

Donald Eby
plaintiff

Electronically Filed
Jul 29 2021 03:30 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

v.

SLO. et al
defendants

DISTRICT COURT
LYON COUNTY NEVADA

NOTICE OF APPEAL

Plaintiff appeals to the USC, the dismissal of his
suit entered on 4.13.21, and the denial of his
timely filed motion For a new Trial entered on 7.6.21

Sign Donald Eby
date 7/23/21

FILED

2021 JUL 28 PM 1:53

TANYA BEECHER
CLERK OF COURT
THIRD JUDICIAL DISTRICT

Grindsey McHale

Case No. 20-CV-01031

Dept. No. I

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

* * *

DONALD DOUGLAS EBY,

Appellant

vs

JOHNSTON LAW OFFICE, P.C.,

BRAD JOHNSTON,

LEEANN SCHUMANN,

Respondents

CASE APPEAL STATEMENT

1. **DONALD DOUGLAS EBY** is the name of the appellant filing this case appeal statement.

2. Honorable **John P. Schlegelmilch** issued the order being appealed.

3. Donald Douglas Eby is the Appellant in this case.

Donald Douglas Eby, 1262 Centerville Ln. Gardnerville, NV 89460 is in Proper Person on this appeal.

4. Johnston Law Office, P.C. is a respondent in this case.

James E. Whitmire, Esq. 10100 W. Charleston Blvd., Suite 250 Las Vegas, NV 89135 represents the respondent in this case.

Brad Johnston is a respondent in this case.

James E. Whitmire, Esq. 10100 W. Charleston Blvd., Suite 250 Las Vegas, NV 89135 represents the respondent in this case.

1 LeeAnn Schumann is a respondent in this case.

2 James E. Whitmire, Esq. 10100 W. Charleston Blvd., Suite 250 Las Vegas, NV 89135

3 represents the respondent in this case.

4 5. James E. Whitmire, Esq.. is licensed to practice in the State of Nevada.

5 6. Appellant was in Proper Person in District Court proceedings.

6 7. Appellant is filing appeal in Proper Person.

7 8. No request to proceed in forma pauperis has been filed.

8 9. The proceedings commenced in District Court on a Complaint filed on September 30, 2020.

9 10. This is a civil case for Negligence- Other. Judge John P. Schlegelmilch entered an Order

10 Striking Fugitive Documents and Dismissing Action With Prejudice on April 13, 2021 and an

11 Order Denying Motion for New Trial on July 6, 2021.

12 11. This matter has been the subject of appeals in the Supreme Court in case number 82914.

13 12. This case does not involve child custody/visitation.

14 13. This case does not have the possibility of settlement.

15
16 Dated this 28th day of July, 2021.

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19 Lindsey McCabe, Deputy

20 Lyon County Clerk

21 911 Harvey Way #4

22 Yerington, NV 89447

23 (775)463-6503

Case Summary

DONALD DOUGLAS EBY, BRAD JOHNSTON, LeANN SCHUMANN, JOHNSTON LAW OFFICE P.C. ~ COMPLAINT

Case Number: 20-CV-01031

Agency: Third Judicial District Court

Type: Other Negligence Case

Received Date: 9/30/2020

Status: Closed

Status Date: 4/13/2021

Involvements

Primary Involvements

EBY, DONALD DOUGLAS Plaintiff
JOHNSTON, BRAD Defendant
SCHUMANN, LeANN Defendant
JOHNSTON LAW OFFICE P.C. Defendant

Other Involvements

Whitmire, James E. Esq. Defendant's Attorney
EBY, DONALD DOUGLAS Pro Per
Third Judicial District Court (20-CV-01031)
Schlegelmilch, John P. - JPS Dept I - TJDC

[2. NRCP 5 ~ ANSWER](#)

Lead/Active: False

[3. NRCP 5 ~ ANSWER](#)

Lead/Active: False

[4. NRCP 5 ~ ANSWER](#)

Lead/Active: False

Other Negligence Case

[1. NRCP 3 ~ COMPLAINT](#)

