

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2 Margaret Reddy, Mohan Thalamarla,
3 Max Global, INC.

Supreme Court No. 83253

4 Appellants,

5 vs.

6 MEDAPPEAL, LLC, an Illinois
7 limited liability company

8 Respondent.

Electronically Filed
Sep 15 2021 10:30 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

9
10 **APPELLANTS' MOTION FOR STAY PENDING OUTCOME OF HUNEYCUTT MOTION FILED**
11 **IN DISTRICT COURT**

12
13 **The Wasielewski Law Firm, LTD.**

14 Andrew Wasielewski, Esq.

15 Nevada Bar No. 6161

16 8275 South Eastern Avenue, Suite 200-818

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21 Attorney for Appellants, Margaret Reddy, Mohan Thalamarla and Max

22 Global, Inc.

1 **PROCEDURAL HISTORY**

2 The Complaint in this matter was filed on April 12, 2019. Notice
3 of Entry of summary judgment was filed in favor of Respondent on June
4 18, 2021. Appellants hired the undersigned, who made an appearance on
5 or about July 9, 2021. The Notice of Appeal was filed on July 16,
6 2021. Thereafter, new information regarding the status of Respondent
7 as an unlicensed foreign LLC surfaced. Appellants filed their Motion
8 for Relief on July 30, 2021 pursuant to the *Honeycutt* Doctrine
9 procedure as amended by *Foster v. Dingwall*, 126 Nev. 49, 52-53, 228
10 P.3d 453, 455 (2010). In its opposition to these Appellants' Motion
11 for Relief, Respondent ostensibly confirmed on August 13, 2021 it had
12 no basis for any jurisdiction in Nevada.
13

14 Separately, this case has been assigned to the Settlement Program.
15 A settlement judge has been assigned, who is requiring Appellants to
16 file a confidential settlement brief, attend a pre-settlement
17 conference meeting to determine the date of the settlement conference
18 and to attempt to settle the appeal. Appellants provided their
19 *Honeycutt* Motion and Respondent's Opposition thereto, along with a
20 request to continue the settlement program process until after
21 conclusion of the hearing of Appellant's *Honeycutt* Motion; currently
22 set for October 12, 2021. Staff attorneys at the settlement judge's
23 office provided a letter to Appellants suggesting Appellants file this
24 instant motion. Appellants' *Honeycutt* Motion is attached as Exhibit 1.
25 Respondent's opposition is attached as Exhibit 2.
26
27

28 //

1 **ARGUMENT**

2 Appellants, in appealing the final order in this on July 16, 2021,
3 removed jurisdiction from the District Court in all matters related to
4 the final summary judgment order. *Mack-Manley v. Manley*, 122 Nev. 849,
5 855, 138 P.3d 525, 529 (2006) (quoting *Rust v. Clark Cty. School*
6 *District*, 103 Nev. 686, 688, 747 P.2d 1380, 1382 (1987)).

7 Appellants moved for relief from judgment, pursuant to NRCP 60
8 because of newly found conclusive evidence that Respondent could not
9 have and cannot still maintain this action. Citing *AA Primo Builders,*
10 *LLC v. Wash.*, 245 P.3d 1190 (Nev. 2010), Appellants believe the entire
11 case needs to be dismissed as Respondent violated NRS 86.548.
12

13 In response thereto, Respondent, explained that it had no subject
14 matter jurisdiction when it stated:

15 "The Court has been divested of jurisdiction to
16 grant Plaintiff s {sic} Motion to Reopen this case,
17 given Plaintiff s {sic} pending appeal. On that
18 basis, the Court is constrained to DENY the Motion.
19 However, this Court confirms that absent the
20 appeal, the Court would reopen the case to enable
21 Plaintiff to file a Third Amended Complaint against
22 Jeremy Redding only." (Exhibit 2)

23 Appellants, at hearing on October 12, 2021 will have oral argument
24 that this case cannot be maintained by Respondent and could never have
25 been maintained by Respondent. The District Court will then rule
26 whether or not it would grant the Motion for Relief or not if it had
27 the jurisdiction to do so.

28 In the meantime, as this case has been assigned to the settlement
program, the assigned settlement judge has its own requirements to move
this case through that program's mandatory procedural timeline.

