  
12 **SOPHIE A. KARADANIS, ESQ.**  
13 Nevada Bar No. 12006  
14 5421 Kietzke Lane, Ste. 200  
15 Reno, Nevada 89511  
16 Tel: (775) 324-5930  
17 E-mail: skaradanis@lkglawfirm.com  
18 *Attorneys for Plaintiffs*

19 *and*

20 **RICHARD H. BRYAN, ESQ.**  
21 Nevada Bar No. 2029  
22 **FENNEMORE CRAIG, P.C.**  
23 300 S. Fourth St., Ste. 1400  
24 Las Vegas, NV 89101  
25 Tel: (702) 692-8000  
26 E-Mail: rbryan@fennemorelaw.com  
27 *Attorneys for Plaintiffs*  
28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of Leach Kern  
3 Gruchow Anderson Song, and that on this date I served the foregoing document described as  
4 follows:  
5

6 ***NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFFS'  
7 MOTION FOR ORDER SHORTENING TIME***

8 On the party(s) set forth below by:

- 9 [•] Placing an original or true copy thereof in a sealed envelope placed for collection  
10 and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following  
ordinary business practices.

11 William E. Peterson, Esq.  
12 Janine C. Prupas, Esq.  
13 SNELL & WILMER, L.L.P.  
14 50 West Liberty St., Ste. 510  
Reno, NV 89501

Joshua Ang, Esq.  
Prescott Jones, Esq.  
RESNICK & LOUIS, P.C.  
8925 W. Russell Road, Ste. 220  
Las Vegas, NV 89148

15 Richard H. Bryan, Esq.  
16 FENNEMORE CRAIG, P.C.  
17 300 S. Fourth St., Ste. 1400  
Las Vegas, NV 89101

- 18 [ ] Electronically filing the foregoing with the Clerk of the Court by using the  
19 electronic filing system, which will send a notice of electronic filing to the  
following:

- 20 [•] Courtesy copies sent via email to the following:

21 JOSHUA ANG, ESQ.	jang@rlattorneys.com
22 PRESCOTT JONES, ESQ.	pjones@rlattorneys.com
23 RICHARD H. BRYAN, ESQ.	rbryan@fennemorelaw.com
24 JANINE D. PRUPAS, ESQ.	jprupas@swlaw.com
25 WILLIAM E. PETERSON, ESQ.	wpeterson@swlaw.com
26 KELLY H. DOVE, ESQ.	kdove@swlaw.com

27 DATED this 7<sup>th</sup> day of April 2021.

28 /s/Teresa A. Gearhart  
TERESA A. GEARHART



RECEIVED

APR - 6 2021

FILED

1 GAYLE A. KERN, ESQ.

2 Nevada Bar No. 1620

3 SOPHIE A. KARADANIS, ESQ.

4 Nevada Bar No. 12006

5 LEACH KERN GRUCHOW ANDERSON SONG

6 5421 Kietzke Lane, Ste. 200

7 Reno, Nevada 89511

8 Tel: (775) 324-5930

9 E-Mail: gkern@lkglawfirm.com

10 E-Mail: skaradanis@lkglawfirm.com

11 RICHARD H. BRYAN, ESQ.

12 Nevada Bar No. 2029

13 FENNEMORE CRAIG, P.C.

14 300 S. Fourth St., Ste. 1400

15 Las Vegas, NV 89101

16 Tel: (702) 692-8000

17 E-Mail: rbryan@fennemorelaw.com

18 Attorneys for Plaintiffs

Douglas County  
District Court Clerk

2021 APR -6 PM 2: 03

BOBBIE R. WILLIAMS  
CLERK

BY K. WILFERT DEPUTY

13 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

14 IN AND FOR COUNTY OF DOUGLAS

15 K. J. BROWN, L.L.C., a Nevada limited  
16 liability company; and TIMOTHY D.  
17 GILBERT and NANCY AVANZINO  
18 GILBERT, as trustees of the TIMOTHY D.  
19 GILBERT AND NANCY AVANZINO  
20 GILBERT REVOCABLE FAMILY TRUST  
21 DATED DECEMBER 27, 2013,

22 Plaintiffs,

23 v.

24 ELK POINT COUNTRY CLUB  
25 HOMEOWNERS, ASSOCIATION, INC., also  
26 known as ELK POINT COUNTRY CLUB,  
27 INC., a Nevada non-profit, non-stock  
28 corporation; and DOES 1-50, inclusive,

Defendant.

CASE NO.: 2020 CV 00124

DEPT. NO.: 1

ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
ORDER SHORTENING TIME

The Court, having evaluated all applicable factors finds that there is good cause to grant  
Plaintiffs, K. J. BROWN, L.L.C. and TIMOTHY D. GILBERT and NANCY AVANZINO

1 GILBERT, as trustees of the TIMOTHY D. GILBERT AND NANCY AVANZINO GILBERT  
2 REVOCABLE FAMILY TRUST DATED DECEMBER 27, 2013 ("Gilbert Family Trust")  
3 (collectively referred to as "Plaintiffs"), Motion for Order Shortening time.  
4

5 **IT IS HEREBY ORDERED** that Plaintiffs' Motion for Order Shortening Time is  
6 GRANTED.

7 **IT IS FURTHER ORDERED** that Defendant shall have until 12 of April 2021 to file  
8 and serve Plaintiffs with a copy of its Opposition to Plaintiffs' Motion for Clarification; and that  
9 Plaintiffs shall have until 16 of April 2021 to file and serve upon Defendant a copy of their  
10 Reply to Opposition to Plaintiffs' Motion for Clarification.  
11

12 **IT IS FURTHER ORDERED** that the Court will thereupon issue its Order upon  
13 Plaintiffs' Motion for Clarification, ~~serving same upon the parties no later than~~ <sup>NY</sup> ~~of~~  
14 ~~2021.~~

15 **IT IS SO ORDERED.**

16   
17 DISTRICT COURT JUDGE  
18  
19  
20

21 Prepared by:

22 **LEACH KERN GRUCHOW ANDERSON SONG**

23 By: /s/ Sophie A. Karadanis, Esq.  
24 SOPHIE A. KARADANIS, ESQ.  
25 Nevada Bar No. 12006  
26 5421 Kietzke Lane, Ste. 200  
27 Reno, Nevada 89511  
28 Tel: (775) 324-5930  
E-mail: skaradanis@lkglawfirm.com  
Attorneys for Plaintiffs