Lead/Active: True

Case Status History

9/30/2020 11:33:00 AM | Open

4/13/2021 11:59:00 AM | Closed

Documents

9/30/2020 Complaint.pdf - Filed

9/30/2020 Civil Cover Sheet.pdf - Filed

12/10/2020 First Amended Complaint Arbitration Exempt.pdf - Filed

1/4/2021 Summons - On Return (Brad Johnston Served 12-22-20).pdf - Filed on Return

1/4/2021 Summons - On Return (LeAnn Schumann Served 12-29-20).pdf - Filed on Return

1/12/2021 Motion to Dismiss Plaintiff's First Amended Complaint.pdf - Filed

1/26/2021 Notice of Intent to File Opposition to Defendants Motion to Dismiss.pdf - Filed

2/1/2021 Opposition to Defendant's Motion to Dismiss.pdf - Sealed

SEALED

Case Summary

2/1/2021 Opposition to Defendant's Motion to Dismiss- Redacted.pdf - Filed
2/2/2021 Request for Submission.pdf - Filed
2/2/2021 Reply in Support of Motion to Dismiss Plt's First Amnd Comp.pdf - Filed
2/8/2021 Setting Memo (3-2-21).pdf - Filed
2/9/2021 Amended Opposition to Defendant's Motion to Dismiss.pdf - Sealed

SEALED

2/9/2021 Amended Opposition to Defendant's Motion to Dismiss - Redacted.pdf - Filed
2/16/2021 Motion to Strike Defendant's Reply in Support of Motion to Dismiss.pdf - Filed
2/18/2021 Motion for Theodore Stevens, An Inmate at Lovelock Corr. Center to Appear by Video.pdf - Filed
2/18/2021 Notice of Intent to Appear by Simultaneous Transmission Equipment.pdf - Filed
2/18/2021 Order Denying Motion & Request.pdf - Filed
2/18/2021 Reply in Support of Motion to Dismiss Plaintiff's First Amended Complaint with CD.pdf - Filed
Notes: Exhibit F in CD Folder
2/18/2021 Exhibit F CD to Reply in Support of Motion to Dismiss Plaintiff's First Amended Complaint\2020-09-15_11.01.17.531.wmv - Filed
2/18/2021 Exhibit F CD to Reply in Support of Motion to Dismiss Plaintiff's First Amended Complaint\2020-09-15_12.31.11.265.wmv - Filed
2/18/2021 Exhibit F CD to Reply in Support of Motion to Dismiss Plaintiff's First Amended Complaint\desktop.ini - Filed
2/18/2021 Exhibit F CD to Reply in Support of Motion to Dismiss Plaintiff's First Amended Complaint\INTERVIEW 1_01-04-2017_31871_1.WMV - Filed
2/23/2021 Response to Plaintiff's Motion for Video Appearance of Theodore Stevens.pdf - Filed
2/24/2021 Motion for Leave to File Second Amended Complaint.pdf - Filed
2/26/2021 Motion to Strike Defendant's Reply to Plaintiff's Opposition to Motion to Dismiss (2).pdf - Filed
3/10/2021 Documents From Plaintiff (Received 3-10-21).pdf - For Court Use Only
3/12/2021 Request for Submission of Proposed Order.pdf - Filed
3/12/2021 Order on Motion to Dismiss.pdf - Filed
3/25/2021 Limited Power of Attorney.pdf - For Court Use Only

SEALED

3/29/2021 Letter to Court from Ted Stevens.pdf - For Court Use Only
Notes: 3/30/21 Notice of Appearance sent with letter
3/30/2021 Notice of Appearance - Theodore Stevens.pdf - Filed
Notes: **3/29/21 letter sent with NOA
3/31/2021 Letter Whitmire to Eby.pdf - For Court Use Only
4/5/2021 Motion for Enlargement of Time (Filed by T. Stevens).pdf - Filed
4/5/2021 Limited Power of Attorney and Note from Petitioner (Received From Recorder's Office 4-5-21).pdf - For Court Use Only