1 Appellants are required to prepare for and attend a settlement
2 conference. Appellants apprised the Settlement Judge of their motion
3 for relief pending in the District Court. In response, the Judge
4 recommended this motion be filed in this Court.

5 Appellants request this Court GRANT a Stay of the settlement
6 conference proceedings until such time as this Court and the District
7 Court have disposed of Appellants' Motion for Relief. This would be
8 beneficial for all parties, including this Court, as judicial economy
9 and efficiency would be served by only having to prepare for oral
10 argument of their Motion for Relief. Appellants would be grateful to
11 this Court to not have to incur fees and costs working to settle this
12 case until after this Court and the District Court have ruled on the
13 pending Motion for Relief.
14

15 Appellants believe this is a reasonable request, as this Motion
16 will be resolved within 5 weeks and when that result is transmitted to
17 this Court, this Court will then determine what further processes are
18 necessary, including the need to have settlement procedures at all.
19

20 Appellants are not applying for this stay for any purposes of
21 unduly delaying this appeal but are merely attempting to conserve their
22 resources and promote judicial economy for a period of perhaps 5-8
23 weeks while their pending motion is adjudicated.
24

25 **CONCLUSION**

26 Appellants respectfully request that their Motion to Stay be
27 granted, during the time prior to when Appellants' *Huneycutt* Motion
28 filed on July 30, 2021 is heard on October 12, 2021 and the result of

1 that hearing is transmitted to this Court by Appellants and this Court
2 determines what if any additional actions are required.

3 Dated this 14th day of September, 2021

4 THE WASIELEWSKI LAW FIRM, LTD.

5 /s/ Andrew Wasielewski

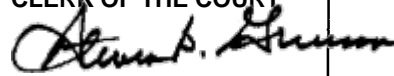
6 By: _____
7 ANDREW WASIELEWSKI, ESQ.
8 Nevada Bar #6161
9 8275 S. Eastern Ave #200-818
10 Las Vegas, NV 89123
11 Attorney for Appellants

12 **CERTIFICATE OF SERVICE**

13 I HEREBY CERTIFY AND AFFIRM that this document was filed
14 electronically with the Nevada Supreme Court on September 14, 2021.
15 Electronic service of the foregoing document shall be made in
16 accordance with the Master Service List as follows:

17 MICHAEL A. SINGER
18 Supreme Court Settlement Judge

19 Zachary T. Ball, Esq.
20 Attorney for Respondents
21
22
23
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26
27
28



MREL

ANDREW WASIELEWSKI, ESQ.
Nevada Bar No. 6161
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Attorney for Defendants
Margaret Reddy, Mohan Thalamarla, Max Global, Inc.

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, STATE OF NEVADA

MEDAPPEAL, LLC, An Illinois
Limited Liability Company,

Case No. A-19-792836-C
Dept No. XIV

Plaintiff,

vs.

DAVID WEINSTEIN, VIJAY REDDY,
MARGARET REDDY, MOHAN THALAMARLA,
KEVIN BROWN, MAX GLOBAL, INC.,
VISIONARY BUSINESS BROKERS, LLC,
MEDASSET CORPORATION, AND DOES 1-
50.

Hearing NOT Requested

Defendants.

And related counterclaim

And related third party complaint

**DEFENDANTS' MARGARET REDDY, MOHAN THALAMARLA AND MAX GLOBAL'S
HUNEYCUTT MOTION FOR RELIEF FROM JUDGMENT OR ORDER**

COMES NOW, Defendants MARGARET REDDY, MOHAN THALAMARLA and MAX
GLOBAL, through their counsel of record ANDREW WASIELEWSKI, ESQ. of
the law firm of THE WASIELEWSKI LAW FIRM, LTD., sets forth, pursuant
to NRCP 60, and *Huneycutt v Huneycutt*, 94 Nev 79 (1978), their Motion

1 for Relief in the above referenced matter, for and upon all papers
2 and pleadings on file herein, all exhibits, Points and Authorities
3 and affidavits as set forth herein.

4 **I. STATEMENT OF THE ISSUE**

5 Defendants, MARGARET REDDY, MOHAN THALAMARLA and MAX GLOBAL move
6 this Court pursuant to NRCP Rule 60 (b) for relief from the Court's
7 Order for Summary Judgment in this case based on newly discovered
8 evidence. NRCP Rule 60 permits relief from a judgment based on newly
9 discovered evidence "which by due diligence could not have been
10 discovered in time to move for a new trial under Rule 59(b); (3) fraud
11 (whether heretofore denoted intrinsic or extrinsic), misrepresentation
12 or other misconduct of an adverse party."

