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Case No. 14-CV-00128

Pursuant to NRS 239B.030, the undersigned  
affirms that the following document does not  
contain the social security number of any person.

JOHN L. MARSHALL  
SBN 6733  
570 Marsh Avenue  
Reno, Nevada 89509  
Telephone: (775) 303-4882  
Attorney for Petitioners Comstock  
Residents Association, Joe McCarthy

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

COMSTOCK RESIDENTS ASSOCIATION,  
JOE McCARTHY,

Plaintiffs/Petitioners,

v.

LYON COUNTY BOARD OF  
COMMISSIONERS; COMSTOCK  
MINING INCORPORATED

Defendants/Respondents.

NOTICE OF APPEAL

FILED  
2021 SEP -1 PM 12:59  
TANYA SCHEISINE  
COURT ADMINISTRATOR  
JUDICIAL DISTRICT  
Electronically Filed  
Sep 01 2021 10:56 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

1 Notice is hereby given that Plaintiffs Comstock Residents Association and Joe McCarthy  
2 hereby appeals to the Supreme Court of Nevada from the District Court's Order Granting  
3 Defendants' Motion for Attorneys' Fees entered in this action on the 3rd day of August, 2021  
4 and attached hereto as Exhibit A.

5 Dated: August 27, 2021.  
6

7 Respectfully submitted,

8  
9 By 

10 John L. Marshall, SBN 6733

11 570 Marsh Avenue

12 Reno, NV 89509

13 775.303.4882

14 johnladuemarshall@gmail.com

15 Attorney for Petitioners CRA and Joe McCarthy  
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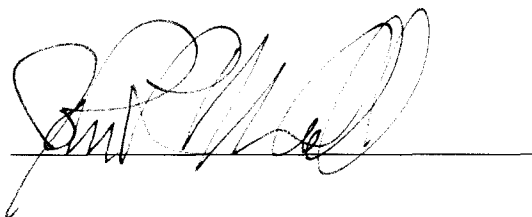
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Notice of Appeal was served on the parties by mailing or personally delivering a copy thereof on the ~~27~~<sup>1</sup> day of ~~August~~<sup>September</sup> 2021, by United States mail, postage prepaid to:

Stephen B. Rye  
District Attorney  
31 S. Main Street  
Yerington, NV 89447

James R. Cavilia  
Justin Townsend  
Allison, MacKenzie, Pavlakis, Wright & Fagan  
402 N. Division Street  
Carson City, NV 89703



A handwritten signature in dark ink, appearing to read 'S. B. Rye', is written over a horizontal line.

EXHIBIT A

EXHIBIT A

ALLISON MacKENZIE, LTD.  
402 North Division Street, P.O. Box 646, Carson City, NV 89702  
Telephone: (775) 687-0202 Fax: (775) 882-7918  
E-Mail Address: law@allisonmackenzie.com

1 Case No. 14-CV-00128

2 Dept. No. II

3 Pursuant to NRS 239B.030, the undersigned  
4 affirms that the following document does not  
5 contain the social security number of any person.

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

8  
9 COMSTOCK RESIDENTS ASSOCIATION,  
10 JOE McCARTHY,

11 Plaintiffs/Petitioners,

12 vs.

13 LYON COUNTY BOARD OF  
14 COMMISSIONERS; COMSTOCK  
15 MINING INCORPORATED,

16 Defendants/Respondents.  
17


18 **NOTICE OF ENTRY OF ORDER**

19 NOTICE IS HEREBY GIVEN that on the 30th day of July 2021, the Court duly entered an  
20 Order Granting Defendants' Motion For Attorneys' Fees in the above-entitled matter. A copy of  
21 said Order is attached hereto.

22 DATED this 3<sup>rd</sup> day of August, 2021.

23 ALLISON MacKENZIE, LTD.  
24 402 North Division Street  
25 Carson City, NV 89703

26 By:

27   
28 JAMES R. CAVILIA, ESQ.  
Nevada State Bar No. 3921  
JUSTIN TOWNSEND, ESQ.  
Nevada State Bar No. 12293  
PO Box 646  
Carson City, NV 89702  
Attorneys for Defendant  
Comstock Mining Incorporated

ALLISON MacKENZIE, LTD.  
402 North Division Street, P.O. Box 646, Carson City, NV 89702  
Telephone: (775) 687-0202 Fax: (775) 882-7918  
E-Mail Address: law@allisonmackenzie.com

**CERTIFICATE OF SERVICE**

Pursuant to NRCP Rule 5(b), I hereby certify that I am an employee of ALLISON MacKENZIE, LTD., Attorneys at Law, and that on this date; I caused the foregoing document to be served to all parties to this action by:

  X   Placing a true copy thereof in a sealed postage prepaid envelope in the United States  
          Mail in Carson City, Nevada [NRCP 5(b)(2)(B)]  
       Hand-delivery - via Reno/Carson Messenger Service [NRCP 5(b)(2)(A)]  
       Facsimile  
       Federal Express, UPS, or other overnight delivery  
          E-filing pursuant to Section IV of District of Nevada Electronic Filing Procedures  
          [NRCP 5(b)(2)(D)]

fully addressed as follows:

JOHN L. MARSHALL, ESQ.  
570 Marsh Avenue  
Reno, NV 89509

STEVEN B. RYE, ESQ.  
District Attorney  
31 South Main Street  
Yerington, NV 89447

DATED this 3<sup>rd</sup> day of August, 2021.

Susan Price  
SUSAN PRICE

4828-2879-6148, v. 1

Office of the District Attorney  
Lyon County, State of Nevada  
801 Overland Loop, Suite 300, Dayton, Nevada 89403 - 31 South Main Street, Yerington, Nevada 89447 - 566 East Main Street, Fortney, Nevada

FILED

2021 JUL 30 PH 2:01

CLERK OF DISTRICT COURT  
CLERK OF DISTRICT COURT  
CLERK OF DISTRICT COURT

*Andrea Andersen*

Case No. 14-CV-00128

Dept. No. II

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

COMSTOCK RESIDENTS ASSOCIATION,  
GAYLE SHERMAN, JOE McCARTHY,

Plaintiffs/Petitioners,

vs.

LYON COUNTY BOARD OF  
COMMISSIONERS; COMSTOCK MINING  
INCORPORATED,

Defendants/Respondents.

**ORDER GRANTING DEFENDANTS' MOTION FOR ATTORNEYS' FEES**

This matter comes before the Court on Defendants' Motion for Attorneys' Fees filed on August 1, 2019. The Court having read the papers and the law applicable to the issues raised; and considering the merits of this matter; the Court finds as follows:

The Affidavits on file demonstrate that the fees requested are reasonable under the standards set forth in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

The Court, therefore, finds that all fees requested must be awarded under NS 18.010 and NRS 278.0237.