SEALED

4/7/2021 Objection to Filed Order of Motion to Dismiss.pdf - Filed
4/7/2021 Transcript Motion Hearing 3-2-21.pdf - Filed
4/12/2021 Second Amended Complaint (2).pdf - Filed
4/12/2021 Response-Opposition to Motion to Enlarge Time to File Second Amended Complaint.pdf - Filed
4/13/2021 Notice of Entry of Order (Order Striking Fugitive Documents and Dismissing Action With Prejudice).pdf - Filed
4/13/2021 Order Striking Fugitive Documents and Dismissing Action With Prejudice.pdf - Filed
4/27/2021 Motion to Vacate Void Judgment - Filed By Theodore Stevens.pdf - For Court Use Only

SEALED

4/27/2021 Motion for a New Trial - Submitted By Theodore Stevens.pdf - For Court Use Only

SEALED

4/30/2021 Letter from State Bar of Nevada 4_27_21.pdf - For Court Use Only
5/10/2021 Motion for a New Trial.pdf - Filed
5/10/2021 Notice of Appeal.pdf - Filed
5/12/2021 Case Appeal Statement.pdf - Filed
5/18/2021 Receipt for Documents (S.C.).pdf - Filed
5/20/2021 Opposition to Motion for New Trial.pdf - Filed
5/27/2021 Motion for Enlargement of Time.pdf - Filed
6/8/2021 Letter to Donald Eby RE Paperwork.pdf - For Court Use Only
6/9/2021 Order Dismissing Appeal- S.C..pdf - Filed
6/16/2021 Reply to Opposition to Motion for a New Trial.pdf - Filed
6/21/2021 Request to Clerk for Entry of Default as Against Named Defendant.pdf - For Court Use Only
6/21/2021 Civil Process Form - James Whitmore (Served 5-19-21).pdf - Filed
7/1/2021 Clerk's Certificate (S.C.).pdf - Filed
7/1/2021 Remittitur (S.C.).pdf - Filed
7/6/2021 Order Denying Motion for New Trial.pdf - Filed
7/28/2021 Notice of Appeal (2).pdf - Filed
7/28/2021 Case Appeal Statement (2).pdf - Filed

1 Case No. 20-CV-01031

2 Dept. No. I

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6 IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF LYON

8
9 DONALD DOUGLAS EBY,

10 Plaintiff,

**ORDER STRIKING FUGITIVE
DOCUMENTS AND DISMISSING
ACTION WITH PREJUDICE**

11 vs.

12 JOHNSTON LAW OFFICE, P.C., et.al.,

13 Defendants.
14 _____/

15 Plaintiff continues to have an unlicensed "jailhouse lawyer," Theodore Stevens, serving a
16 life sentence in Lovelock Correctional Center, to represent him and participate in the unauthorized
17 practice of law. This Court has previously warned both Mr. Eby and Mr. Stevens that any action by
18 Mr. Stevens constitutes the unauthorized practice of law and would not be tolerated by the Court.
19 In addition, this Court previously notified Mr. Eby on the record that it would be making a complaint
20 to the State Bar of Nevada relating to Mr. Stevens unauthorized practice of law and Mr. Eby's
21 abetment to that unauthorized practice of law. This Court has done so and the matter is being
22 investigated by Bar Counsel.

23 THEREFORE,

24 **IT IS HEREBY ORDERED** that all documents of any kind or nature filed in this matter
25 or produced by Mr. Stevens, including Mr. Stevens purported Second Amended Complaint drafted
26 and signed by him as "attorney in fact," are STRICKEN from the record as fugitive documents.

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IT IS FURTHER ORDERED that this matter is DISMISSED WITH PREJUDICE for failure to file a Second Amended Complaint pursuant to this Court's Order of March 12, 2021.

IT IS FURTHER ORDERED that the Court Clerk shall maintain the fugitive documents in the file of the case. Any further documents filed in this matter by Mr. Stevens shall be marked received and placed in the case file. Defendants are not required to respond to any of the documents filed by, prepared or submitted by Mr. Stevens.

Dated this 13th day of April, 2021.

~~Hon. John P. Schlegelmilch~~
~~District Judge~~

FILED

2021 JUL -6 PM 4:03

TANYA SEEZIR
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Y. Seez

Case No. 20-CV-01031

Dept. No. I

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF LYON

DONALD DOUGLAS EBY,

Plaintiff,

vs.

