

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2 NAVNEET SHARDA,
3 TRATA INC.,

Supreme Court Case No. 82360
Consolidated Case No. 83131

4 Appellant,
5 v.

District Court Case No.: A-17-756274-C

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Elizabeth A. Brown
Clerk of Supreme Court

6 STEVEN BARKET, AN INDIVIDUAL;
7 G65 VENTURES, LLC, A NEVADA
8 LIMITED LIABILITY COMPANY;
9 SHAFIK HIRJI, AN INDIVIDUAL;
10 SHAFIK BROWN, AN INDIVIDUAL;
11 AND FURNITURE BOUTIQUE, LLC,
12 A NEVADA LIMITED LIABILITY
13 COMPANY et. al.

14 Respondents.
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24 REPLY TO MOTION TO STRIKE STEVEN BARKET'S JOINDER TO
25 APPELLANTS' NAVNEET SHARDA AND TRATA INC.'S OPENING
26 BRIEF
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28

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COMES NOW Respondents, Shafik Hirji, Shafik Brown, and Furniture Boutique, LLC, by and through their counsel, Daniel Marks, Esq., and Teletha Zupan, Esq., of the Law Office of Daniel Marks and hereby submits their reply to motion to strike Steven Barket's Joinder to Appellants' Navneet Sharda and Trata Inc.'s Opening Brief and moves this Court for an Order striking Steven Barket's improper joinder pursuant to Rule 4 of the Nevada Rules of Appellate Procedure (hereafter "NRAP") and the memorandum of points and authorities attached hereto.

MEMORANDUM OF POINTS AND AUTHORITIES

I. LEGAL ARGUMENT

1. This Court Should Strike Barket's Joinder to Appellants' Navneet Sharda and Trata Inc.'s Opening Brief Because Barket Failed to File a Timely Appeal or Cross Appeal.

Respondent, Steven Barket (hereafter "Barket"), did not file an appeal or cross appeal in either of the consolidated appeals in accordance with NRAP 4. On October 1, 2021, Barket filed an improper joinder to Appellants' Navneet Sharda and Trata Inc.'s Opening Brief, purporting to adopt Sharda's "legal arguments and legal authority to the extent that the underlying claims arising under the Promissory Notes and Breach of Agreement have not been resolved." Appellants' Navneet Sharda (hereafter "Sharda") Sharda and Trata Inc. (hereafter "Trata"), failed to raise these issues in their notices of appeal and their docketing statements. Further, Sharda lacks standing to raise these issues because he assigned the promissory notes to Barket. (See Confidential Settlement Agreement attached hereto as Exhibit "1" and Barket's Opposition at p.1).

Accordingly, only Barket had standing to appeal the right to be paid under the promissory notes. (II JA 254, II JA 266, and II JA 291). Barket did not appeal the District Court's Findings of Fact because he was not aggrieved by the decision as it dismissed the Sharda and Trata's counterclaims against him. Therefore, Sharda's appeal is frivolous because he has no appealable interest in this matter.

1 Barket erroneously relies on authority that is contrary to his position. In
2 *Reno Newspapers v. Bibb*, the Nevada Supreme Court pointed out that only the
3 parts of the judgment that are included in the notice of appeal will be considered
4 by the appellate court. *Reno Newspapers v. Bibb*, 76 Nev. 332, 335, 353 P.2d 458,
5 459 (1960). In *Bibb*, the court dismissed Reno Newspaper's appeal because the
6 restrictive nature of the notice of appeal left nothing to consider or adjudicate as
7 the lower court's decision was favorable to Reno Newspaper and dismissed it as a
8 party.