///

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///

///

Office of the District Attorney  
Lyon County, State of Nevada  
601 Overland Loop, Suite 300, Dayton, Nevada 89403 • 31 South Main Street, Yerington, Nevada 89417 • 505 East Main Street, Pahrump, Nevada 89049

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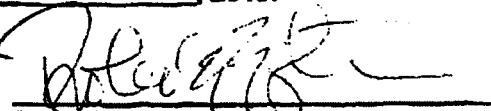
**GOOD CAUSE APPEARING THEREFOR:**

**IT IS HEREBY ORDERED** that Defendant, Lyon County Board of Commissioners, is awarded attorney fees to be paid by Plaintiffs in the amount of \$50,000.00;

**IT IS FURTHER ORDERED** that Defendant, Comstock Mining Incorporated, is awarded attorney fees and costs to be paid by Plaintiffs in the total amount of \$203,151.47.

**IT IS SO ORDERED.**

Dated this 30<sup>th</sup> day of July, 2019.

  
DISTRICT JUDGE

4815-2344-4133, v. 1



FILED

2021 SEP -1 PM 1:00

TANYA SCORINE  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT  
*bailey baptist* DEPUTY

1 Case No. 14-CV-00128

2 Pursuant to NRS 239B.030, the undersigned  
3 affirms that the following document does not  
4 contain the social security number of any person.

5 JOHN L. MARSHALL  
6 SBN 6733  
7 570 Marsh Avenue  
8 Reno, Nevada 89509  
9 Telephone: (775) 303-4882  
10 Attorney for Petitioners Comstock  
11 Residents Association, Joe McCarthy

12  
13 IN THE THIRD JUDICIAL DISTRICT COURT  
14 OF THE STATE OF NEVADA  
15 IN AND FOR LYON COUNTY

16 COMSTOCK RESIDENTS ASSOCIATION,  
17 JOE McCARTHY,

18 Plaintiffs/Petitioners,

19 v.

20 LYON COUNTY BOARD OF  
21 COMMISSIONERS; COMSTOCK  
22 MINING INCORPORATED

23 Defendants/Respondents.  
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CASE APPEAL STATEMENT

1 Plaintiffs Comstock Residents Association and Joe McCarthy hereby file the following  
2 Case Statement for the appeal of the July 30, 2021 Order Granting Defendants' Motion for  
3 Attorneys' Fees in the above-captioned matter:

4 (A) The District Court case number is 14-CV-00128. The Parties are Comstock Residents  
5 Association and Joe McCarthy, plaintiffs; and Lyon County Board of County Commissioners  
6 and Comstock Mining Incorporated, defendants;  
7

8 (B) The name of the judge who entered the order or judgment being appealed: the  
9 Honorable Robert Estes;

10 (C) The name of each appellant and the name and address of counsel for each appellant  
11 are: Comstock Residents Association and Joe McCarthy; Counsel: John L. Marshall, 570 Marsh  
12 Ave, Reno, Nevada 89509;  
13

14 (D) The name of each respondent and the name and address of appellate counsel is: Lyon  
15 County Board of County Commissioners (counsel: Steven B. Rye, District Attorney, 31 S. Main  
16 Street, Yerington, Nevada 89447); Comstock Mining Incorporated (counsel: James R. Cavilla,  
17 Allison, MacKenzie, Pavlakis, Wright & Fagan, 402 N. Division Street, Carson City, Nevada  
18 89703);

19 (E) Counsel for the Plaintiffs believes that all attorneys named herein are licensed to  
20 practice law in Nevada;  
21

22 (F) The Appellants were represented by counsel at the District Court and will be on appeal  
23 as well;

24 (G) The district court did not grant the Appellant leave to proceed in forma pauperis;

25 (H) The proceedings commenced in the District Court on January 31, 2014;

26 (I) The nature of the action and result in the District Court are as follows: This matter  
27  
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1 involves multiple claims arising from Defendant Lyon County Board of County Commissioners  
2 granting of Comstock Mining Incorporated's application to allow mining use on property it  
3 owned in and adjacent to Silver City, Nevada. The District Court issued a July 30, 2021 "Order  
4 Granting Defendants' Motion for Attorneys' Fees," finding Defendants are entitled to  
5 \$253,151.47 in attorneys' fees and costs.  
6

7 (J) This case has previously been the subject of two appeals to the Supreme Court:  
8 Comstock Residents Association, et al., v. Lyon County Board of County Commissioners, et al.,  
9 Docket No. 68433; Comstock Residents Association, et al., v. Lyon County Board of County  
10 Commissioners, et al., Docket No. 79445.

11 (K) This appeal does not involve child custody or visitation; and

12 (L) The Appellants do not believe that the appeal involves the possibility of settlement.

13 Dated: August 27, 2021.  
14

15 Respectfully submitted,

16  
17 By 

18 John L. Marshall, SBN 6733

19 570 Marsh Avenue

20 Reno, NV 89509

21 775.303.4882

22 johnladuemarshall@gmail.com

23 Attorney for Petitioners CRA and Joe McCarthy  
24  
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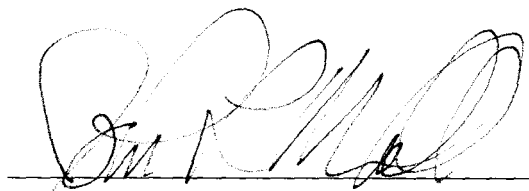
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Case Appeal Statement was served on the parties by mailing or personally delivering a copy thereof on the <sup>1</sup>~~2~~ day of ~~August~~<sup>September</sup> 2021, by United States mail, postage prepaid to:

Stephen B. Rye  
District Attorney  
31 S. Main Street  
Yerington, NV 89447

James R. Cavilla  
Allison, MacKenzie, Pavlakis, Wright & Fagan  
402 N. Division Street  
Carson City, NV 89703



A handwritten signature in dark ink, appearing to read 'J.R. Cavilla', is written over a horizontal line. The signature is stylized with large, flowing loops.

## Case Summary

### COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE MCCARTHY, LYON COUNTY BOARD OF COMMISSIONERS, COMSTOCK MINING, INC ~ COMPLAINT

Case Number: 14-CV-00128

Agency: Third Judicial District Court

Type: Other Real Property Case

Received Date: 1/31/2014

Status: Closed

Status Date: 6/5/2015

#### Involvements

##### Primary Involvements

COMSTOCK RESIDENTS ASSOCIATION Plaintiff

SHERMAN, GAYLE Plaintiff

MCCARTHY, JOE Plaintiff

LYON COUNTY BOARD OF COMMISSIONERS Defendant

COMSTOCK MINING, INC Defendant

##### Other Involvements

Rye, Stephen B. D.A. - X004800 Defendant's Attorney

Cavilia, James R. Esq. Defendant's Attorney

Marshall, John Esq. Plaintiff's Attorney

Third Judicial District Court (14-CV-00128)

Estes, Honorable Robert E. Judge

#### Other Real Property Case

[1. NRCP 3 ~ COMPLAINT Occurred: 1/31/2014](#)

Lead/Active: True

#### Case Status History

1/31/2014 1:47:00 PM | Open

6/5/2015 1:47:00 PM | Closed

#### Documents

1/31/2014 Complaint for Declaratory and Injunctive Relief-Petition for Writ of Mandate of Judicial Review.pdf - Filed

1/31/2014 Summons.pdf - Issued

Notes: Added from Document Scanning session.