RECEIVED

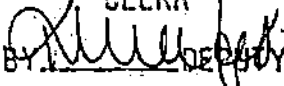
APR - 6 2021

Douglas County  
District Court Clerk

FILED

2021 APR -6 PM 2:03

BOBBIE R. WILLIAMS  
CLERK

BY:  DEPUTY

1 GAYLE A. KERN, ESQ.

Nevada Bar No. 1620

2 SOPHIE A. KARADANIS, ESQ.

Nevada Bar No. 12006

3 LEACH KERN GRUCHOW ANDERSON SONG

4 5421 Kietzke Lane, Ste. 200

Reno, Nevada 89511

5 Tel: (775) 324-5930

6 E-Mail: gkern@lkglawfirm.com

E-Mail: skaradanis@lkglawfirm.com

7 RICHARD H. BRYAN, ESQ.

8 Nevada Bar No. 2029

9 FENNEMORE CRAIG, P.C.

300 S. Fourth St., Ste. 1400

10 Las Vegas, NV 89101

11 Tel: (702) 692-8000

E-Mail: rbryan@fennemorelaw.com

12 Attorneys for Plaintiffs

13 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

14 IN AND FOR COUNTY OF DOUGLAS.

15 K. J. BROWN, L.L.C., a Nevada limited  
16 liability company; and TIMOTHY D.  
17 GILBERT and NANCY AVANZINO  
18 GILBERT, as trustees of the TIMOTHY D.  
19 GILBERT AND NANCY AVANZINO  
GILBERT REVOCABLE FAMILY TRUST  
DATED DECEMBER 27, 2013,

CASE NO.: 2020 CV 00124

DEPT. NO.: I

20 Plaintiffs,

21 v.

ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
ORDER SHORTENING TIME

22 ELK POINT COUNTRY CLUB  
23 HOMEOWNERS, ASSOCIATION, INC., also  
24 known as ELK POINT COUNTRY CLUB,  
INC., a Nevada non-profit, non-stock  
25 corporation; and DOES 1-50, inclusive,

26 Defendant.

27 The Court, having evaluated all applicable factors finds that there is good cause to grant  
28 Plaintiffs, K. J. BROWN, L.L.C. and TIMOTHY D. GILBERT and NANCY AVANZINO

1 GILBERT, as trustees of the TIMOTHY D. GILBERT AND NANCY AVANZINO GILBERT  
2 REVOCABLE FAMILY TRUST DATED DECEMBER 27, 2013 ("Gilbert Family Trust")  
3 (collectively referred to as "Plaintiffs"), Motion for Order Shortening time.  
4

5 **IT IS HEREBY ORDERED** that Plaintiffs' Motion for Order Shortening Time is  
6 GRANTED.

7 **IT IS FURTHER ORDERED** that Defendant shall have until 12 of April 2021 to file  
8 and serve Plaintiffs with a copy of its Opposition to Plaintiffs' Motion for Clarification; and that  
9 Plaintiffs shall have until 16 of April 2021 to file and serve upon Defendant a copy of their  
10 Reply to Opposition to Plaintiffs' Motion for Clarification.  
11

12 **IT IS FURTHER ORDERED** that the Court will thereupon issue its Order upon  
13 Plaintiffs' Motion for Clarification, ~~serving same upon the parties no later than~~ <sup>not</sup> ~~of~~  
14 ~~2021.~~

15 **IT IS SO ORDERED.**

16  
17   
18 DISTRICT COURT JUDGE  
19

20 Prepared by:

21 **LEACH KERN GRUCHOW ANDERSON SONG**  
22

23 By: /s/ Sophie A. Karadanis, Esq.  
24 SOPHIE A. KARADANIS, ESQ.  
25 Nevada Bar No. 12006  
26 5421 Kietzke Lane, Ste. 200  
27 Reno, Nevada 89511  
28 Tel: (775) 324-5930  
E-mail: skaradanis@lkglawfirm.com  
Attorneys for Plaintiffs

**ORIGINAL  
RECEIVED**

**FILED**

**APR 20 2021**

**2021 APR 20 PM 4:09**

**GAYLE A. KERN, ESQ.**

Nevada Bar No. 1620

**SOPHIE A. KARADANIS, ESQ.**

Nevada Bar No. 12006

**LEACH KERN GRUCHOW ANDERSON SONS**

5421 Kietzke Lane, Ste. 200

Reno, Nevada 89511

Tel: (775) 324-5930

E-Mail: gkern@lkglawfirm.com

E-Mail: skaradanis@lkglawfirm.com

Douglas County  
District Court Clerk

BOBBIE R. WILLIAMS  
CLERK

BY *C. Walsh* DEPUTY

**RICHARD H. BRYAN, ESQ.**

Nevada Bar No. 2029

**FENNEMORE CRAIG, P.C.**

300 S. Fourth St., Ste. 1400

Las Vegas, NV 89101

Tel: (702) 692-8000

E-Mail: rbryan@fennemorelaw.com

*Attorneys for Plaintiffs*

**IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

**IN AND FOR COUNTY OF DOUGLAS**

K. J. BROWN, L.L.C., a Nevada limited liability company; and TIMOTHY D. GILBERT and NANCY AVANZINO GILBERT, as trustees of the TIMOTHY D. GILBERT AND NANCY AVANZINO GILBERT REVOCABLE FAMILY TRUST DATED DECEMBER 27, 2013,

CASE NO.: 2020 CV 00124

DEPT. NO.: 1

Plaintiffs,

v.

ELK POINT COUNTRY CLUB HOMEOWNERS, ASSOCIATION, INC., also known as ELK POINT COUNTRY CLUB, INC., a Nevada non-profit, non-stock corporation; and DOES 1-50, inclusive,

Defendant.

**CASE APPEAL STATEMENT**

1           1.     **Name of appellant filing this Case Appeal Statement:** Appellants, K. J.  
2 BROWN, L.L.C., a Nevada limited liability company; and TIMOTHY D. GILBERT and NANCY  
3 AVANZINO GILBERT, as trustees of the TIMOTHY D. GILBERT AND NANCY AVANZINO  
4 GILBERT REVOCABLE FAMILY TRUST DATED DECEMBER 27, 2013.

6           2.     **Identify the Judge issuing the decision, judgment or order appealed from:**  
7 Honorable Nathan Tod Young, Ninth Judicial District Court Judge, Dept. I.