JOHNSTON LAW OFFICE, P.C., et.al.,

Defendants.

**ORDER DENYING MOTION
FOR NEW TRIAL**

Plaintiff filed a Motion for a New Trial contemporaneously with his Notice of Appeal in this matter appealing the Court's Order of Dismissal. This Court has now received remittitur from the Nevada Supreme Court following their Order Dismissing Appeal. As Plaintiff had every opportunity to contest this Court's previous Order at the Supreme Court and the same was dismissed, and he has failed to set forth any new issue that was not appealable therein, and based upon the same,

IT IS HEREBY ORDERED that the Motion for a New Trial is DENIED and this matter is closed.

Dated this 6th day of July, 2021.

[Signature]
Hon. John P. Schlegelmilch
District Judge

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James E. Whitmire, Esq.
SANTORO WHITMIRE
10100 W. Charleston Blvd., Suite 250
Las Vegas, NV 89135

Anne Rossi
Employee of Hon. John P. Schlegelmilch

Case No. 20-CV-01031

Dept. No. I

**IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR LYON COUNTY**

DONALD DOUGLAS EBY,

Plaintiff,

vs.

JOHNSTON LAW OFFICE P.C., et. al.,

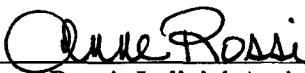
Defendants.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that the ORDER STRIKING FUGITIVE DOCUMENTS
AND DISMISSING ACTION WITH PREJUDICE was entered in this matter on April 13, 2021,
a copy of which is attached.

DATED: This 13th day of April, 2021.

Submitted By:


Anne Rossi, Judicial Assistant

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Certificate of Mailing

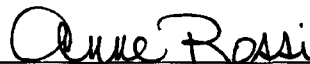
I hereby certify that I, Anne Rossi, am an employee of the Third Judicial District Court, and that on this date pursuant to NRCP 5(b), I deposited for mailing at Yerington, Nevada, a true copy of the foregoing document addressed to:

Donald Douglas Eby
1262 Centerville Lane
Gardnerville, NV 89460

James E. Whitmire, Esq.
SANTORO WHITMIRE
10100 W. Charleston Blvd., Suite 250
Las Vegas, NV 89135

Theodore Stevens #1008094
Lovelock Correctional Center
1200 Prison Road
Lovelock, NV 89419

DATED: This 13th day of April, 2021.



Employee of Hon. John P. Schlegelmilch

1 Case No. 20-CV-01031

2 Dept. No. I

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6 IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF LYON
8

9 DONALD DOUGLAS EBY,

10 Plaintiff,

11 vs.

12 JOHNSTON LAW OFFICE, P.C., et.al.,

13 Defendants.
14 _____/

**ORDER STRIKING FUGITIVE
DOCUMENTS AND DISMISSING
ACTION WITH PREJUDICE**

15 Plaintiff continues to have an unlicensed "jailhouse lawyer," Theodore Stevens, serving a
16 life sentence in Lovelock Correctional Center, to represent him and participate in the unauthorized
17 practice of law. This Court has previously warned both Mr. Eby and Mr. Stevens that any action by
18 Mr. Stevens constitutes the unauthorized practice of law and would not be tolerated by the Court.
19 In addition, this Court previously notified Mr. Eby on the record that it would be making a complaint
20 to the State Bar of Nevada relating to Mr. Stevens unauthorized practice of law and Mr. Eby's
21 abetment to that unauthorized practice of law. This Court has done so and the matter is being
22 investigated by Bar Counsel.

23 THEREFORE,

24 **IT IS HEREBY ORDERED** that all documents of any kind or nature filed in this matter
25 or produced by Mr. Stevens, including Mr. Stevens purported Second Amended Complaint drafted
26 and signed by him as "attorney in fact," are STRICKEN from the record as fugitive documents.

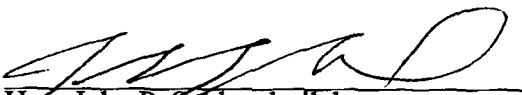
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1 **IT IS FURTHER ORDERED** that this matter is DISMISSED WITH PREJUDICE for
2 failure to file a Second Amended Complaint pursuant to this Court's Order of March 12, 2021.