14 This Court has the ability to relieve Movants from a Judgment
15 based on improper conduct of the Plaintiff. Movants will notify the
16 Supreme Court of this filing pursuant to *Huneycutt v Huneycutt* and
17 depending on the outcome, request remand to allow the Court to issue a
18 decision accordingly.

20 **II. FACTS**

21 Defendants hired the undersigned counsel over the course of 4th of
22 July holiday and it still took five days to have the substitution of
23 attorney's signed for the undersigned to be able to appear. In the
24 short few weeks that he has had this action, the undersigned realized
25 that Plaintiff is neither licensed to do business in the State of
26 Nevada nor did it ever apply to do business in the State of Nevada.

1 Furthermore, the complaint and the amended complaint do NOT aver that
2 Plaintiff is licensed to do business in the State of Nevada.

3 It appears that this issue has never been brought before this
4 court. This is solely because Plaintiff hid or otherwise obstructed
5 from Defendants its inability to do any type of business in this court.

6 Further, and in addition to the statutory penalties that must be levied
7 upon Plaintiff, there is no jurisdiction for this case to continue with
8 this Court. There is no evidence available that would serve to allow
9 Plaintiff to maintain this action.
10

11 Plaintiff filed this action without being licensed to do business
12 in the State of Nevada. Plaintiff never cured this defect. Plaintiff
13 never made that fact known to any Defendant or to this Court in any
14 pleading. Literally years of litigation occurred while so not
15 licensed, in violation of NRS 86.

16 In fact, as of today, July 30, 2021, Plaintiff is still not
17 licensed to do business in the State of Nevada, pursuant to the check
18 of licensed businesses through the Secretary of State portal found at:
19 <https://esos.nv.gov/EntitySearch/OnlineEntitySearch>
20

21 At that portal, when MEDAPPEAL is entered, there is no record for
22 any business EVER have been allowed to do business in the State of
23 Nevada for any purpose. The result, as of July 30, 2021 is attached as
24 Exhibit A. Simply, MEDAPPEAL cannot maintain this action and any
25 judgment granted to it must be immediately vacated.
26

27 As if that was not enough, there is no personal jurisdiction over
28 these clients in Nevada in any event. These Defendants both had

1 submitted declarations that they had no connection with this State and
2 no connection with this Plaintiff.

3 Defendants are not looking to relitigate the personal jurisdiction
4 portion of this case, as it has already been litigated and is the
5 subject of the appeal. However, Defendants will ask for remand from
6 the Nevada Supreme Court in the event that this Court indicates,
7 pursuant to Nevada common law and *Huneycutt v. Huneycutt* in particular,
8 of its intention to vacate its judgment, remand the case back to the
9 District Court, for procedures to begin to relieve them from this
10 Judgment. After remand, these Defendants herein intend to move to
11 dismiss Plaintiff's Complaint as soon as is practical.
12

13 Declarations were made and signed during the beginning of this
14 case which in essence, established with certainty, there was no
15 connection with the instant lawsuit and their personal lives in
16 Michigan / India.
17

18 MARGARET and MOHAN are non-resident defendants that reside over
19 1500 miles away. They had never met Medappeal employees or its
20 officers. They never had any dealings with the Plaintiff on any level.
21 They never spoke about Plaintiff to any other defendant in this case.
22

23 III. POINTS AND AUTHORITIES

24 A. DEFENDANTS PROPERLY COMPLY WITH THE HONEYCUTT PROCEDURE TO RECEIVE 25 RELIEF FROM JUDGMENT AND SUCH RELIEF IS WARRANTED PURSUANT TO 26 OPERATION OF NRS 86.548

27 As the Nevada Supreme Court stated:

28 "... filing a notice of appeal divests the district court of
jurisdiction to act and vests jurisdiction in this court."
Mack-Manley v. Manley, 122 Nev. 849, 855, 138 P.3d 525, 529

1 (2006) (quoting *Rust v. Clark Cty. School District*, 103 Nev.
2 686, 688, 747 P.2d 1380, 1382 (1987)).