1/31/2014 Civil Cover Sheet.pdf - Filed

Notes: Added from Document Scanning session.

2/25/2014 Affidavit of Service.pdf - Filed

Notes: Added from Document Scanning session.

2/25/2014 Acceptance of Service.pdf - Filed

Notes: Added from Document Scanning session.

3/27/2014 Lyon County Board of Commissioners Answer to Complaint.pdf - Filed

Notes: Added from Document Scanning session.

3/28/2014 Comstock Mining Incorporated's Answer to Complaint.pdf - Filed

Notes: Added from Document Scanning session.

4/1/2014 Order of Recusal and Transferring Case to Dept I.pdf - Filed

Notes: Added from Document Scanning session.

5/2/2014 Order of Recusal.pdf - Filed

Notes: Added from Document Scanning session.

5/5/2014 Request for a Senior Judge.pdf - For Court Use Only

6/10/2014 Motion to Dismiss (Lyon County ).pdf - Filed

Notes: Added from Document Scanning session.

6/10/2014 Memorandum of Temporary Assignment-Robert Estes-Supreme Court.pdf - Filed

Notes: Added from Document Scanning session.

6/10/2014 Board of Commissioners 1-2-14 Sign In Sheet (mtg)(p. 508-510).pdf - Filed

Notes: Exhibit to Record on Appeal

6/10/2014 Doc. Bates # 1-3050\Board of Commissioners 1-2-14 Sign In Sheet (mtg)(p. 508-510).pdf - Filed

Notes: Exhibit to Record on Appeal

6/10/2014 Doc. Bates # 1-3050\Bob Hastings Disclosure Statement(p. 511).pdf - Filed

## Case Summary

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Notes: Exhibit to Record on Appeal  
6/10/2014 Doc. Bates # 1-3050\County Commission Agenda Packet 1-2-14 (p. 1-507).pdf - Filed  
Notes: Exhibit to Record on Appeal;  
6/10/2014 Doc. Bates # 1-3050\County Commission Minutes 12-5-13 (p. 522-523).pdf - Filed  
Notes: Exhibit to Record on Appeal  
6/10/2014 Doc. Bates # 1-3050\Disclosure Statements and Motions (p. 515-521).pdf - Filed  
Notes: Exhibit to Record on Appeal  
6/10/2014 Doc. Bates # 1-3050\January 2, 2014 County Commission Meeting Minutes (p. 524-533).pdf - Filed  
Notes: Exhibit to Record on Appeal  
6/10/2014 Doc. Bates # 1-3050\Maureen Williss Documents and Notices (p. 534-544).pdf - Filed  
Notes: Exhibit to Record on Appeal  
Exhibit to Record on Appeal  
6/10/2014 Doc. Bates # 1-3050\Vida Keller Disclosure Statement (p. 512-514).pdf - Filed  
Notes: Exhibit to Record on Appeal  
6/10/2014 Notice of Assignment by Clerk.pdf - Filed  
Notes: Added from Document Scanning session.  
6/10/2014 Add materials from Planning File\Aug 14, 2013 Planning Dept Letter to Andrew Motter Manhard (p.582-588).pdf - Filed  
Notes: Exhibit to Record on Appeal  
6/10/2014 Add materials from Planning File\Aug 16, 2013 Letter from Manhard (p. 589-630).pdf - Filed  
Notes: Exhibit to Record on Appeal  
6/10/2014 Add materials from Planning File\Bound Materials Part II (p. 739-833).pdf - Filed  
Notes: Exhibit to Record on Appeal  
6/10/2014 Add materials from Planning File\CMI Master Plan and Zone Change App Dated Aug 2013 (p.549-581).pdf - Filed  
Notes: Exhibit to Record to Appeal  
6/10/2014 Add materials from Planning File\December 13, 2010 Letter from CMI (p. 545-548).pdf - Filed  
Notes: Exhibit to Record on Appeal  
6/10/2014 Add materials from Planning File\January 8, 2014 Letter from Manhard (p.853-866).pdf - Filed  
Notes: Exhibit to Record on Appeal  
6/10/2014 Add materials from Planning File\Materials Delivered to Plan Comm Members by CRA For 11-12-13 Mtg (p. 631-738).pdf - Filed  
Notes: Exhibit to Record on Appeal  
6/10/2014 Add materials from Planning File\Misc. Maps, check and other docs (Planning file)(p. 834-840).pdf - Filed  
Notes: Exhibit to Record on Appeal  
6/10/2014 Add materials from Planning File\Planning Commission Sign In Sheet December 10, 2013 (p. 841-848).pdf - Filed  
Notes: Exhibit to Record on Appeal  
6/10/2014 Add materials from Planning File\Planning Commission Sign in Sheet November 12, 2013(p.849-852).pdf - Filed  
Notes: Exhibit to Record on Appeal  
6/10/2014 PLAN COMM 12.10.2013.wav - Filed  
Notes: Audio Exhibit to Record on Appeal  
6/10/2014 CMI-1-2-14 #2.wav - Filed  
Notes: Audio Exhibit to Record on Appeal Commissioner Mtg 1-2-14  
6/10/2014 CM 1-2-14I #3.wav - Filed  
Notes: Audio Exhibit to Record on Appeal Commissioner Mtg 1-2-14  
6/10/2014 CMI 1-2-14 #1.wav - Filed  
Notes: Audio Exhibit to Record on Appeal Commissioners Mtg 1-2-14  
6/10/2014 Record on Appeal.pdf - Filed  
Notes: Added from Document Scanning session.  
6/10/2014 PLAN COMM MTG 11.12.13.wav - Filed  
Notes: Audio Exhibit to Record on Appeal Planning Commission Mtg 11-12-13  
6/10/2014 Doc. Bates # 1-3050\Planning Commission Meeting Files\Materials for 11-12-13 PC Mtg (p. 867-1037).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Planning Commission Meeting Files\Materials for 12-10-13 PC Mtg (p. 1038-1150).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Planning Commission Meeting Files\Public Noticing Materials for 11-12-13 PC Mtg (p. 1151-1157).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Planning Commission Meeting Files\Public Noticing Materials for 12-10-13 PC Mtg(p. 1158-1164).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Planning Commission Meeting Files\Email and Correspondence\Combined files - Planning Dept. Emails and Attachments (p. 1719-2776).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Ray Fiero Emails\Ray Fiero Combined Emails (p. 2822-2830).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Rob Loveberg Emails\Rob Loveberg Combined Emails as per J. Page (p. 2831-2886).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Vida Keller Emails\Vida Keller Emails Combined (p. 2887-2897).pdf - Filed