3 **IT IS FURTHER ORDERED** that the Court Clerk shall maintain the fugitive documents
4 in the file of the case. Any further documents filed in this matter by Mr. Stevens shall be marked
5 received and placed in the case file. Defendants are not required to respond to any of the documents
6 filed by, prepared or submitted by Mr. Stevens.

7 Dated this 13th day of April, 2021.

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11 Hon. John P. Schlegelmilch
12 District Judge
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Case Summary

DONALD DOUGLAS EBY, BRAD JOHNSTON, LeANN SCHUMANN, JOHNSTON LAW OFFICE P.C. ~ COMPLAINT

Case Number: 20-CV-01031

Agency: Third Judicial District Court

Type: Other Negligence Case

Received Date: 9/30/2020

Status: Closed

Status Date: 4/13/2021

Involvements

Primary Involvements

EBY, DONALD DOUGLAS Plaintiff

JOHNSTON, BRAD Defendant

SCHUMANN, LeANN Defendant

JOHNSTON LAW OFFICE P.C. Defendant

Other Involvements

Whitmire, James E. Esq. Defendant's Attorney

EBY, DONALD DOUGLAS Pro Per

Third Judicial District Court (20-CV-01031)

Schlegelmilch, John P. - JPS Dept I - TJDC

[2. NRCP 5 ~ ANSWER](#)

Lead/Active: False

[3. NRCP 5 ~ ANSWER](#)

Lead/Active: False

[4. NRCP 5 ~ ANSWER](#)

Lead/Active: False

Other Negligence Case

[1. NRCP 3 ~ COMPLAINT](#)

Lead/Active: True

Case Status History

9/30/2020 11:33:00 AM | Open

4/13/2021 11:59:00 AM | Closed

Events

3/2/2021 1:30:00 PM | Motion Hearing | DEPT I 20-CV-01031 | Court Room B

Andersen, Andrea Deputy Clerk -

AANDERSEN

Staff - STAFF

Court Room B - CourtRmB

Geurts, Patrick Bailiff - X004896

Case Summary

JOHNSTON, BRAD (Defendant)

Defendant

Schlegelmilch, John P. - JPS (Dept I - TJDC)

Whitmire, James E. Esq. (Defendant's Attorney)

obo Defendants

EBY, DONALD DOUGLAS (Plaintiff)

Plaintiff, in Pro Per

Notes: Court denied the Motion to Strike Defendant's Reply to Plaintiff's Opposition to Motion to Dismiss and Motion for Leave to File Second Amended Complaint as it was filed by an unauthorized individual that is not licensed to practice in the State of Nevada. Court will refer Ted Stevens and Donald Eby to the State Bar and the Pershing, Lyon and Douglas County District Attorneys for unlawful practice. Court noted Mr. Stevens and Mr. Eby entered into a contract in an attempt to get around the February 18, 2021 Order. Mr. Whitmire and Mr. Eby argued the Motion to Dismiss. Court granted the Motion to Dismiss except the claim of malpractice relating to breach fiduciary duty and the power of attorney. Court granted Plaintiff thirty (30) days to file a second amended complaint to allege particular facts and circumstances constituting the breach. If the Plaintiff fails to file the second amended complaint within thirty (30) days, the matter will be dismissed without prejudice. Defendant to file an answer to the second amended complaint within twenty (20) days of service. Court finds no grounds presented for other claims. Court advised parties, if anything comes in from the prison from Mr. Stevens, it will be filed, however, it will not be considered and the matter will be forwarded to the proper authorities for unauthorized practice of law. Court will not condone Mr. Stevens to file in the case as Mr. Stevens is not a real party in interest in this case. Court directed Plaintiff to refer to the Third Judicial District Court Rules to ensure his pleadings are in proper format. Court will not accept the Assignment of Interest because it is a retainer agreement by a non-lawyer and is illegal. Court advised Mr. Whitmore that defense does not need to respond to any of Mr. Stevens filings unless otherwise directed to do so by the Court. Any filings from Mr. Stevens will be considered frivolous. Mr. Whitmore to prepare the Order and submit a copy to the Plaintiff along with a Request for Submission. Plaintiff is to have five (5) days, plus three (3) days for mailing to file an objection to the terms of the proposed Order.