3 *Huneycutt* established that despite the general rule that the
4 perfection of an appeal divests the district court of jurisdiction to
5 act except with regard to matters collateral to or independent from the
6 appealed order, the district court nevertheless retains a limited
7 jurisdiction to review motions made in accordance with this procedure.
8 *Mack-Manley*, 122 Nev. at 855-56, 138 P.3d at 529-30; *Huneycutt*, 94 Nev.
9 at 80-81, 575 P.2d at 585-86.

10 NRCP 60 states in pertinent part:

11 "(b) On motion and just terms, the court may
12 relieve a party or its legal representative from a
13 final judgment, order, or proceeding for the
14 following reasons:

15 (1) mistake, inadvertence, surprise, or excusable
16 neglect;

17 (2) newly discovered evidence that, with reasonable
18 diligence, could not have been discovered in time
19 to move for a new trial under Rule 59(b);

20 (3) fraud (whether previously called intrinsic or
21 extrinsic), misrepresentation, or misconduct by an
22 opposing party;

23 ...

24 (6) any other reason that justifies relief."
25 (emphasis added)

26 In the instant matter, Defendants have just found conclusive
27 evidence that Plaintiff could not have and cannot still maintain this
28 action. In the seminal case of *AA Primo Builders, LLC v. Wash.*, 245
P.3d 1190 (Nev. 2010), the Nevada Supreme Court rules in pertinent
part, to identify the difference between operating an LLC in a revoked
status and operating an LLC without a charter:

29 "Doing business as an LLC without filing the initial
30 organizational documents carries significant fines of up to
\$10,000. NRS 86.213(1). A revoked charter, by contrast,
carries no fines, only a \$75 penalty reinstatement fee. NRS

1 86.272(3). As for incentivizing judgment-proof LLCs to
2 litigate with wanton abandon, NRS 86.361 provides that
3 members of an unchartered entity risk individual liability
4 unless the default is cured. See *Nichiryo Am., Inc. v. Oxford*
5 *Worldwide, LLC*, No. 03:07-CV-00335-LRH-VPC, 2008 WL 2457935
6 (D.Nev. June 16, 2008); see also *Resort at Summerlin v. Dist.*
7 *Ct.*, 118 Nev. 110, 40 P.3d 432 (2002) (interpreting NRS
8 80.210 (now NRS 80.055) to condition commencement and
9 maintenance of a lawsuit for foreign corporations on initial
10 qualification rather than continuous upkeep of its
11 qualification). The Legislature has addressed the penalties
12 for an administrative default leading to charter revocation
13 and loss of capacity to sue is not among them." *Id.*

14 Currently, NRS 86.213 requires in pertinent part:

15 "1. Every person, other than a foreign limited-liability
16 company, who is purporting to do business in this State as a
17 limited-liability company and who willfully fails or neglects
18 to file with the Secretary of State articles of organization
19 is subject to a fine of not less than \$1,000 but not more
20 than \$10,000, to be recovered in a court of competent
21 jurisdiction."

22 The analogous statute for foreign limited liability companies is
23 NRS 86.548 which has the same penalty and additionally states in
24 pertinent part:

25 "2. Every foreign limited-liability company transacting
26 business in this State which fails or neglects to register
27 with the Secretary of State in accordance with the provisions
28 of NRS 86.544 may not commence or maintain any action, suit
or proceeding in any court of this State until it has
registered with the Secretary of State."

The Nevada Supreme Court has clearly stated that the penalty for
LLCs that never register is not the same as the LLC who has registered
but let its registration lapse in revocation status. It is clear, the
curing of the willful failure to comply with the requirement to
register NEVER gives a company the right to bring or maintain an action
in this state.

1 In the instant case, the Plaintiff is a foreign LLC (licensed to
2 do business in Illinois). It has no right to do business in Nevada.
3 The fact that it has, subjects it to a fine of \$10,000.00 and any
4 liability for sanctions are passed through the LLC to its managers,
5 pursuant to *AA Primo Builders LLC*.

6 Further, Medappeal LLC cannot cure the problem by registering now.
7 It needs to dismiss this action, register and then bring it again.
8 There is simply no way for Medappeal to avail itself of this state's
9 jurisdiction until it follows the simple rules.
10

11 In the meantime, this case must be dismissed eventually.
12 Immediately, Defendants are merely asking for relief of judgment.
13 Based on how this Court rules, Defendants will petition the Supreme
14 Court for remand concurrent with the District Court's opinion for its
15 plan on how it will proceed.