8           3.     **Identify each appellant and the name and address of counsel for each**  
9 **appellant:**

10           Appellants:   K. J. BROWN, L.L.C., a Nevada limited liability company; and  
11  
12                       TIMOTHY D. GILBERT and NANCY AVANZINO GILBERT, as  
13                       trustees of the TIMOTHY D. GILBERT AND NANCY AVANZINO  
14                       GILBERT REVOCABLE FAMILY TRUST DATED DECEMBER 27,  
                      2013

15           Attorneys:   Gayle A. Kern, Esq. and Sophie A. Karadanis, Esq.  
16                       Leach Kern Gruchow Anderson Song  
17                       5421 Kietzke Lane, Suite 200  
                      Reno, Nevada 89511

18                       Senator Richard H. Bryan  
19                       Fennemore Craig, P.C.  
20                       300 S. Fourth St., Ste. 1400  
                      Las Vegas, Nevada 89101

21           4.     **Identify each respondent and the name and address of appellate counsel, if**  
22 **known, for each respondent (if the name of a respondent's appellate counsel is unknown,**  
23 **indicate as much and provide the name and address of that respondent's trial counsel):**

24           Respondent:   ELK POINT COUNTRY CLUB HOMEOWNERS, ASSOCIATION,  
25                       INC., also known as ELK POINT COUNTRY CLUB, INC., a Nevada  
26                       non-profit, non-stock corporation.

27           Attorneys:   Prescott Jones, Esq. and Joshua Ang, Esq.  
28                       Resnick & Louis, P.C.  
                      8925 W. Russell Road, Suite 220  
                      Las Vegas, Nevada 89148

1           5.       Indicate whether any attorney identified above in response to question 3 or 4  
2 is not licensed to practice law in Nevada and, if so, whether the district court granted that  
3 attorney permission to appear under SCR 42: Not applicable.

4  
5           6.       Indicate whether appellant was represented by appointed or retained counsel  
6 in the district court: Appellants were represented by retained counsel in the district court.

7           7.       Indicate whether appellant is represented by appointed or retained counsel on  
8 appeal: Appellants are represented by retained counsel on appeal.

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

11  
12           9.       Indicate the date the proceedings commenced in the district court (e.g. date  
13 complaint, indictment, information or petition was filed): Complaint and Motion for  
14 Preliminary Injunction was filed on June 29, 2020.

15           10.      Provide a brief description of the nature of the action and result in district  
16 court, including the type of judgment or order being appealed and the relief granted by the  
17 district court: This is an appeal of a district court order dissolving an injunction. *See* NRAP  
18 3(A)(b)(3). Appellants are homeowners within the Elk Point Country Club ("EPCC") subdivision,  
19 which is a private tax-exempt social club. Appellants filed a civil action against EPCC seeking,  
20 among other things, injunctive relief to enjoin for-profit rental use of units within the social club  
21 because such use jeopardizes the private social club's tax-exempt status. On December 15, 2020,  
22 the district court entered an Order Granting Plaintiffs' Motion for Preliminary Injunction  
23 ("Injunction Order"). The Injunction Order required EPCC to prohibit, prevent and enjoin all for-  
24 profit rental use of units within the social club including transient commercial use and long-term  
25 rental use of any unit. The Respondent appealed the Injunction Order. Pending its appeal, the  
26 Respondent moved the district court under NRAP 8(a)(1)(C) to stay or suspend the Injunction  
27  
28

Order pending resolution of its appeal. On March 15, 2021, the district court entered an Order Granting Stay of Preliminary Injunction Pending Resolution of the Interlocutory Appeal ("Stay Order") staying the enforcement of the Injunction Order. The district court's Stay Order, if applied to both long-term and transient commercial use, dissolves the entire Injunction Order, so that EPCC would no longer be required to enjoin transient commercial use and long-term rental use of Units, and thus, permits all for-profit rental use of units within EPCC to continue.

**11. Indicate whether the case has been the subject of an appeal or original writ proceeding in the Supreme Court, and, if so, the caption and Supreme Court docket number of the prior proceeding:**

A Notice of Appeal was filed by Respondents with the District Court (2020 CV 00124) on February 4, 2021, and thereafter, electronically filed with the Nevada Supreme Court on February 17, 2021.

The Supreme Court caption and docket number: Nevada Supreme Court No. 82484; Appellant, ELK POINT COUNTRY CLUB HOMEOWNERS', ASSOCIATION, INC., AKA ELK POINT COUNTRY CLUB, INC., A NEVADA NON-PROFIT, NON-STOCK CORPORATION vs. Respondents, K. J. BROWN, L.L.C., A NEVADA LIMITED LIABILITY COMPANY; AND TIMOTHY D. GILBERT AND NANCY AVANZINO GILBERT, AS TRUSTEES OF THE TIMOTHY D. GILBERT AND NANCY AVANZINO GILBERT REVOCABLE FAMILY TRUST DATED DECEMBER 27, 2013.

///

**12. Indicate whether this appeal involves child custody or visitation:** There are no child custody or visitation issues in this case.

**13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:** It is counsel's belief that there is the potential for resolution.



12. Indicate whether this appeal involves child custody or visitation: There are no child custody or visitation issues in this case.

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement: It is counsel's belief that there is the potential for resolution.

**AFFIRMATION**

Pursuant to NRS 239B.030, the undersigned does hereby affirm that *Case Appeal Statement* filed in the above-entitled case (2020 CV 00124) does not contain the social security number of any person.

DATED this 20<sup>th</sup> day of April, 2021.

**LEACH KERN GRUCHOW ANDERSON SONG**

By:

**SOPHIE A. KARAFANIS, ESQ.**

Nevada Bar No. 12006

5421 Kietzke Lane, Ste. 200

Reno, Nevada 89511

**Tel: (775) 324-5930**

E-mail: [skaradanis@lkglawfirm.com](mailto:skaradanis@lkglawfirm.com)

*Attorneys for Plaintiffs*

and

**RICHARD H. BRYAN, ESQ.**

**Nevada Bar No. 2029**

**FENNEMORE CRAIG, P.C.**

300 S. Fourth St., Ste. 1400

Las Vegas, NV 89101

**Tel: (702) 692-8000**

E-Mail: [rbryan@fennemorelaw.com](mailto:rbryan@fennemorelaw.com)

*Attorneys for Plaintiffs*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of Leach Kern  
Gruchow Anderson Song, and that on this date I served the foregoing document described as  
follows:

***CASE APPEAL STATEMENT***

On the party(s) set forth below by:

- ☒ Placing an original or true copy thereof in a sealed envelope placed for collection  
and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following  
ordinary business practices.

William E. Peterson, Esq.  
Janine C. Prupas, Esq.  
Kelly H. Dove, Esq.  
SNELL & WILMER, L.L.P.  
50 West Liberty St., Ste. 510  
Reno, NV 89501

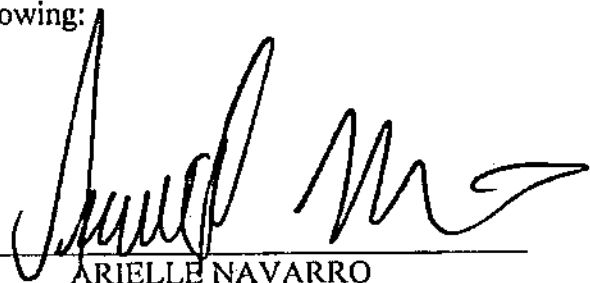
Prescott Jones, Esq.  
Joshua Ang, Esq.  
RESNICK & LOUIS, P.C.  
8925 W. Russell Road, Ste. 220  
Las Vegas, NV 89148

Richard H. Bryan, Esq.  
FENNEMORE CRAIG, P.C.  
300 S. Fourth St., Ste. 1400  
Las Vegas, NV 89101

- ☐ Electronically filing the foregoing with the Clerk of the Court by using the  
electronic filing system, which will send a notice of electronic filing to the  
following:

- ☐ Courtesy copies sent via email to the following:

DATED this 20<sup>th</sup> day of April 2021.

