

Donald Eby
Appellant

v.

S.L.O. et al.
Respondents

83299

FILED

IAN 14 2022

E. J. BETTIA, CLERK
BY *[Signature]*
DEPUTY CLERK

REPLY TO RESPONDENTS
ANSWERING BRIEF

"Plaintiff continues to have an unlicensed jailhouse lawyer Theodore Stevens represent him and participate in the unauthorized practice of law this court has previously warned both Mr. Eby and Mr. Stevens that ANY action by Stevens constitutes the unauthorized practice of law and would not be tolerated by the court, therefore it is hereby ordered that all the documents of any kind or nature filed in this matter or produced by Mr. Stevens including Mr. Stevens purported SAC drafted and signed by him as atty-in-fact are stricken from the record as fugitive documents, it is further ordered that this matter is dismissed with prejudice for failure to file a SAC per this court's order"

E. J. BETTIA, CLERK
BY *[Signature]*
DEPUTY CLERK

22-01542

ARGUMENT

"An abuse of discretion occurs if the district court's decision is arbitrary or capricious or if it exceeds the bounds of law or reason" Jackson v. State 117 Nev 116, 120 2001. The contested order is clearly an abuse of discretion as it exceeds the bounds of law and reason, is contrary and defiant to NRCP 17 a.1.6 "The following may sue in their own name without joining the person for whose benefit the action is brought a party authorized by statute" which is NRS 162A.090 "Power of Attorney grants authority to an agent to act in the place of the principal", "NRCP 17 b.1 "capacity to sue is determined as follows for an individual INCLUDING one acting in a representative capacity by the law of this state", which is NRS 162A.470 "By executing a POA that incorporates by reference a subject in NRS 162A.200-660, grants an agent authority to do all acts that a principal could do, a principal authorizes an agent to 1. Demand, receive, obtain BY LITIGATION money to which the principal is entitled, 4. Initiate or intervene in LITIGATION relating to a claim, 5. Seek on the principal's behalf the assistance of a court to carry out an act authorized by the POA, 7. Prepare, execute, file a record or other document to safeguard the principal's interest under statute, 10. Do any lawful act with respect to the subject and all property related to the subject"

NRS 162A.560 " language in a POA granting general authority with respect to claims and litigation authorizes the agent to 1. Assert and maintain before A COURT, a claim, claim for relief, cause of action, counterclaim, including an ACTION to recover property or other thing of value, recover damages sustained by the principal, 2. BRING AN ACTION to determine adverse claims or intervene or participate in LITIGATION 6. Waive and accept service APPEAR FOR THE PRINCIPAL, verify pleadings, seek appellate review " The above laws, and rules of procedure of Nevada, have not been cited, let alone contested, by the trial court or respondents, in any order or pleading simply put they cannot as they are the rules and laws that are valid, ratified, and good law on the books of Nevada, that Eby and I have followed, we have a legally executed POA that is valid and in full force and effect within the meaning of NRS 162A.200-660, that was filed in the trial court on 3.15.21 that has not been contested by anyone, that in #4 cites my power as agent pursuant to NRS 162A.470, and 560 and it is not in dispute that the SAC I timely filed on 4.12.21 is in the name of Theodore Stevens Power of Att as plaintiff, that was dismissed with prejudice is contrary to the form, force, and effect of the laws of the State of Nevada, and must be reversed.

Respondents have not offered this court with any valid, or lawful reasons that would require anything other than reversal, respondents have not because they cannot, cite any rule, or authority, to support their position, and this court in many decisions, has long held no citation no consideration *Edwards v. Emperor* 122 uet 317, 330 Fn 38, that cannot change now. The legal and valid POA gives me authority to do all acts Eby could do, that I have done in his place, and the trial courts order is in violation of URPC 17, NRS 162A.090, 470, and 560, as well as the right to civil suit that exceeds \$20.00, and the Due Process Clause U.S. Const 7, 14.

CONCLUSION

For the facts, and law in support above, that this court reverse and remand for re-filing of a newly drafted SAC, or in the alt enter a show cause order to respondents as to why the POA and URPC 17 and 162A.090, 470.560 do not apply to Eby and I

Don Eby 1.8.22