## Case Summary

6/10/2014 Doc. Bates # 1-3050\Virgil Arrellano Emails\Virgil Arrellano Combined Emails (p. 2898-2914).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Additional materials from Planning File\August 14, 2013 Planning Department Letter to Andrew Motter - Manhard (p.582-588).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Additional materials from Planning File\August 16, 2013 Letter from Manhard (p. 589-630).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Additional materials from Planning File\Bound Materials Part II (p. 739-833).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Additional materials from Planning File\Bound Materials Personally Delivered to Planning Commission Members by CRA For November 12, 2013 Mtg (p. 631-738).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Additional materials from Planning File\CMI Master Plan and Zone Change Application Dated August 2013 (p.549-581).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Additional materials from Planning File\December 13, 2010 Letter from CMI (p. 545-548).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Additional materials from Planning File\January 8, 2014 Letter from Manhard (p.853-866).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Additional materials from Planning File\Misc. Maps, check and other docs (Planning file)(p. 834-840).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Additional materials from Planning File\Planning Commission Sign In Sheet December 10, 2013 (p. 841-848).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Additional materials from Planning File\Planning Commission Sign in Sheet November 12, 2013(p.849-852).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Bob Hastings Emails\31 Plan.pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Bob Hastings Emails\32.pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Bob Hastings Emails\33.pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Bob Hastings Emails\34 Map.pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Bob Hastings Emails\37.pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Bob Hastings Emails\38.pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Bob Hastings Emails\Combined Bob Hastings Emails (p. 2915-3050).pdf - Filed  
6/10/2014 Doc. Bates # 1-3050\Jeff Page Emails\Combined Jeff Page Emails (p. 2777-2809).pdf - Filed  
6/13/2014 Joinder to Defendant Lyon County Board of Comm Motion to Dismiss.pdf - Filed  
Notes: Added from Document Scanning session.  
6/14/2014 Doc. Bates # 1-3050\Joe Mortensen Emails\Combined Joe Mortensen Emails (p. 2810-2821).pdf - Filed  
6/14/2014 Doc. Bates # 1-3050\Planning Commission Meeting Files\Materials Provided to CC For 1-2-14 Mtg (p. 1165-1718).pdf - Filed  
7/3/2014 Motion to Amend Complaint-Petition.pdf - Filed  
Notes: Added from Document Scanning session.  
7/3/2014 Opposition to Motion to Dismiss.pdf - Filed  
Notes: Added from Document Scanning session.  
7/7/2014 Setting Memo.pdf - Filed  
Notes: Added from Document Scanning session.  
7/25/2014 Opposition to Plaintiffs-Petitioner' Motion to Amend Complaint-Petition.pdf - Filed  
Notes: Added from Document Scanning session.  
7/29/2014 Lyon County Board of Commissioners' Opposition to Motion to Amend Complaint Petition.pdf - Filed  
Notes: Added from Document Scanning session.  
7/29/2014 Lyon County Board of Comm Reply to Oppo to Mtn to Dismiss, or in alternative, Mtn for Partial Summ Judgment.pdf - Filed  
Notes: Added from Document Scanning session.  
8/5/2014 CRA's Reply to Lyon Co. and CMI's Opposition to Motion to Amend Complaint.pdf - Filed  
Notes: Added from Document Scanning session.  
9/25/2014 Setting Memo (2).pdf - Filed  
Notes: Added from Document Scanning session.  
10/14/2014 CRA's Notice of Supplementary Authority Re Motion to Amend.pdf - Filed  
Notes: Emailed to Judge Estes 10-14-14 @ 3:10 p.m. Added from Document Scanning session.  
10/16/2014 Lyon County's Objection to Court's Consideration of CRA's Supplemental Authority.pdf - Filed  
Notes: Emailed to Judge Estes 10/16/14 2:54 p.m. Added from Document Scanning session.  
10/21/2014 Objection to Court's Consideration of CRA's Supplemental Authority.pdf - Filed  
Notes: Emailed to Judge Estes 10/21/14. Added from Document Scanning session.  
11/5/2014 Transcript - Decision - 10-23-14 (2).pdf - Filed  
Notes: Added from Document Scanning session.  
12/3/2014 Order Denying Plaintiffs Motion to Amend.pdf - Filed  
Notes: Added from Document Scanning session.  
12/3/2014 Order Granting in Part and Denying in Part Motion to Dismiss.pdf - Filed  
Notes: Added from Document Scanning session.  
12/3/2014 Stipulation and Order Regarding Briefing Schedule.pdf - Filed  
Notes: Added from Document Scanning session.  
12/8/2014 Notice of Entry of Order (Order Denying Plaintiff's Motion to Amend).pdf - Filed  
Notes: Added from Document Scanning session.  
12/8/2014 Notice of Entry of Order (Order Granting in Part and Denying in Part Motion to Dismiss).pdf - Filed

## Case Summary

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Notes: Added from Document Scanning session.  
12/15/2014 Memorandum of Points & Authorities in Opposition to Peition for Judicial Review.pdf - Filed  
Notes: Added from Document Scanning session.  
12/16/2014 MotionTo Augment Record and or Request for Judicial Notice.pdf - Filed  
Notes: Added from Document Scanning session.  
12/16/2014 Comstock Residents Association's Opening Brief on Petition for Judicial Review.pdf - Filed  
Notes: Added from Document Scanning session.  
1/2/2015 Joint Opposition of Respondents Lyon County Board of Commissioners & Comstock Mining to Mtn to Augment Record.pdf - Filed  
Notes: Added from Document Scanning session.  
1/2/2015 Supplement to Record on Appeal-See exhibit folder.pdf - Filed  
Notes: Exhibits in folder named Supplement to Record on Appeal  
1/2/2015 Supplement to Record on Appeal 11-12-13 Materials from CRA presented to Planning Commission\Silver City Presentation to Lyon County 1 V3 w-SC Response FINAL (1).pdf - Filed  
1/2/2015 Supplement to Record on Appeal 11-12-13 Materials from CRA presented to Planning Commission\SC Interviews 10-2013 draft5.mov - Filed  
1/9/2015 Opposition.pdf - Filed  
Notes: Added from Document Scanning session.  
1/9/2015 Reply.pdf - Filed  
Notes: Added from Document Scanning session.  
1/12/2015 Memorandum Of Points & Authorities in Oppo to Opening Brief.pdf - Filed  
Notes: Added from Document Scanning session.  
1/16/2015 Mem of Points and Authorities in Reply to Comstock Residents Association's Oppo Brief in Support of Petition for Judicial Review.pdf - Filed  
Notes: Added from Document Scanning session.  
1/20/2015 Comstock Residents Association's Reply Brief in Support of Petition for Judicial Review.pdf - Filed  
Notes: Added from Document Scanning session.  
1/27/2015 Request to Submit for Decision.pdf - Filed  
Notes: Added from Document Scanning session.  
3/3/2015 Setting Memo (4-20-15).pdf - Filed  
Notes: Added from Document Scanning session.  
4/10/2015 Letter from S. Rye to Judge Estes.pdf - For Court Use Only  
Notes: Added from Document Scanning session.  
4/27/2015 Transcript of Proceedings Motion April 20, 2015.pdf - Filed  
Notes: Emailed to Judge Estes 4/29/15. Added from Document Scanning session.  
6/5/2015 Order Denying Petiton for Judicial Review.pdf - Filed  
Notes: Added from Document Scanning session.  
6/5/2015 Order Granting in Part and Denyingin Part Plaitiff's Motion t Augment Record.pdf - Filed  
Notes: Added from Document Scanning session.  
6/10/2015 Notice of Entry of Order Deying Petition for Judicial Review.pdf - Filed  
Notes: Added from Document Scanning session.  
6/10/2015 Notice of Entry of Order (2).pdf - Filed  
Notes: Added from Document Scanning session.  
6/15/2015 Notice of Entry of Order.pdf - Filed  
Notes: Added from Document Scanning session.  
7/14/2015 Petitioners Comstock Residents Association and Joe McCarthy's Notice of Appeal.pdf - Filed  
Notes: Added from Document Scanning session.  
7/14/2015 Case Appeal Statement.pdf - Filed  
Notes: Added from Document Scanning session.  
7/15/2015 Letter to S.C. (7-14-15 Appeal).pdf - For Court Use Only  
Notes: Added from Document Scanning session.  
7/20/2015 Receipt for Documents (S.C.).pdf - Filed  
Notes: Added from Document Scanning session.  
7/20/2015 Return Receipts - S.C..pdf - Filed  
Notes: Added from Document Scanning session.  
1/8/2016 Doc. Bates # 1-3050\Letter to SC regarding Transfer of CDs and DVDs.pdf - For Court Use Only  
1/8/2016 Doc. Bates # 1-3050\Joe Mortensen Emails\Letter from John Marshall re Transfer of Record on Appeal CDs & DVDs S.C..pdf - For Court Use Only  
1/8/2016 Letter Re Transfer of CDs.pdf - For Court Use Only  
1/19/2016 Letter from John Marshall re Transfer of CD's.pdf - For Court Use Only  
1/19/2016 Return Receipts Re Transfer of CDs to S.C..pdf - For Court Use Only  
12/5/2016 Order Affirming in Part, Reversing in Part, and Remanding- From S.C..pdf - Filed  
1/26/2017 Order Denying Rehearing (S.C.).pdf - Filed  
Notes: Emailed to Judge Estes 1/27/17  
2/23/2017 Remittitur (From S.C.).pdf - Filed