  
\_\_\_\_\_  
ARIELLE NAVARRO

# Douglas County District Court

## Case Summary Report

Case #: 2020-CV-00124  
Case Title: K.J. Brown, LLC and Timothy D. Gilbert, et al vs. Elk Point Country Club, Inc.  
Filed: 06/29/2020  
Cause: Other Civil Matters DV: N

Case Status: Active Date: 06/29/2020

Archived: 04/08/2021, 04/08/2021, 04/06/2021, 04/05/2021

### Parties

<u>Party</u>	<u>Name</u>	<u>Status</u>
Plaintiff	K.J. Brown, LLC	
Plaintiff	Gilbert, Timothy D.	
Plaintiff	Gilbert, Nancy Avanzino	
Defendant	Elk Point Country Club, Inc.	

<u>Party</u>	<u>Name</u>	<u>Bar #</u>	<u>Status</u>	<u>Representing</u>
Attorney	Karadanis, Sophie Alexandra	12006	Current	
Attorney	Jones, Prescott Esq	11617	Current	
Attorney	Kern, Gayle A.	1620	Current	
Attorney	Bryan, Richard H.	2029	Current	

### Events

<u>Date/Time</u>	<u>Type</u>	<u>Result</u>	<u>Reason</u>
10/23/2020	Bench Trial	Concluded	
11/19/2020	16.2 Case Management Conference	Vacated	
02/01/2022	Pre-Trial Conference		
03/07/2022	Jury Trial		
03/09/2022	Jury Trial		
03/10/2022	Jury Trial		
03/11/2022	Jury Trial		

### Documents

<u>Date</u>	<u>Code</u>	<u>Description</u>
	MINS	Minutes
06/29/2020	DCOM	Complaint
06/29/2020	DSBA	Summons Issued - Elk Point Country Club, Inc.
06/29/2020	MMOT	Motion - for Preliminary Injunction
07/02/2020	DSBA	Summons Issued - Amended Summons Issued
07/02/2020	DCAM	Amended Complaint - First Amended Complaint
07/02/2020	DERR	Errata to - Motion for Preliminary Injunction
07/22/2020	DSF	Summons Filed - Amended Summons Filed
08/06/2020	DASR	Answer - Defendant's Answer to Plaintiff's First Amended Complaint
08/06/2020	DOPP	Opposition to Motion - Defendant Elk Point Country Club Homeowner's Association, Inc.'s Opposition to Plaintiffs' Motion for Preliminary Injunction
08/24/2020	DREP	Reply to - Plaintiffs' Reply in Support of Motion for Preliminary Injunction
08/24/2020	DRSU	Request for Submission - of Plaintiffs' Motion for Preliminary Injunction
08/31/2020	DOSH	Order Setting Hearing
09/08/2020	DDJT	Demand for Jury Trial
10/19/2020	DEXM	Ex Parte Motion - Defendant Elk Point Country Club Homeowners Association, INC.'s Ex Parte Request for an Order Shortening Time and Motion to Partially Strike Plaintiffs' Reply in Support of Motion for Preliminary Injunction
10/27/2020	DTRN	Transcript of Proceedings - Partial Transcript - Judge's Order 10/23/2020
11/03/2020	DRSU	Request for Submission - of (Proposed ) Order Denying Defendant's Ex Parte Request for an Order Shortening Time and Motion to Partially Strike Plaintiff's Reply In Support of Motion for Preliminary Injunction

<u>Date</u>	<u>Code</u>	<u>Description</u>
11/03/2020	DRSU	Request for Submission - of (Proposed) Order Granting Plaintiff's Motion for Preliminary Injunction
11/05/2020	DTRN	Transcript of Proceedings - Motion for Preliminary Injunction 10/23/2020
11/09/2020	DODE	Order Denying - Defendant's Ex Parte Request for an Order Shortening Time and Motion to Partially Strike Plaintiff's Reply in Support of Motion for Preliminary Injunction
11/12/2020	DNEO	Notice of Entry of Order - Denying Defendant's Ex Parte Request for an Order Shortening Time and Motion to Partially Strike Plaintiff's Reply in Support of Motion for Preliminary Injunction
11/16/2020	DOBJ	Objection to - Defendant Elk Point Country Club Homeowners Association, Inc.'s Objection to Plaintiff's Proposed Order Granting Motion for Preliminary Injunction, or in the Alternative, Motion to Amend order
11/20/2020	DREP	Reply to - Defendant's Objection to Plaintiff's Proposed Order Granting Motion for Preliminary Injunction, or In the Alternative Motion to Amend Order
11/23/2020	DJCR	Joint Case Conference Report
12/04/2020	DORD	Order
12/15/2020	DPRI	Preliminary Injunction - Order Granting Plaintiffs' Motion for Preliminary Injunction
12/16/2020	DIFQ	Information Questionnaire
12/22/2020	DPTC	Scheduling Order 16.1 Trial and PTC
01/06/2021	CONV	Conversion Document - Receipt for Posting of \$5,000.00 Cost Bond
01/06/2021	DN	Notice of - Plaintiffs' Notice of Posting Bond
01/06/2021	DNEO	Notice of Entry of Order - Notice of Entry of Order Granting Plaintiffs' Motion for Preliminary Injunction
01/25/2021	DAOC	Association of Counsel - Notice of Association of Counsel
02/04/2021	DNOA	Notice of Appeal
02/04/2021	DCAP	Case Appeal Statement
02/19/2021	DN	Notice of - Notice and Request to Correct Appeal Statement
02/19/2021	DRFD	Receipt for Documents (Supreme Court)
02/22/2021	DRFD	Receipt for Documents (Supreme Court)
02/25/2021	DEXM	Ex Parte Motion - Defendant Elk Point Country Club Homeowners Association, Inc.'s Ex Parte Request for an Order Shortening Time and Motion to Stay Matter Pending Interlocutory Appeal
03/01/2021	DORD	Order - Shortening Time
03/03/2021	MMOT	Motion - Proposed Defendant-Intervenor Property Owners' Motion for Order Shortening Time on Motion to Intervene and to Vacate this Court's Order Granting Plaintiff's Motion for Preliminary Injunction
03/03/2021	MMOT	Motion - Proposed Defendant-Intervenor Property Owners' Motion to Intervene and to Vacate This Court's Order Granting Plaintiffs' Motion for Preliminary Injunction
03/08/2021	DORD	Order
03/08/2021	DOPP	Opposition to Motion - Plaintiffs' Opposition to Proposed Defendant-Intervenor Property Owners' Motion for Order Shortening Time on Motion to Intervene and to Vacate this Court's Order Granting Plaintiffs' Motion for Preliminary Injunction
03/08/2021	DOPP	Opposition to Motion - Plaintiffs' Opposition to Motion to Stay Matter Pending Interlocutory Appeal
03/12/2021	DREP	Reply to - Defendant Elk Point Country Club Homeowners Association, Inc.'s Reply in Support of Motion to Stay Matter Pending Interlocutory Appeal
03/15/2021	DORD	Order
03/17/2021	DOPP	Opposition to Motion - Plaintiff's Opposition to Proposed Defendant-Intervenor Property Owners' Motion to Intervene and to Vacate This Court's Order Granting Plaintiffs' Motion For Preliminary Injunction
03/23/2021	DNEO	Notice of Entry of Order
03/29/2021	DREP	Reply to - Proposed Defendant-Intervenor Property Owners' Reply in Support of Motion to Intervene and to Vacate this Court's Order Granting Plaintiffs' Motion for Preliminary Injunction
03/29/2021	DRSU	Request for Submission
04/01/2021	MOST	Motion to Strike
04/05/2021	DMOF	Motion for - Clarification
04/05/2021	DMOF	Motion for - Order Shortening Time
04/06/2021	DORD	Order - Granting Plaintiffs' Motion for Order Shortening Time
04/07/2021	DWIT	Withdrawal of - Plaintiffs' Motion to Strike