16 **IV. CONCLUSION**

17 Therefore, Defendant request this Court hear Defendant's motion
18 and determine whether, if it had jurisdiction that it would be inclined
19 to grant relief to Defendants from the final summary judgment noticed
20 on or about June 18, 2021.
21

22 Dated this 30th day of July, 2021
23

24 THE WASIELEWSKI LAW FIRM, LTD.

25 /s/ Andrew Wasielewski
26
27
28

By: _____

ANDREW WASIELEWSKI, ESQ.
Nevada Bar #6161
8275 S. Eastern Ave #200-818
Las Vegas, NV 89123
Attorney for Defendants
Margaret Reddy, Mohan
Thalamarla and Max Global,
Inc.

CERTIFICATE OF SERVICE

I hereby certify that service of

DEFENDANTS' MARGARET REDDY, MOHAN THALAMARLA AND MAX GLOBAL'S
HONEYCUTT MOTION FOR RELIEF FROM JUDGMENT OR ORDER

was served on all parties by utilizing the services of the Eighth
Judicial District Court's E-service to provide electronic service to
the following parties on July 30, 2021:

Leah A. Martin, Esq., P.C.
LEAH A. MARTIN, ESQ.
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Las Vegas, NV 89102
Attorneys for VIJAY REDDY

The Ball Law Group
ZACHARY T BALL, Esq.
Nevada Bar No. 8364
1935 Village Center Cir #120
Las Vegas, NV 89134
Attorney for Plaintiff

David Weinstein (& Medasset Corp)
c/o Michael Orenstein
4018 Sheridan Street
Hollywood, FL 33021
Defendant

David Weinstein
125 Harmon Ave. #122
Las Vegas, NV 89109
Defendant and Registered
Agent for Defendant Medasset

Kevin Brown
2006 Sylvan Park Road
Burlington, NJ 08016
Defendant

Visionary Business Brokers
2006 Sylvan Park Road
Burlington, NJ 08016
Defendant

/s/ Andrew Wasielewski

By: _____

An Employee of
THE WASIELEWSKI LAW FIRM

Exhibit A

NEVADA BUSINESS SEARCH

* Includes Trademarks, Trade Names, Service Marks, Reserved Names & Business Licenses

I WOULD LIKE TO SEARCH BY:

☒ Starts With ☐ Contains ☐ Exact Match ☐ All Words

Name:

medappeal

Alert

No records found with your search criteria.

OK

BUSINESS ENTITY SEARCH CRITERIA

Entity Number:

NV Business ID Number:

Officer Name:

Registered Agent Name:

MARKS SEARCH CRITERIA

Mark Number:

Classification:

-- Select -->

Goods and Services:

Applicant Name:

ADVANCED SEARCH OPTIONS

☒ All ☐ Show Only Business Entity Information ☐ Show Only Mark Information

Type:

-- Select -->

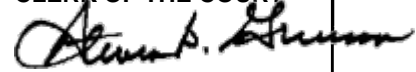
Status:

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OPPM

Zachary T. Ball, Esq.

Nevada Bar No. 8364

THE BALL LAW GROUP

1935 Village Center Circle, Ste. 120

Las Vegas, Nevada 89134

Telephone: (702) 303-8600

Email: zball@balllawgroup.com

Attorney for *Plaintiff*

DISTRICT COURT

CLARK COUNTY, NEVADA

MEDAPPEAL, LLC, An Illinois Limited
Liability Company,

Plaintiffs,

vs.

DAVID WEINSTEIN, VIJAY REDDY,
MARGARET REDDY, MOHAN
THALMARLA, KEVIN BROWN, MAX
GLOBAL, INC., VISIONARY BUSINESS
BROKERS LLC, MEDASSET
CORPORATION, and DOES 1-50,

Defendants.

MEDASSET CORPORATION, a Nevada
Corporation,

Counterclaimant,

v.

MEDAPPEAL, LLC, an Illinois Limited
Liability Company,

Counter-Defendant.