# Case Summary

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2/23/2017 Clerk's Certificate (From S.C.).pdf - Filed  
3/31/2017 Motion for Summary Judgment.pdf - Filed  
Notes: Emailed to Judge Estes 5-1-17/VT  
4/11/2017 Errata to Motion for Summary Judgment.pdf - Filed  
Notes: Emailed to Judge Estes 5-1-17/VT  
4/28/2017 Affidavit of John L. Marshall in Opposition to Motion for Summary Judgment.pdf - Filed  
Notes: Emailed to Judge Estes 5-1-17/VT  
4/28/2017 Affidavit of Joe McCarthy in Opposition to Motion for Summary Judgment.pdf - Filed  
Notes: Emailed to Judge Estes 5-1-17/VT  
4/28/2017 Plaintiff CRA's Opposition to Defendants' Joint Motion for Summary Judgment.pdf - Filed  
Notes: Emailed to Judge Estes 5-1-17/VT  
5/12/2017 Reply to Opposition to Motion for Summary Judgment.pdf - Filed  
6/13/2017 Request to Submit Motion for Summary Judgment.pdf - Filed  
Notes: Emailed to Judge Estes 6/14/17. /AA  
6/14/2017 Order Granting Lyon County and CMI Motion for Summary Judgment.pdf - Submitted  
Notes: Emailed to Judge Estes 6/14/17. /AA  
7/11/2017 Stipulation and Order to Extend Time to File Opposition to Motion for Summary Judgment.pdf - Filed  
Notes: Mailed to Judge Estate 8/22/17  
8/22/2017 Letter to Judge Estes Re Orders.pdf - For Court Use Only  
**SEALED**  
9/7/2017 Setting Memo 10-10-17.pdf - Filed  
11/6/2017 Stipulated Request to Submit Motion without Hearing.pdf - Filed  
11/13/2017 Setting Memo (12-11-17).pdf - Filed  
12/11/2017 Exhibits and Exhibits List from December 11, 2017 Hearing\Defendant's Exhibit List.pdf - For Court Use Only  
12/11/2017 Exhibits and Exhibits List from December 11, 2017 Hearing\Defendant's Exhibits\Defendant's Exhibit A.pdf - Filed  
12/11/2017 Exhibits and Exhibits List from December 11, 2017 Hearing\Defendant's Exhibits\Defendant's Exhibit B.pdf - Filed  
12/11/2017 Exhibits and Exhibits List from December 11, 2017 Hearing\Defendant's Exhibits\Defendant's Exhibit C.pdf - Filed  
12/11/2017 Exhibits and Exhibits List from December 11, 2017 Hearing\Defendant's Exhibits\Defendant's Exhibit D.pdf - Filed  
12/11/2017 Exhibits and Exhibits List from December 11, 2017 Hearing\Defendant's Exhibits\Defendant's Exhibit E.pdf - Filed  
12/22/2017 Letter to Judge Estes and 2 Proposed Orders.pdf - For Court Use Only  
Notes: Emailed to Judge 12-22-17 kt  
12/22/2017 Proposed Order from Defts.pdf - For Court Use Only  
Notes: Emailed to Judge Estes 12/22/17  
  
2/13/2018 Order.pdf - Filed  
2/23/2018 Plaintiff CRA's Notice of Filing Prior Letter Re Competing Orders on Defendants' Motion.pdf - Filed  
Notes: for Summary Judgment/ Emailed to Judge Estes 2-28-18  
3/20/2018 Email from Judge Estes Re Stipulation to Extend Time to Discovery-Briefing Deadline and Proposed Order Thereon.pdf - For Court Use Only  
**SEALED**  
3/20/2018 Plaintiff CRA's Trial Brief.pdf - Filed  
3/20/2018 Stip to Extend Time to Discovery & Briefing Deadline.pdf - Filed  
3/22/2018 Setting Memo (4-23-18)(Also Vacates 3-27-18 Hearing).pdf - Filed  
4/18/2018 Respondents-Defendants Hearing Statement.pdf - Filed  
Notes: Emailed to Judge Estes 4/19/18. -AA  
5/8/2018 Order on Admission of Evidence, Discovery, and Briefing Schedule.pdf - For Court Use Only  
Notes: Emailed to Judge Estes for review and consideration 5/8/18. -AA  
7/30/2018 Stipulation and Order on Briefing Scheudle.pdf - Filed  
9/7/2018 Declaration of Erich Obermayr.pdf - Filed  
9/7/2018 Plaintiff CRA's Opening Merits Brief.pdf - Filed  
9/24/2018 Defendant's Opposition Brief.pdf - Filed  
10/16/2018 Declaration of John L. Marshall.pdf - Filed  
10/16/2018 Plaintiff CRA's Reply Merits Brief.pdf - Filed  
3/19/2019 Setting Memo (5-14-19).pdf - Filed  
7/11/2019 Judgment for Defendants.pdf - Filed  
7/18/2019 Notice of Entry of Judgment.pdf - Filed  
7/19/2019 Comstock Mining Incorporated's Verified Memorandum of Costs & Disbursements.pdf - Filed  
8/1/2019 Affidavit of Stephen B. Rye, Esq..pdf - Filed  
8/1/2019 Affidavit of Justin M. Townsend, Esq..pdf - Filed  
8/1/2019 Affidavit of James R. Cavilia, Esq..pdf - Filed