CIVIL COVER SHEET

County, Nevada
Case No. 20-CV-01031
(Assigned by Clerk's Office) Dept I

FILED

2020 SEP 30 AM 11:51

I. Party Information

Plaintiff(s) (name/address/phone):

Donald Douglas Eby
1267 Carleville Ln
Gardnerville NV 89460

Attorney (name/address/phone):

Pro Per

Defendant(s) (name/address/phone):

Brad Johnston, Lee Ann Schumann
W 27 State Route 208 Yerington NV 89447
ES 1150 Elm Dr Reno 89512

Attorney (name/address/phone):

JANEA SCHUMANN
COURT ADMINISTRATOR
JUDICIAL DISTRICT
d.d. DEPUTY

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ Arbitration Requested

Civil Cases

Real Property

- ☐ Landlord/Tenant
- ☐ Unlawful Detainer
- ☐ Title to Property
 - ☐ Foreclosure
 - ☐ Liens
 - ☐ Quiet Title
 - ☐ Specific Performance
- ☐ Condemnation/Eminent Domain
- ☐ Other Real Property
 - ☐ Partition
 - ☐ Planning/Zoning

Negligence

- ☐ Negligence - Auto
- ☐ Negligence - Medical/Dental
- ☐ Negligence - Premises Liability (Slip/Fall)
- ☒ Negligence - Other

Legal malpractice

Torts

- ☐ Product Liability
 - ☐ Product Liability/Motor Vehicle
 - ☐ Other Torts/Product Liability
- ☐ Intentional Misconduct
 - ☐ Torts/Defamation (Libel/Slander)
 - ☐ Interfere with Contract Rights
- ☐ Employment Torts (wrongful termination)
- ☐ Other Torts
 - ☐ Anti-trust
 - ☐ Fraud/Misrepresentation
 - ☐ Insurance
 - ☐ Legal Tort
 - ☐ Unfair competition

Probate

- ☐ Summary Administration
- ☐ General Administration
- ☐ Special Administration
- ☐ Set Aside Estates
- ☐ Probate Trust/Conservatorships
- ☐ Other Probate

Other Civil Filing Types

- ☐ Construction Defect
- ☐ Breach of Contract
 - ☐ Building & Construction
 - ☐ Insurance Carrier
 - ☐ Commercial Instrument
 - ☐ Other Contracts/Acct/Judgment
 - ☐ Collection of Actions
 - ☐ Employment Contract
 - ☐ Guarantee
 - ☐ Sale Contract
 - ☐ Uniform Commercial Code
- ☐ Civil Petition for Judicial Review
 - ☐ Other Administrative Law
 - ☐ Department of Motor Vehicles
 - ☐ Employer's Insurance of Nevada
- ☐ Appeal from Lower Court (also check applicable civil case box)
 - ☐ Transfer from Justice Court
 - ☐ Justice Court Civil appeal
- ☐ Civil Writ
- ☐ Other Special Proceeding
- ☐ Other Civil Filing
 - ☐ Compromise of Minor's Claim
 - ☐ Conversion of Property
 - ☐ Damage to Property
 - ☐ Employment Security
 - ☐ Enforcement of Judgment
 - ☐ Foreign Judgment - Civil
 - ☐ Other Personal Property
 - ☐ Recover of Property
 - ☐ Stockholder Suit
 - ☐ Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark and Washoe Counties only.)

- ☐ NRS Chapters 78-88
- ☐ Commodities (NRS 90)
- ☐ Securities (NRS 90)
- ☐ Investments (NRS 104B)
- ☐ Deceptive Trade Practices (NRS 598)
- ☐ Trademarks (NRS 600A)
- ☐ Enhanced Case Mgmt/Business
- ☐ Other Business Court Matters

92320

Date

Del Steen

Signature of initiating party or representative

See other side for family-related case filings.

LCC LL FORM 26.026