9 In *Adelson, Inc. v. Young Elec. Sign Co.*, the plaintiff filed a notice that
10 specified it was appealing from that portion of the final judgment that limited
11 plaintiff's damages to the sum of \$2,500.00. *Adelson, Inc. v. Young Elec. Sign Co.*,
12 76 Nev. 367, 373-374, 355 P.2d 173, 176 (1960). The court held that plaintiff's
13 notice of appeal precluded it from considering the issue of reasonable rental value
14 because it failed to assign as error either the court's failure to grant plaintiff's
15 motion to amend with reference to the reasonable rental value or failure to make a
16 finding or enter judgment with reference to the same.

17 Similarly, Sharda and Trata failed to raise any error by the District Court
18 regarding the alleged loans in their notices of appeal, docketing statements, and/or
19 their tolling motion. Sharda and Trata's appeal is another scheme by Sharda and
20 Barket to get around the District Court's final decision so they can continue to
21 litigate this matter repeatedly. The only error Sharda and Trata raised pertained to
22 the impact the final judgment had on their counterclaims against Barket. Barket
23 did not oppose the relief Sharda's requests in his opening brief, even though it is
24 contrary to their secret settlement, and the sham counterclaims were asserted after
25 they resolved their claims and in furtherance of their fraudulent schemes. In this
26 appeal, Sharda is requesting to be relieved from the District Court's dismissal of
27 his permissive counterclaims against Barket. (See Exhibit "1").
28

1 Sharda did not include the underlying loans in his notices of appeal or
2 docketing statement because he lacks standing to appeal that portion of the
3 Findings of Fact and Conclusions of Law entered on December 14, 2020, which
4 Barket concedes in his opposition on page 1 in the last paragraph. Sharda assigned
5 the promissory notes and related papers to Barket. Further, Sharda and Trata did
6 not assert any cross claims against the Hirji Respondents for the notes because he
7 was assigning the notes to Barket per the settlement for execution. Sharda also
8 conceded that he assigned the five COJs and promissory notes to Barket. (II JA
9 254, 266, and 291; and XI JA 2212-2219).

10 Sharda and Trata's failure to assert their alleged right to repayment in their
11 notices of appeal and docketing statements is fatal because it precludes this Court
12 from considering the issue pursuant to the holding in *Adelson, Inc.* Sharda, Trata,
13 and Barket improperly raise their alleged right to repayment for the first time on
14 appeal, which contradicts their settlement that was before the District Court. (II JA
15 -290-293). Sharda and Trata did not oppose the motion to dismiss and failed to
16 raise this issue in their tolling motion. (VI JA 1192-1209 and Appellant's Opening
17 Brief at p. 1 at ¶ 1; pp. 4-5; p. 12 at ¶¶ 1 and 2; p.7 at ¶ 1; p. 8 ¶ 1; pp. 10-11; p. 12
18 at ¶ 1; p. 14 ¶ 2; pp. 15 and 16). Once the requested relief was granted, they tried
19 to appeal even though they failed to oppose when it was before the District Court.
20 Therefore, this Court should refuse to consider this issue, since, it was not raised
21 in the notices of appeal or docketing statements and is raised for the first time on
22 appeal.

23 It is disingenuous for Barket to assert that he stands in the same position as
24 Sharda because Barket failed to file a timely appeal or cross appeal in this matter
25 pursuant to NRAP 4. Barket did not file an appeal because he was not aggrieved
26 by the Court's decision. He was content with the decision because it dismissed
27 Sharda's counterclaims against him. Barket is precluded from expanding the scope
28 of the appeal to include the underlying claims that arose under the promissory

1 notes and alleged breach of agreement, which were not properly raised in the
2 notices of appeal or docketing statements pursuant to the holdings in *Bibb*, and
3 *Adelson, Inc.* Therefore, this Court should strike Barket's improper joinder to
4 Sharda and Trata's Opening Brief.

5 Based upon the foregoing, Respondents, Shafik Hirji, Shafik Brown, and
6 Furniture Boutique, LLC, respectfully request for this Court to strike Barket's
7 improper joinder to Sharda and Trata's Opening Brief.

8 Dated this 18th day of October, 2021.

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- DATED this 18th day of October, 2021.

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