## Case Summary

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8/1/2019 Defendant's Motion for Attorney's Fees.pdf - Filed

Notes: Emailed to Judge Estes 9-12-19

8/14/2019 Unopposed Motion for Extension of Time.pdf - Filed

8/14/2019 Notice of Appeal.pdf - Filed

8/14/2019 Case Appeal Statement - 7-11-19 Order.pdf - Filed

8/19/2019 Letter Re Appeal Filing Fee.pdf - For Court Use Only

8/19/2019 Order on Unopposed Motion to Extension of Time.pdf - Submitted

8/22/2019 Receipts for Documents - S.C..pdf - Filed

8/26/2019 Opposition to Motion for Attorneys Fees.pdf - Filed

Notes: Emailed to Judge Estes 9-12-19

9/12/2019 Reply to Opposition to Motion for Attorneys' Fees.pdf - Filed

Notes: Emailed to Judge Estes 9-12-19

9/25/2019 Request for Transcripts (4-23-18 Hearing).pdf - Filed

9/26/2019 Request for Submission of Defendants' Motion for Attorneys' Fees.pdf - Filed

Notes: Emailed to Estes 10/1/19 -aa

10/1/2019 Order Granting Defendants' Motion for Attorneys' Fees.pdf - Submitted

Notes: Emailed to Estes 10/1/19 -aa

Per REE 1/16/2020 Matter is on Appeal. Cannot rule until matter is done in the Supreme Court. -aa

10/8/2019 Order on Unopposed Motion for Extension of Time.pdf - Filed

10/16/2019 Supplemental Transcript-Recording Request.pdf - Filed

10/17/2019 Transcript Motion Hearing April 23, 2018.pdf - Filed

11/12/2019 Transcript Ruling 5-14-19.pdf - Filed

11/12/2019 Transcript Cont. of Motion Hearing 12-12-17.pdf - Filed

1/13/2021 Order of Affirmance (S.C.).pdf - Filed

3/1/2021 Order Denying Rehearing (S.C.)(Filed 2-25-21).pdf - Filed

4/15/2021 Order Denying En Banc Reconsideration - S.C..pdf - Filed

5/5/2021 Remittitur (S.C.).pdf - Filed

5/5/2021 Clerk's Certificate (S.C.).pdf - Filed

7/9/2021 Letter - Judge Estes 7-9-21.docx - For Court Use Only

7/30/2021 Order Granting Defendants' Motion for Attorneys' Fees - LCBoC.pdf - Filed

8/4/2021 Notice of Entry of Order-Order filed 7-30-21).pdf - Filed

8/23/2021 Stipulation and Order Dismissing Petitioner Gayle Sherman.pdf - Submitted

Notes: \*\*Emailed to Judge Estes 8-23-21

9/1/2021 Notice of Appeal (Order Filed 7-30-2021).pdf - Filed

9/1/2021 Case Appeal Statement -7-30-2021 Order.pdf - Filed

FILED

2021 JUL 30 PM 2:01

JANNA JOSEPH  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

Andrea Andersen

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

COMSTOCK RESIDENTS ASSOCIATION,  
GAYLE SHERMAN, JOE McCARTHY,

Plaintiffs/Petitioners,

vs.

LYON COUNTY BOARD OF  
COMMISSIONERS; COMSTOCK MINING  
INCORPORATED,

Defendants/Respondents,

**ORDER GRANTING DEFENDANTS' MOTION FOR ATTORNEYS' FEES**

This matter comes before the Court on Defendants' Motion for Attorneys' Fees filed on August 1, 2019. The Court having read the papers and the law applicable to the issues raised; and considering the merits of this matter; the Court finds as follows:

The Affidavits on file demonstrate that the fees requested are reasonable under the standards set forth in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

The Court, therefore, finds that all fees requested must be awarded under NS 18.010 and NRS 278.0237.

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Office of the District Attorney  
Lyon County, State of Nevada  
801 Overland Loop, Suite 308, Dayton, Nevada 89403 • 31 South Main Street, Yerington, Nevada 89447 • 585 East Main Street, Fernley, Nevada

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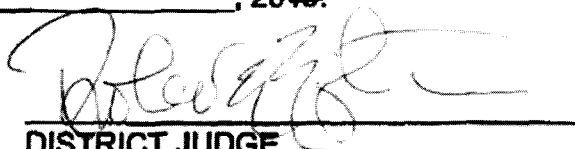
**GOOD CAUSE APPEARING THEREFOR:**

**IT IS HEREBY ORDERED** that Defendant, Lyon County Board of Commissioners, is awarded attorney fees to be paid by Plaintiffs in the amount of \$50,000.00;

**IT IS FURTHER ORDERED** that Defendant, Comstock Mining Incorporated, is awarded attorney fees and costs to be paid by Plaintiffs in the total amount of \$203,151.47.

**IT IS SO ORDERED.**

Dated this 30<sup>th</sup> day of July, 20<sup>21</sup>19.

  
DISTRICT JUDGE

4815-2344-4133, v. 1

ALLISON MacKENZIE, LTD.  
402 North Division Street, P.O. Box 646, Carson City, NV 89702  
Telephone: (775) 687-0202 Fax: (775) 882-7918  
E-Mail Address: law@allisonmackenzie.com

1 Case No. 14-CV-00128

2 Dept. No. II

3 Pursuant to NRS 239B.030, the undersigned  
4 affirms that the following document does not  
5 contain the social security number of any person.

FILED

2021 AUG -4 AM 10:26

Kathy Thomas

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

8  
9 COMSTOCK RESIDENTS ASSOCIATION,  
10 JOE McCARTHY,

11 Plaintiffs/Petitioners,

12 vs.

13 LYON COUNTY BOARD OF  
14 COMMISSIONERS; COMSTOCK  
15 MINING INCORPORATED,

16 Defendants/Respondents.  
17


18 **NOTICE OF ENTRY OF ORDER**

19 NOTICE IS HEREBY GIVEN that on the 30th day of July 2021, the Court duly entered an  
20 Order Granting Defendants' Motion For Attorneys' Fees in the above-entitled matter. A copy of  
21 said Order is attached hereto.

