

Electronically Filed
Sep 09 2021 10:49 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

1 **NOAS**
2 **ROGER P. CROTEAU, ESQ.**
3 Nevada Bar No. 4958
4 **CHRISTOPHER L. BENNER, ESQ.**
5 Nevada Bar No. 8963
6 **ROGER P. CROTEAU & ASSOCIATES, LTD**
7 2810 W. Charleston Blvd., Ste. 75
8 Las Vegas, Nevada 89102
9 (702) 254-7775 (telephone)
10 (702) 228-7719 (facsimile)
11 croteaulaw@croteaulaw.com
12 chris@croteaulaw.com
13 *Attorneys for Plaintiff*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 DAISY TRUST, a Nevada trust,
14
15 Plaintiff,

16 vs.

17 GREEN VALLEY SOUTH OWNERS
18 ASSOCIATION NO. 1 and NEVADA
19 ASSOCIATION SERVICES, INC., a
20 domestic corporation,
21
22 Defendants.

Case No: A-19-791254-C
Dept No: 23

23 **NOTICE OF APPEAL**

22 //

23 //

24 //

25 //

26 //

27 //

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1 NOTICE IS HEREBY GIVEN that Plaintiff DAISY TRUST, by and through its attorneys,
2 Roger P. Croteau & Associates, Ltd., hereby appeals to the Supreme Court of Nevada the Findings
3 of Fact and Conclusions of Law and Order Granting Green Valley South Owners Association's
4 Motion for Attorney Fees and Costs, and all rulings and interlocutory orders giving rise to or made
5 appealable by the final judgment.
6

7 Dated September 2, 2021.

8 ROGER P. CROTEAU & ASSOCIATES, LTD.

9 /s/ Christopher L. Benner

10 Roger P. Croteau, Esq.

11 Nevada Bar No. 4958

12 Christopher L. Benner, Esq.

13 Nevada Bar No. 8963

14 2810 W. Charleston Blvd., Suite 75

15 Las Vegas, Nevada 89102

16 *Plaintiff Daisy Trust*
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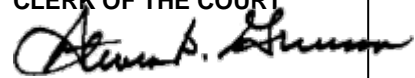
ROGER P. CROTEAU & ASSOCIATES, LTD.
• 2810 West Charleston Blvd, Suite 75 • Las Vegas, Nevada 89102 •
Telephone: (702) 254-7775 • Facsimile (702) 228-7719

CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2021, I served the foregoing document on all persons and parties in the E-Service Master List in the Eighth Judicial District Court E-Filing System, by electronic service in accordance with the mandatory electronic service requirements of Administrative Order 14-1 and the Nevada Electronic Filing and Conversion Rules.

/s/ Joe Koehle

An employee of ROGER P. CROTEAU & ASSOCIATES, LTD.



ASTA
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Nevada Bar No. 4958
CHRISTOPHER L. BENNER, ESQ.
Nevada Bar No. 8963
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croteaulaw@croteaulaw.com
chris@croteaulaw.com
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

DAISY TRUST, a Nevada trust,

Plaintiff,

vs.

GREEN VALLEY SOUTH OWNERS
ASSOCIATION NO. 1 and NEVADA
ASSOCIATION SERVICES, INC., a
domestic corporation,

Defendants.

Case No: A-19-791254-C
Dept No: 23

CASE APPEAL STATEMENT

Plaintiff Daisy Trust, by and through their attorneys, Roger P. Croteau & Associates, Ltd.,
submits its Case Appeal Statement.

1. **Name of appellant filing this case appeal statement:**

Daisy Trust

2. **Identify the judge issuing the decision, judgment, or order appealed from:**

The decision was made by the Honorable Jasmin Lilly-Spells.

3. **Set forth the name, law firm, address, and telephone number of all counsel on appeal
and identify the party or parties whom they represent:**

a. Daisy Trust

Roger P. Croteau, Esq.
Christopher L. Benner, Esq.
Roger P. Croteau & Associates, Ltd.
2810 West Charleston Blvd., #75
Las Vegas, Nevada 89102
(702) 254-7775

4. **Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):**

a. Green Valley South Owners Association No. 1 ("HOA")

Respondent's appellate counsel is unknown at this time but will presumably be Respondent's trial counsel.

J William Ebert, Esq.
Janeen V. Isaacson, Esq.
Lipson Nielson P.C.
9900 Covington Cross Dr, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500

b. Nevada Association Services

Respondent's appellate counsel is unknown at this time but will presumably be Respondent's trial counsel.

Brandon E. Wood, Esq.
Nevada Association Services, Inc.
6625 S. Valley View Blvd. Suite 300
Las Vegas, NV 89118
(702) 804-8885

5. **Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):**

N/A

6. **Indicate whether appellant was represented by appointed or retained counsel in the district court:**

Retained counsel.