Case No.: A-19-792836-C

Dept. No.: 14

**PLAINTIFF'S OPPOSITION TO
DEFENDANTS' HUNEYCUTT
MOTION FOR RELIEF FROM
JUDGMENT OR ORDER**

Date of Hearing: October 12, 2021

Time of Hearing: 10:00 AM

THE BALL LAW GROUP
1935 Village Center Circle, Ste. 120
Las Vegas, Nevada 89134
(702) 303-8600

MEDASSET CORPORATION, a Nevada
Corporation,

Third-Party Plaintiff,

v.

LIBERTY CONSULTING &
MANAGEMENT SERVICES, LLC, an
Illinois Limited Liability Company,

Third-Party Defendant.

**PLAINTIFF'S OPPOSITION TO DEFENDANTS' HUNEYCUTT MOTION FOR
RELIEF FROM JUDGMENT OR ORDER**

Plaintiff Medappeal, LLC, by and through its attorney of record Zachary T. Ball, serves its
Opposition to the *Huneycutt* Motion for Relief from Judgment or Order filed by defendants
Margaret Reddy, Mohan Thalmarla and Max Global, Inc.

1. INTRODUCTION.

Defendants' Motion for Relief should be denied based on its inherent lack of merit without any
need for the Court to review Plaintiff's Opposition. Defendants fail to support their Motion
with any facts and they do not provide the Court with any evidence. They argue, without any
support whatsoever, the Plaintiff committed a fraud on the Court because it filed suit without
first having qualified to do business in Nevada. The fundamental and fatal flaw with Defendants'
argument is that Plaintiff has never done business in Nevada and its only contact with the state
is this litigation. It is Defendants, not Plaintiff, who has made false statements to the Court
through their Motion for Relief and the Motion should be denied.

2. PLAINTIFF HAS NEVER DONE BUSINESS IN NEVADA.

Plaintiff is a limited liability company that is based in Illinois and conducts business in Illinois.
It has not qualified to do business in Nevada because it has never done business in Nevada.
Plaintiff does not have any employees in Nevada, it does not have any agents in Nevada, it does
not maintain an office in Nevada and it does not have any clients in Nevada. Of course,
Defendants know this because they were provided with the discovery responses from

1 defendants Weinstein and Vijay Reddy that acknowledged these facts.

2 Not surprisingly, Defendants do not even attempt to identify the business Plaintiff currently
3 conducts or previously conducted in Nevada. Defendants do not attribute any business activities
4 to Plaintiff, they do not identify any of Plaintiff's Nevada employees and they do not identify
5 any of Plaintiff's Nevada business contacts. Simply put, Defendants say nothing.

6 The Nevada Supreme Court has observed that "[t]he question of whether a foreign corporation
7 is 'doing business' and required to qualify, although guided somewhat by NRS 80.015, is often
8 a laborious, fact-intensive inquiry resolved on a case-by-case basis." (*Exec. Mgmt. v. Ticor*
9 *Title Ins. Co.*, 118 Nev. 46, 49 (2002).). In this case, however, the inquiry is extremely simple
10 because there are no facts to review. Plaintiff is not "doing business" because it has never done
11 any business in Nevada.

12 In an earlier opinion, the Nevada Supreme Court held that "the test to determine if a company
13 is doing business in a state is two pronged. Courts look first to the nature of the company's
14 business functions in the forum state, and then to the quantity of business conducted in the
15 forum state." (*Sierra Glass & Mirror v. Viking Indus., Inc.*, 107 Nev. 119, 122 (1991).) Again,
16 this test results in the inescapable conclusion that Plaintiff is not doing business in Nevada.
17 Plaintiff has no business functions in Nevada and it has conducted no business in Nevada. Zero
18 plus zero equals zero.

19 Notably, the facts of *Sierra Glass* clearly demonstrate the defects with Defendants' Motion.
20 Viking Industries was the party allegedly doing business in Nevada. The Supreme Court
21 described its "associations" with Nevada as follows:

22 Its total sales volume amounts to approximately \$ 20,000,000 in the thirty
23 states in which it conducts business. Of that amount, about \$ 3,000,000 is
24 from sales into Nevada. At the time the cause of action arose, Viking had
25 one sales representative, Linda Aronsohn, who worked in Nevada. She
26 resided in Las Vegas and spent two weeks a month calling on customers and
visiting sales prospects in Reno and Las Vegas. Viking maintained a listed
telephone in Las Vegas which operated out of Aronsohn's home. Nevada
customers would place orders through Aronsohn, who would then phone the
orders and send checks to Portland. (*Sierra Glass*, 107 Nev. at 121.)