22 DATED this 3<sup>rd</sup> day of August, 2021.

23 ALLISON MacKENZIE, LTD.  
24 402 North Division Street  
25 Carson City, NV 89703

26 By:

27   
28 JAMES R. CAVILIA, ESQ.  
Nevada State Bar No. 3921  
JUSTIN TOWNSEND, ESQ.  
Nevada State Bar No. 12293  
PO Box 646  
Carson City, NV 89702  
Attorneys for Defendant  
Comstock Mining Incorporated

ALLISON MacKENZIE, LTD.  
402 North Division Street, P.O. Box 646, Carson City, NV 89702  
Telephone: (775) 687-0202 Fax: (775) 882-7918  
E-Mail Address: law@allisonmackenzie.com

**CERTIFICATE OF SERVICE**

Pursuant to NRCP Rule 5(b), I hereby certify that I am an employee of ALLISON MacKENZIE, LTD., Attorneys at Law, and that on this date; I caused the foregoing document to be served to all parties to this action by:

- X   Placing a true copy thereof in a sealed postage prepaid envelope in the United States Mail in Carson City, Nevada [NRCP 5(b)(2)(B)]
- Hand-delivery - via Reno/Carson Messenger Service [NRCP 5(b)(2)(A)]
- Facsimile
- Federal Express, UPS, or other overnight delivery
- E-filing pursuant to Section IV of District of Nevada Electronic Filing Procedures [NRCP 5(b)(2)(D)]

fully addressed as follows:

JOHN L. MARSHALL, ESQ.  
570 Marsh Avenue  
Reno, NV 89509

STEVEN B. RYE, ESQ.  
District Attorney  
31 South Main Street  
Yerington, NV 89447

DATED this 3<sup>rd</sup> day of August, 2021.

  
SUSAN PRICE

Office of the District Attorney  
Lyon County, State of Nevada  
801 Overland Loop, Suite 300, Dayton, Nevada 89403 - 31 South Main Street, Yerington, Nevada 89447 - 565 East Main Street, Fernley, Nevada 89429

FILED

2021 JUL 30 PM 2:01

CLERK OF DISTRICT COURT  
THIRD JUDICIAL DISTRICT

*Andrea Andersen*

Case No. 14-CV-00128

Dept. No. II

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

COMSTOCK RESIDENTS ASSOCIATION,  
GAYLE SHERMAN, JOE McCARTHY,

Plaintiffs/Petitioners,

vs.

LYON COUNTY BOARD OF  
COMMISSIONERS; COMSTOCK MINING  
INCORPORATED,

Defendants/Respondents.

**ORDER GRANTING DEFENDANTS' MOTION FOR ATTORNEYS' FEES**

This matter comes before the Court on Defendants' Motion for Attorneys' Fees filed on August 1, 2019. The Court having read the papers and the law applicable to the issues raised; and considering the merits of this matter; the Court finds as follows:

The Affidavits on file demonstrate that the fees requested are reasonable under the standards set forth in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

The Court, therefore, finds that all fees requested must be awarded under NS 18.010 and NRS 278.0237.

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Office of the District Attorney  
Lyon County, State of Nevada  
801 Overland Loop, Suite 200, Dayton, Nevada 89403 • 51 South Main Street, Yerington, Nevada 89447 • 545 East Main Street, Fallon, Nevada  
951-751-1234

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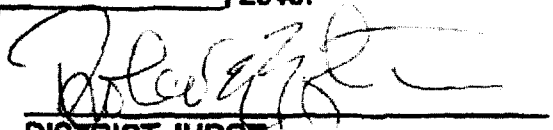
**GOOD CAUSE APPEARING THEREFOR:**

**IT IS HEREBY ORDERED** that Defendant, Lyon County Board of Commissioners, is awarded attorney fees to be paid by Plaintiffs in the amount of \$50,000.00;

**IT IS FURTHER ORDERED** that Defendant, Comstock Mining Incorporated, is awarded attorney fees and costs to be paid by Plaintiffs in the total amount of \$203,151.47.

**IT IS SO ORDERED.**

Dated this 30<sup>th</sup> day of July, 2021.

  
DISTRICT JUDGE

4815-2344-4133, v. 1



## Case Summary

### COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE MCCARTHY, LYON COUNTY BOARD OF COMMISSIONERS, COMSTOCK MINING, INC ~ COMPLAINT

Case Number: 14-CV-00128

Agency: Third Judicial District Court

Type: Other Real Property Case

Received Date: 1/31/2014

Status: Closed

Status Date: 6/5/2015

#### Involvements

##### Primary Involvements

COMSTOCK RESIDENTS ASSOCIATION Plaintiff

SHERMAN, GAYLE Plaintiff

MCCARTHY, JOE Plaintiff

LYON COUNTY BOARD OF COMMISSIONERS Defendant

COMSTOCK MINING, INC Defendant

##### Other Involvements

Rye, Stephen B. D.A. - X004800 Defendant's Attorney

Cavilia, James R. Esq. Defendant's Attorney

Marshall, John Esq. Plaintiff's Attorney

Third Judicial District Court (14-CV-00128)

Estes, Honorable Robert E. Judge

#### Other Real Property Case

[1. NRCP 3 ~ COMPLAINT Occurred: 1/31/2014](#)

Lead/Active: True

#### Case Status History

1/31/2014 1:47:00 PM | Open

6/5/2015 1:47:00 PM | Closed

#### Events

8/4/2014 9:00:00 AM | Status Hearing | Judge Estes | Court Room A

Sceirine, Tanya Clerk - TSCEIRINE

Staff - STAFF

Rye, Stephen B. D.A. - X004800

Cavilia, James R. Esq. (Defendant's Attorney)

Estes, Honorable Robert E. (Judge)

Marshall, John Esq. (Plaintiff's Attorney)

Notes: Court and counsel met in chambers...no clerk involvement.

9/10/2014 9:00:00 AM | Motion Hearing | Judge Estes | Court Room B

Sceirine, Tanya Clerk - TSCEIRINE

Thomas, Kathy Dep. Clerk - KTHOMAS

Staff - STAFF

Court Room B - CourtRmB

Rye, Stephen B. D.A. - X004800

Cavilia, James R. Esq. (Defendant's Attorney)

Estes, Honorable Robert E. (Judge)

Marshall, John Esq. (Plaintiff's Attorney)

Notes: Court heard argument on motion to dismiss and motion to amend complaint from Mr. Rye, Mr. Marshall and Mr. Cavilia. Court took matter under advisement and will render a written decision. Hearing was JAVS recorded

10/23/2014 10:00:00 AM | Motion Hearing | Judge Estes | Court Room A

# Case Summary

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Sceirine, Tanya Clerk - TSCEIRINE

Staff - STAFF

Court Room A - CourtRmA

Geurts, Patrick Bailiff - X004896

Cavilia, James R. Esq. (Defendant's Attorney)

Estes, Honorable Robert E. (Judge)

Marshall, John Esq. (Plaintiff's Attorney)

Notes: Judge Estes Courtroom A

4/20/2015 1:30:00 PM | Motion Hearing | CRTM A DEPT 4 | Court Room A

Sceirine, Tanya Clerk - TSCEIRINE

Staff - STAFF

Court Room A - CourtRmA

Geurts, Patrick Bailiff - X004896

Rye, Stephen B. D.A. - X004800

Cavilia, James R. Esq. (Defendant's Attorney)

Estes, Honorable Robert E. (Judge)

Marshall, John Esq. (Plaintiff's Attorney)

Notes: Court had considered the motion to enlarge record and based upon the stipulation of the parties allowed the enlargement of that information but denied any other enlargement of the record. Court heard oral argument by Mr. Marshall and Mr. Rye. Court advised parties that the Court is constrained to only the evidence presented to the governing body and when considering abuse discretion it can only consider submitted evidence supporting the governing bodies finding. Court found no compelling reason for the commissioners to take a second vote and that they had heard from over 26 witnesses. Court found substantial evidence to support the conclusion of the change in zoning and the master plan. Mr. Rye will prepare the order.