<u>Date</u>	<u>Code</u>	<u>Description</u>
04/07/2021	DNEO	Notice of Entry of Order - Granting Plaintiffs' Motion for Order Shortening Time
04/13/2021	DOPT	Opposition to - Defendant Elk Point Country Club Homeowner's Association, Inc.'s Opposition to Plaintiffs' Motion for Clarification for Order Granting Stay
04/15/2021	MMOT	Motion - Proposed Defendant-Intervenors Property Owners' Motion for Order Shortening Time on Motion to Intervene on Plaintiffs' Motion for Clarification
04/15/2021	MMOT	Motion - to Intervene on Plaintiffs' Motion for Clarification
04/16/2021	DREP	Reply to - Reply in Support of Motion for Clarification
04/20/2021	DNOA	Notice of Appeal
04/20/2021	DCAP	Case Appeal Statement
04/21/2021	DOPP	Opposition to Motion - Plaintiff's Opposition to Proposed Defendant-Intervenor Property Owner's Motion for Order Shortening Time on Motion to Intervene on Plaintiffs' Motion for Clarification
04/22/2021	DORD	Order

**Case Notes**

6/29/20 Motion for Preliminary Injunction - submitted

1 Case No. 2020-CV-00124

2 Dept. No. I

RECEIVED

MAR 15 2021

Douglas County  
District Court Clerk

FILED

NO

21 MAR 15 P1:20

BARBARA J. WILLIAMS

CLERK  
BY *K. Williams* DEPUTY

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF DOUGLAS

8  
9 K.J. BROWN, L.L.C., a Nevada limited  
10 liability company; and TIMOTHY D.  
11 GILBERT and NANCY AVANZINO  
12 GILBERT, as trustees of the TIMOTHY D.  
13 GILBERT AND NANCY AVANZINO  
14 GILBERT REVOCABLE FAMILY  
15 TRUST DATED DECEMBER 27, 2013,

16 Plaintiffs,

17 v.

**ORDER**

18 ELK POINT COUNTRY CLUB  
19 HOMEOWNERS ASSOCIATION, INC.,  
20 also known as ELK POINT COUNTRY  
21 CLUB, INC., a Nevada non-profit, non-  
22 stock corporation; and DOES 1-50,  
23 inclusive,

24 Defendants.

25  
26 THIS MATTER comes before the court upon Defendant Elk Point Country Club  
27 Homeowners Association, Inc.'s Motion to Stay Matter Pending Interlocutory Appeal. The  
28 motion is opposed. Having examined all relevant pleadings and papers on file herein, the  
court now enters the following order, good cause appearing:

THAT the motion to stay the court's preliminary injunction pending an interlocutory  
appeal is GRANTED.

1 Pursuant to NRAP 8(a)(1), defendant requests the court stay the preliminary  
2 injunction due to become effective on Saturday, March 20, 2021. Defendants appealed the  
3 preliminary injunction on February 4, 2021. Defendants also request a stay of the discovery  
4 process.

5  
6 The Supreme Court of the State of Nevada considers the following factors in  
7 deciding whether to issue a stay:

- 8 (1) whether the object of the appeal will be defeated if the stay is denied;  
9 (2) whether appellant will suffer irreparable or serious injury if the stay is denied;  
10 (3) whether respondent will suffer irreparable or serious injury if the stay is granted; and  
11 (4) whether appellant is likely to prevail on the merits in the appeal.

12 *Mikohn Gaming Corp. v. McCrea*, 120 Nev. 248, 251, 89 P.3d 36, 38 (2004) (citing *NRAP*  
13 *8(c)*); see also *Fritz Hansen A/S, Petitioner v. Eighth Jud. Dist. Ct.*, 116 Nev. 650, 657,  
14 6 P.3d 982, 986 (2000). "We have not indicated that any one factor carries more weight  
15 than the others, although *Fritz Hansen A/S v District Court* recognizes that if one or two  
16 factors are especially strong, they may counterbalance other weak factors." *Mikohn Gaming*  
17 *Corp.*, 120 Nev. at 251, 89 P.3d at 38.

19 Absent a stay of the preliminary injunction, defendant is to begin preventing long  
20 and short term rentals of members' real property as of March 20, 2021. Such action will  
21 require that some tenants of long term rentals be displaced from their primary residences.  
22 The object of the appeal is to overturn the preliminary injunction, thereby preventing it from  
23 remaining in effect during the pendency of this matter. The court finds the object of the  
24 appeal is defeated if no stay is granted and the preliminary injunction is allowed to become  
25 effective on March 20, 2021.

26  
27 Counsel for defendant declares upon information that serious injury will occur,  
28

1 without remedy, if the stay is denied. While plaintiff avers that only three of the one  
2 hundred members are currently conducting long term rentals of their property, causing those  
3 renters to relocate is a burdensome measure, especially during a period of pandemic.