27 Nonetheless, despite this level of activity and its finding that Viking's activities appeared to be
28

continuous and systematic, the Nevada Supreme Court held that Viking was not doing business in Nevada because it could not say Viking “had so localized itself into the community that its activities in Nevada took on an intrastate quality.” (*Sierra Glass*, 107 Nev. at 125.) In this case, Plaintiff’s only contact with Nevada is its current lawsuit against Defendants. It has no business functions in Nevada, it earns no money from Nevada and it does not have any employees in Nevada. Plaintiff does not do any business in Nevada and Defendants’ Motion for Relief should be denied.

3. PLAINTIFF WAS NOT REQUIRED TO QUALIFY.

It should go without saying that because Plaintiff was not doing business in Nevada it did not need to qualify to do business before filing suit. Further, while not directly relevant to Defendants’ Motion, several Nevada statutes indicate that Defendants’ argument is meritless. For example, NRS 86.5483(1)(a) provides that “maintaining, defending or settling any proceeding” does not constitute transacting business in Nevada. NRS 80.015 likewise provides that “maintaining, defending or settling any proceeding” does not constitute doing business in Nevada. As Plaintiff’s only conduct in Nevada was to file suit against Defendants, it was not doing business and it was not required to qualify before filing suit.

Even a cursory analysis of Defendants’ argument reveals that it is absurd. According to Defendants, an Arizona gas station that sues a Nevada resident in Nevada for writing a bad check would first have to qualify to do business in Nevada. This is clearly not the law.

Finally, the Court should remember that Plaintiff filed suit in Nevada only because defendants Weinstein, Brown and V. Reddy filed a successful motion to dismiss in Illinois and argued that the forum selection clause in the parties’ agreement was binding and enforceable. *Plaintiff cannot be faulted for filing suit in the jurisdiction demanded by the defendants and their act of filing suit did not require them to qualify to do business.* Defendants cannot support their Motion and it should be denied.

4. CONCLUSION.

Defendants filed a baseless Motion for Relief that exemplifies their lack of candor and their history of delay and obstruction. Defendants do not identify any facts supporting their Motion,

1 they do not cite to any relevant legal authority and they do not come close to meeting their
2 burden. Plaintiff has not done any business in Nevada, it was not required to qualify to do
3 business before filing suit and Defendants' Motion for Relief should be denied.

4 DATED this 13th day of August, 2021.

THE BALL LAW GROUP

5
6 /s/ Zachary T. Ball
7 Zachary T. Ball, Esq.
8 Nevada Bar No. 8364
9 1935 Village Center Circle, Ste. 120
10 Las Vegas, Nevada 89134
11 Attorney for *Plaintiff*
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DECLARATION OF SETH JOHNSON

I, Zachary T. Ball, declare as follows:

1. I am over the age of 18 and one of the principals of plaintiff Medappeal, LLC. If called as a witness, I would and could competently testify to the matters stated below as they are based on my own personal knowledge.
2. I submit this Declaration in support of Medappeal's Opposition to Defendants' Motion for Relief from Judgment or Order.
3. Medappeal does not do business in Nevada and has never done business in Nevada. Medappeal does not have any employees or agents in Nevada, it has never generated any sales from Nevada and it does not have any offices in Nevada.
4. Medappeal's only contact with Nevada is this lawsuit. Medappeal filed suit in Nevada because defendants Weinstein, Brown and V. Reddy filed a successful motion to dismiss in Illinois on the grounds that the forum selection clause in our agreement required Medappeal to sue in Nevada.

I declare under the penalty of perjury of the laws of the state of Nevada that the above is true and correct. Executed on August 10, 2021.


Seth Johnson

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of August, 2021, I deposited a true and correct copy of the **PLAINTIFF'S OPPOSITION TO DEFENDANTS' HUNEYCUTT MOTION FOR RELIEF FROM JUDGMENT OR ORDER** in the United States Mail at Las Vegas, Nevada, enclosed in a sealed envelope, first class mail, postage prepaid and/or Electronic service to the addresses furnished by the registered user(s) pursuant to N.E.F.C.R. 9(b) and 13(c) and as shown below:

David Weinstein
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