10/10/2017 10:00:00 AM | Motion Hearing | DEPT 4, 14-CV-00128

Sceirine, Tanya Clerk - TSCEIRINE

Aberasturi, Leon A. - LAA

Staff - STAFF

lawclerk2 - LAW2

Notes: SENIOR JUDGE ESTES this is in the process of being moved to another date waiting on all attorneys to confirm dates dc

12/11/2017 1:30:00 PM | Motion Hearing | Dept IV, Crtrm A 14-CV-00128 | Court Room A

Andersen, Andrea Deputy Clerk - AANDERSEN

Staff - STAFF

Court Room A - CourtRmA

No Court Reporter

Townsend, Justin Michael Esq.

obo Defendant, Comstock Mining, Inc.

Cavilia, James R. Esq. (Defendant's Attorney)

obo Defendant, Comstock Mining, Inc.

Rye, Stephen B. D.A. - X004800  
(Defendant's Attorney)

obo Defendant, Lyon County Board of Commissioners

Estes, Honorable Robert E. (Judge)

Marshall, John Esq. (Plaintiff's Attorney)

obo Plaintiff

Notes: Mr. Rye and Mr Marshall argued the Motion. Defendant's Exhibits A-E were marked and admitted. Mr. Marshall objected to Defendant's Exhibit D and E due to accuracy. Court finds Defendant's Exhibits D and E are a matter of public record. Defendant's Exhibits A-E were admitted. Court denied the Motion. Matter is to be set for a hearing mid March 2018. Judicial Assistant is to set. Mr. Marshall to prepare Order. Court admonished counsel not to filed and submit a Stipulation and Order to Continue the matter in March as it would be denied.

4/23/2018 9:30:00 AM | Motion Hearing | Dept III, Crtrm A 14-CV-00152 | Court Room A

Thomas, Kathy Dep. Clerk - KTHOMAS

## Case Summary

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Aberasturi, Leon A. - LAA

Terhune, Kathy

Court Reporter

Staff - STAFF

lawclerk2 - LAW2

Estes, Honorable Robert E. (Judge)

Notes: Judge Estes meet with counsel prior to court proceedings. There has been a supreme court decision discussions by the commissioners are to be made public. Court will grant Mr. Marshall his request. Court questioned Mr. Marshall as to exactly what he wanted.

Court Ordered: Mr. Rye to provide the documents within 60 days of today's date.

Court heard from counsel on the objections to the proposed exhibits.

Court Ordered: Defendants A- O are admitted, exhibit H is not admissible. Plaintiff's exhibits 20 and 21 are not admissible; 30, 31, 32, 37, 38, 41 & 43 will be admissible. Discovery continued for 60 more days to end on June 23.

Counsel to file briefs by July 23, 2018. Mr. Marshall to prepare order.

5/14/2019 9:30:00 AM | Status Hearing | Dept III - Crtrm A - 14-CV-00152 | Court Room A

Sceirine, Tanya Clerk - TSCEIRINE

Staff - STAFF

Court Room A - CourtRmA

Townsend, Justin Michael Esq.

Cavilia, James R. Esq. (Defendant's Attorney)

Rye, Stephen B. D.A. - X004800  
(Defendant's Attorney)

Estes, Honorable Robert E. (Judge)

Marshall, John Esq. (Plaintiff's Attorney)

Notes: Court advised counsel it was familiar with all the filings, briefs and supreme court orders issued in this matter. Court found the only issue remaining after the remand from the supreme court was the issue of due process as claimed by the plaintiff's in this case. Court found the contributions made to the public officers by CMI did not show exceptional circumstances or unusual and all contributions were made public and there was nothing hidden as well as all interactions between the parties. Court agreed with the ethics commission and found no undue influence. Court found there was no pecuniary interest to warrant abstention. Court found no law precludes communication between a public officer and an entity. Court found claims of CRA had not shown by a preponderance of the evidence they were denied due process. Court ordered case dismissed. Mr. Rye will prepare the order.



# CIVIL COVER SHEET

County, Nevada

Case No.

14-CV-00128  
(Assigned by Clerk's Office)

FILED

2014 JAN 31 PM 1:47

## I. Party Information

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

Comstock Residents' Assoc.  
Gayle Sloman 100 Grant Silver City  
775 847 0132

Joe McCann 1200 Highway 341 Silver City  
775 780 0331

Attorney (name/address/phone):

John L. Marshall  
570 Marsh Ave Reno NV 89509  
775.303.4462

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

Lyon County Comstock Mining Inc  
27 South Main  
Yerington NV P.O. Box 1118  
775.463.6501 Virginia City 89440

Attorney (name/address/phone):

Lyon County DA Unknown  
31 S. Main St  
Yerington NV 89447  
775.463.6511

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

☐ Arbitration Requested

### Civil Cases

Real Property	Negligence	Torts
<input type="checkbox"/> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> <b>Title to Property</b> <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> <b>Condemnation/Eminent Domain</b> <input checked="" type="checkbox"/> <b>Other Real Property</b> <input type="checkbox"/> Partition <input checked="" type="checkbox"/> Planning/Zoning	<input type="checkbox"/> <b>Negligence – Auto</b> <input type="checkbox"/> <b>Negligence – Medical/Dental</b> <input type="checkbox"/> <b>Negligence – Premises Liability</b> (Slip/Fall) <input type="checkbox"/> <b>Negligence – Other</b>	<input type="checkbox"/> <b>Product Liability</b> <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> <b>Intentional Misconduct</b> <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> <b>Employment Torts</b> (wrongful termination) <input type="checkbox"/> <b>Other Torts</b> <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair competition
Probate	Other Civil Filing Types	
<input type="checkbox"/> <b>Summary Administration</b> <input type="checkbox"/> <b>General Administration</b> <input type="checkbox"/> <b>Special Administration</b> <input type="checkbox"/> <b>Set Aside Estates</b> <input type="checkbox"/> <b>Trust/Conservatorships</b> <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> <b>Other Probate</b>	<input type="checkbox"/> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> <b>Breach of Contract</b> <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> <b>Civil Petition for Judicial Review</b> <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	
	<input type="checkbox"/> <b>Appeal from Lower Court</b> (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil appeal <input type="checkbox"/> <b>Civil Writ</b> <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment - Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recover of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters	

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

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> NRS Chapters 78-88   | <input type="checkbox"/> Investments (NRS 104 Art. 8)        | <input type="checkbox"/> Enhanced Case Mgmt/Business  |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90)  | <input type="checkbox"/> Trademarks (NRS 600A)               |   |

1/31/14  
Date

Signature of initiating party or representative

See other side for family-related case filings.