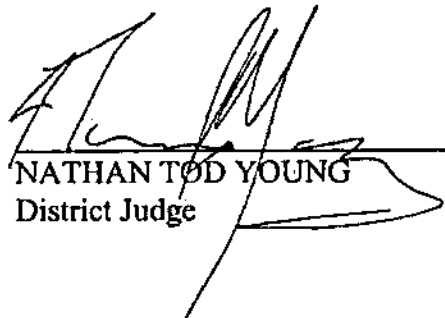
4       Plaintiffs emphasize the return of the threat to defendant's tax exempt status and the  
5 ongoing violation of defendant's bylaws if the stay is granted, thereby defeating the very  
6 purpose of the preliminary injunction. This is a potentially serious and lasting adverse  
7 impact to the Elk Point Country Club. The court finds the competing allegations of serious  
8 or irreparable injury to both sides to be of serious consequence, causing the two separate  
9 factors set forth within NRAP 8(c) to be of equal import.

10       While defendant clearly disagrees with the court's preliminary ruling, nothing new or  
11 significant is proffered within the motion to convince the court the decision was in error and  
12 will be overturned. Other than asserting at page 6 of the motion, at lines 11 - 14, that the  
13 possibility of being overturned on *de novo* review "cannot be said to be insubstantial,"  
14 defendant has proffered no reason for the court not to rely upon the existing judgment  
15 reflected within the injunction.

16       Weighing the four factors, the court finds the result equally balanced and is therefore  
17 persuaded that issuing a stay to preserve the status quo is warranted in this instance. The  
18 order of preliminary injunction is stayed pending resolution of the interlocutory appeal, and  
19 all discovery processes are stayed until such resolution.

20       IT IS SO ORDERED.

21       Dated this 15 day of March, 2021.

22  
23  
24  
25  
26  
27  
28  
  
NATHAN TOD YOUNG  
District Judge



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Copies served by mail this 15 day of March, 2021, to:

Gayle A. Kern, Esq.  
Sophie A. Karadanis, Esq.  
Leach Kern Gruchow Anderson Song  
5421 Kietzke Lane, Ste. 200  
Reno, NV 89511

Richard H. Bryan, Esq.  
Fennemore Craig, P.C.  
300 S. Fourth St., Ste. 1400  
Las Vegas, NV 89101

Prescott Jones, Esq.  
Joshua Ang, Esq.  
Resnick & Louis, P.C.  
8925 W. Russell Road, Ste. 220  
Las Vegas, NV 89148

William E. Peterson, Esq.  
Janine C. Prupas, Esq.  
Kelly H. Dove, Esq.  
Snell & Wilmer, L.L.P.  
50 West Liberty Street, Ste. 510  
Reno, NV 89501

  
Judicial Executive Assistant

RECEIVED

MAR 23 2021

Douglas County  
District Court Clerk

FILED

2021 MAR 23 AM 8:55

BOBBIE R. WILLIAMS  
CLERK

BY *[Signature]* DEPUTY

1 RESNICK & LOUIS, P.C.  
2 PRESCOTT JONES, ESQ.  
3 Nevada Bar No. 11617  
4 pjones@rlattorneys.com  
5 JOSHUA ANG, ESQ.  
6 Nevada Bar No. 14026  
7 jang@rlattorneys.com  
8 8925 W. Russell Rd., Suite 220  
9 Las Vegas, NV 89148  
10 Telephone: (702) 997-3800  
11 Facsimile: (702) 997-3800  
12 *Attorneys for Defendant*

13 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

14 IN AND FOR THE COUNTY OF DOUGLAS

15 K. J. BROWN, L.L.C., a Nevada limited  
16 liability company; and TIMOTHY D.  
17 GILBERT and NANCY AVANZINO  
18 GILBERT, as trustees of the TIMOTHY D.  
19 GILBERT AND NANCY AVANZINO  
20 GILBERT REVOCABLE FAMILY TRUST  
21 DATED DECEMBER 27, 2013,

22 Plaintiffs,

23 v.

24 ELK POINT COUNTRY CLUB  
25 HOMEOWNERS, ASSOCIATION, INC., also  
26 known as ELK POINT COUNTRY CLUB,  
27 INC., a Nevada non-profit, non-stock  
28 corporation; and DOES 1-50, inclusive;

Defendants.

CASE NO.: 2020-CV-0124

DEPT: I

NOTICE OF ENTRY OF ORDER

///

///

///

///

1 PLEASE TAKE NOTICE that the ORDER GRANTING DEFENDANTS' MOTION  
2 TO STAY MATTER PENDING INTERLOCUTORY APPEAL was entered on the 15<sup>th</sup> day of  
3 March, 2021, a copy of which is annexed hereto.

4 DATED this 22<sup>ND</sup> day of March, 2021.

5 RESNICK & LOUIS, P.C.

6 

7  
8 PRESCOTT JONES  
9 Nevada Bar No. 11617  
10 JOSHUA ANG, ESQ.  
11 Nevada Bar No. 14026  
12 *Attorneys for Defendant*  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that service of the foregoing **NOTICE OF ENTRY OF ORDER** was served this 22<sup>nd</sup> day of March, 2021 by:

☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada, addressed as set forth below.

☐ **BY FACSIMILE:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document.

☐ **BY PERSONAL SERVICE:** by causing personal delivery by an employee of Resnick & Louis, P.C. of the document(s) listed above to the person(s) at the address(es) set forth below.

☒ **BY ELECTRONIC SERVICE:** by transmitting via the Court's electronic filing services the document(s) listed above to the Counsel set forth on the service list on this date pursuant to EDCR Rule 7.26(c)(4).

John E. Leach, Esq.

Gayle A. Kern, Esq.

Sophie A. Karadanis, Esq.

LEACH KERN GROCHOW ANDERSON SONG

5421 Kietzke Lane, Ste. 200

Reno, Nevada 89511

*Attorneys for Plaintiffs*

Richard H. Bryan, Esq.

c/o Fennemore Craig, P.C.

300 S. Fourth St., Ste. 1400

Las Vegas, NV 89101



\_\_\_\_\_  
An employee of Resnick & Louis, P.C.

RECEIVED

FILE

Case No. 2020-CV-00124

MAR 15 2021

Dept. No. I

Douglas County  
District Court Clerk

21 MAR 15 P1:20

FILED

L. KABAT

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

K.J. BROWN, L.L.C., a Nevada limited  
liability company; and TIMOTHY D.  
GILBERT and NANCY AVANZINO  
GILBERT, as trustees of the TIMOTHY D.  
GILBERT AND NANCY AVANZINO  
GILBERT REVOCABLE FAMILY  
TRUST DATED DECEMBER 27, 2013,

Plaintiffs,

v.

ORDER

ELK POINT COUNTRY CLUB  
HOMEOWNERS ASSOCIATION, INC.,  
also known as ELK POINT COUNTRY  
CLUB, INC., a Nevada non-profit, non-  
stock corporation; and DOES 1-50,  
inclusive,

Defendants.

THIS MATTER comes before the court upon Defendant Elk Point Country Club  
Homeowners Association, Inc.'s Motion to Stay Matter Pending Interlocutory Appeal. The  
motion is opposed. Having examined all relevant pleadings and papers on file herein, the  
court now enters the following order, good cause appearing:

THAT the motion to stay the court's preliminary injunction pending an interlocutory  
appeal is GRANTED.

1 Pursuant to NRAP 8(a)(1), defendant requests the court stay the preliminary  
2 injunction due to become effective on Saturday, March 20, 2021. Defendants appealed the  
3 preliminary injunction on February 4, 2021. Defendants also request a stay of the discovery  
4 process.

5 The Supreme Court of the State of Nevada considers the following factors in  
6 deciding whether to issue a stay:  
7

- 8 (1) whether the object of the appeal will be defeated if the stay is denied;
- 9 (2) whether appellant will suffer irreparable or serious injury if the stay is denied;
- 10 (3) whether respondent will suffer irreparable or serious injury if the stay is granted; and
- 11 (4) whether appellant is likely to prevail on the merits in the appeal.

12 *Mikohn Gaming Corp. v. McCrea*, 120 Nev. 248, 251, 89 P.3d 36, 38 (2004) (citing *NRAP*  
13 *8(c)*); see also *Fritz Hansen A/S, Petitioner v. Eighth Jud. Dist. Ct.*, 116 Nev. 650, 657,  
14 6 P.3d 982, 986 (2000). "We have not indicated that any one factor carries more weight  
15 than the others, although *Fritz Hansen A/S v District Court* recognizes that if one or two  
16 factors are especially strong, they may counterbalance other weak factors." *Mikohn Gaming*  
17 *Corp.*, 120 Nev. at 251, 89 P.3d at 38.

18 Absent a stay of the preliminary injunction, defendant is to begin preventing long  
19 and short term rentals of members' real property as of March 20, 2021. Such action will  
20 require that some tenants of long term rentals be displaced from their primary residences.  
21 The object of the appeal is to overturn the preliminary injunction, thereby preventing it from  
22 remaining in effect during the pendency of this matter. The court finds the object of the  
23 appeal is defeated if no stay is granted and the preliminary injunction is allowed to become  
24 effective on March 20, 2021.

25 Counsel for defendant declares upon information that serious injury will occur,  
26  
27  
28

1 without remedy, if the stay is denied. While plaintiff avers that only three of the one  
2 hundred members are currently conducting long term rentals of their property, causing those  
3 renters to relocate is a burdensome measure, especially during a period of pandemic.

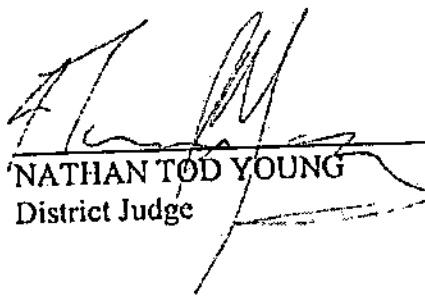
4 Plaintiffs emphasize the return of the threat to defendant's tax exempt status and the  
5 ongoing violation of defendant's bylaws if the stay is granted, thereby defeating the very  
6 purpose of the preliminary injunction. This is a potentially serious and lasting adverse  
7 impact to the Elk Point Country Club. The court finds the competing allegations of serious  
8 or irreparable injury to both sides to be of serious consequence, causing the two separate  
9 factors set forth within NRAP 8(c) to be of equal import.

10 While defendant clearly disagrees with the court's preliminary ruling, nothing new or  
11 significant is proffered within the motion to convince the court the decision was in error and  
12 will be overturned. Other than asserting at page 6 of the motion, at lines 11 - 14, that the  
13 possibility of being overturned on *de novo* review "cannot be said to be insubstantial,"  
14 defendant has proffered no reason for the court not to rely upon the existing judgment  
15 reflected within the injunction.

16 Weighing the four factors, the court finds the result equally balanced and is therefore  
17 persuaded that issuing a stay to preserve the status quo is warranted in this instance. The  
18 order of preliminary injunction is stayed pending resolution of the interlocutory appeal, and  
19 all discovery processes are stayed until such resolution.

20 IT IS SO ORDERED.

21 Dated this 15 day of March, 2021.

22  
23  
24  
25  
26  
27  
28  
  
NATHAN TOD YOUNG  
District Judge

1 Copies served by mail this 15 day of March, 2021, to:

2  
3 Gayle A. Kern, Esq.  
4 Sophie A. Karadanis, Esq.  
5 Leach Kern Gruchow Anderson Song  
6 5421 Kietzke Lane, Ste. 200  
7 Reno, NV 89511

8 Richard H. Bryan, Esq.  
9 Fennemore Craig, P.C.  
10 300 S. Fourth St., Ste. 1400  
11 Las Vegas, NV 89101

12 Prescott Jones, Esq.  
13 Joshua Ang, Esq.  
14 Resnick & Louis, P.C.  
15 8925 W. Russell Road, Ste. 220  
16 Las Vegas, NV 89148

17 William E. Peterson, Esq.  
18 Janine C. Prupas, Esq.  
19 Kelly H. Dove, Esq.  
20 Snell & Wilmer, L.L.P.  
21 50 West Liberty Street, Ste. 510  
22 Reno, NV 89501

  
Judicial Executive Assistant



CASE NO: 2020-CV-00124

DEPT NO. I

K.J. Brown, LLC and Timothy D. Gilbert, et al

v.

Elk Point Country Club, Inc.

DATE: 10/23/2020

JUDGE: Nathan Tod Young

CLERK: Autumn Newton

COURT REPORTER: Kathy Jackson

PLAINTIFFS COUNSEL: Sophie Alexandra Karadanis/Gayle Kern

DEFENDANTS COUNSEL: Prescott Jones, Esq

LAW CLERK: John Seddon

BAILIFFS: Bill Addington

The above-entitled matter was before the Court this being the time set for MOTION FOR PRELIMINARY INJUNCTION. The plaintiffs were present in court and represented by counsel. The defendant was present in court and represented by counsel.

WITNESSES SWORN AND TESTIFIED:

Nancy Gilbert

Kurt Brown

Timothy Gilbert

Michelle Salazar

Robert Felton

EXHIBITS MARKED:

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 17A

EXHIBITS ADMITTED:

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17A

EXHIBITS NOT ADMITTED:

15, 16

EXHIBITS STRICKEN AND DESTROYED:

17

DEFENDANT ELK POINT COUNTRY CLUB HOMEOWNERS ASSOCIATION, INC.'S EX PARTE REQUEST FOR AN ORDER SHORTENING TIME AND MOTION TO PARTIALLY STRIKE PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION:

The Court denied the ex-parte request and motion.

Ms. Kern presented opening statements.

Mr. Jones presented opening statements.

Mr. Jones moved for a directed verdict.

Ms. Kern presented argument.

The Court denied Mr. Jones's motion.

Ms. Kern presented closing argument.

Mr. Jones presented closing argument.

The Court finds the following:

- \* There is a likelihood that the plaintiffs will prevail in this matter;
- \* There is a threat of permanent damage to the plaintiffs through the loss of the tax exemption and a change in the nature of the association.

The Court granted the Motion for Preliminary Injunction.

the Court ordered that bond be posted in the amount of \$5,000.00.

Ms. Kern will prepare the order.

## EXHIBIT LIST

CASE NAME: K.J. BROWN V. ELKS POINT COUNTRY CLUB

CASE NUMBER: 2020-CV-00124

DATE OF HEARING: 10-23-2020

JUDGE: NATHAN TOD YOUNG

DEPT NO: I

ATTORNEY: SOPHIE KARADANIS/PRESCOTT JONES

PURPOSE OF HEARING: MOTION FOR PRELIMINARY INJUNCTION


Exhibit #	Description	Marked for ID	Admitted	Not Admitted
1	1925 ARTICLES OF INCORPORATION FOR NEVADA ELKS TAHOE ASSOCIATION	X	X	
2	1927 BY-LAWS OF NEVADA ELKS TAHOE ASSOC.	X	X	
3	1927 CERTIFICATE OF AMENDMENT OF NEVADA ELKS TAHOE ASSOCIATION	X	X	
4	1949 BYLAWS OF ELK POINT COUNTRY CLUB, INC.	X	X	
5	1995 BYLAWS OF ELK POINT COUNTRY CLUB, INC.	X	X	
6	1988 RULES AND REGULATIONS (RECORDED) OF ELK POINT COUNTRY CLUB, INC.	X	X	
7	2000 BYLAWS OF ELK POINT COUNTRY CLUB, INC.	X	X	
8	2001 BYLAWS OF ELK POINT COUNTRY CLUB, INC.	X	X	
9	2005 BYLAWS OF ELK POINT COUNTRY CLUB HOMEOWNERS' ASSOCIATION, INC.	X	X	
10	ENTRANCE SIGN FOR ELK POINT COUNTRY CLUB	X	X	
11	DOUGLAS COUNTY PARCEL MAP FOR ELK POINT COUNTRY CLUB	X	X	
12	SHORT TERM RENTAL ADVERTISEMENTS	X	X	

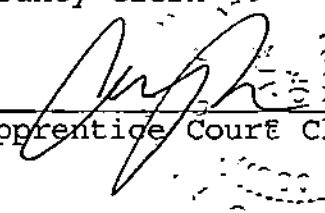
13	2018 SHORT TERM RENTAL INCOME SPREADSHEET	X	X	
14	2019 SHORT TERM RENTAL INCOME SPREADSHEET	X	X	
15	BOARD MEMBER SURVEYS	X		X
16	2007-2017 TAX RETURNS FOR ELK POINT COUNTRY CLUB	X		X
17	HOMEOWNERS' ASSOCIATION RULES, REGULATIONS, AND GUIDELINES	STRICKEN & DESTROYED		
17A	HOMEOWNERS' ASSOCIATION RULES, REGULATIONS, AND GUIDELINES	X	X	

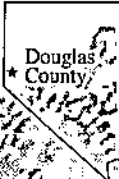
1 STATE OF NEVADA       )  
                                  )  
2 COUNTY OF DOUGLAS    )       ss

3  
4           I, Alondra Ponce, Apprentice Court Clerk of Douglas  
5 County, State of Nevada; said Court being a Court of Record,  
6 having common law jurisdiction, and a Clerk and a Seal, do hereby  
7 certify that the foregoing are true copies of the following  
8 originals in Case No. 20-CV-00124 - K.J. Brown, LLC and Timothy D.  
9 Gilbert, et al v. Elk Point Country Club, Inc. ; Notice of Appeal;  
10 Case Appeal Statement; District Court Docket Entries; Order;  
11 Notice of Entry of Order; District Court Minutes; Exhibit List.

12  
13                           IN TESTIMONY WHEREOF, I have  
14 hereunto set my hand and affixed  
15 my Official Seal at Minden, in  
16 said County and State this  
17 26<sup>th</sup> day of April, A.D., 2021.

18  
19   
20 \_\_\_\_\_  
County Clerk

21   
22 \_\_\_\_\_  
Apprentice Court Clerk  
23  
24  
25  
26  
27  
28



**BOBBIE R. WILLIAMS**  
CLERK OF COURT  
COURT ADMINISTRATOR  
JURY COMMISSIONER

District Court Clerk's Office  
(775) 782-9820  
Tahoe Justice Court  
(775) 586-7200  
East Fork Justice Court  
(775) 782-9955

**Transmittal to the Supreme Court**

To: Nevada Supreme Court  
210 South Carson Street  
Carson City, Nevada 89710

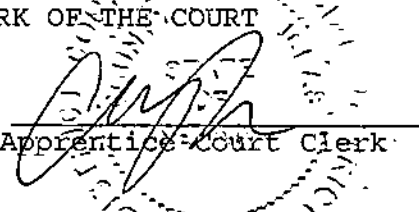
Date: April 26, 2021

Re: District Court Case #: 2020-CV-00124  
District Court Case Name: K.J. Brown, LLC and Timothy D. Gilbert, et al  
v. Elk Point Country Club, Inc.

The following documents are transmitted to the Supreme Court pursuant to the July 22, 1996 revisions to the Nevada Rules of Appellate Procedure. Checked items are NOT included in this appeal:

- ☐ Notice of Appeal
- ☐ Case Appeal Statement
- ☒ Certificate That No Transcript Is Being Requested
- ☒ Defendant's Request for Transcript of Proceedings
- ☒ Notice of Posting of Appeal Bond
- ☐ District Court Docket entries
- ☐ Judgment(s) or order(s) appealed from
- ☒ Order (NRAP FORM 4)
- ☐ Notice of entry of the judgment(s) or order(s) appealed from
- ☒ Certification order directing entry of judgment pursuant to NRCP 54(b)
- ☐ District Court Minutes
- ☐ Exhibit Lists
- ☐ Supreme Court filing fee (\$250.00), if applicable

Respectfully,  
BOBBIE WILLIAMS  
CLERK OF THE COURT

By:   
Apprentice Court Clerk