7. **Indicate whether appellant is represented by appointed or retained counsel on appeal:**

Retained counsel.

8. **Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:**

N/A

9. **Indicate the date the proceedings commenced in the district court, e.g., date complaint, indictment, information, or petition was filed:**

The original Complaint in this matter was filed on March 15, 2019 in the Eighth Judicial District Court of the State of Nevada in and for Clark County, Nevada, Case No. A-19-791254-C

Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

The instant action relates to real property that was the subject of a homeowners' association lien foreclosure sale pursuant to NRS Chapter 116. Generally, based upon current case law, absent some special circumstances, foreclosure trustees performing foreclosure sales pursuant to NRS Chapter 107 have no duty to the bidders and/or purchasers of the property being foreclosed upon. The body of common law has developed from the precept that information exists in the public domain to conduct reasonable due diligence under the circumstances to properly inform a potential bidder; however, that information is not

1 available under any circumstances to the bidder of all liens and their priority in a NRS Chapter
2 116 foreclosure sale.

3 This case focuses on the duties and obligations owed by a homeowners' association
4 by and through its agent, the foreclosure trustee, to inform the bidders and purchasers at the
5 NRS Chapter 116 foreclosure sale as to the bifurcated status of the homeowners' association's
6 lien vis a vis the first deed of trust secured by the property, pursuant to NRS 116.3116. The
7 question is, with or without inquiry from an NRS Chapter 116 bidder, and certainly with
8 actual inquiry by the actual purchaser of the homeowner's foreclosure sale, does that
9 homeowners' association and/or its foreclosure trustee have an obligation of good faith,
10 honesty in fact, and candor pursuant to NRS 116.3116 to the NRS Chapter 116 foreclosure
11 bidders to disclose any attempted and/or actual tender or payment of the superpriority lien
12 amounts, thereby rendering the sale, and the purchaser's interest in the property, subject to
13 the first deed of trust or not?
14

15
16 On February 23, 2021, the HOA filed its Motion for Attorney's Fees and Costs ("HOA
17 Fee Motion"). After briefing and argument, the district court granted the HOA Fee Motion.
18 Appellant' contends that the district court erred as a matter of law. The Notice of Entry of
19 Order Granting the HOA Fee Motion was filed on August 3, 2021.
20

21 10. **Indicate whether the case has previously been the subject of an appeal or an original**
22 **writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket**
23 **number of the prior proceeding:**

24 Nevada Supreme Court Case 82611

25 11. **Indicate whether this appeal involves child custody or visitation:**

26 N/A

27 12. **If this is a civil case, indicate whether this appeal involves the possibility of settlement:**
28

ROGER P. CROTEAU & ASSOCIATES, LTD.
• 2810 West Charleston Blvd, Suite 75 • Las Vegas, Nevada 89102 •
Telephone: (702) 254-7775 • Facsimile (702) 228-7719

1 Appellant believes that the possibility of settlement exists.

2 Dated this 2nd day of September, 2021.

3 ROGER P. CROTEAU & ASSOCIATES, LTD.

4 /s/ Christopher L. Benner

5 Roger P. Croteau, Esq.

6 Nevada Bar No. 4958

7 Christopher L. Benner, Esq.

8 Nevada Bar No. 8963

9 2810 W. Charleston Blvd., Suite 75

10 Las Vegas, Nevada 89102

11 Attorneys for Plaintiff

ROGER P. CROTEAU & ASSOCIATES, LTD.
• 2810 West Charleston Blvd, Suite 75 • Las Vegas, Nevada 89102 •
Telephone: (702) 254-7775 • Facsimile (702) 228-7719

CERTIFICATE OF SERVICE

I hereby certify that on September 2nd, 2021 I served the foregoing document on all persons and parties in the E-Service Master List in the Eighth Judicial District Court E-Filing System, by electronic service in accordance with the mandatory electronic service requirements of Administrative Order 14-1 and the Nevada Electronic Filing and Conversion Rules.

/s/ Joe Koehle

An employee of
ROGER P. CROTEAU & ASSOCIATES, LTD.

CASE SUMMARY**CASE NO. A-19-791254-C****Daisy Trust, Plaintiff(s)****vs.****Green Valley South Owners Association No. 1, Defendant
(s)**§
§
§
§
§
§

Location: **Department 23**
 Judicial Officer: **Lilly-Spells, Jasmin**
 Filed on: **03/15/2019**
 Case Number History:
 Cross-Reference Case Number: **A791254**
 Supreme Court No.: **82611**

CASE INFORMATION**Statistical Closures**

02/04/2021 Summary Judgment

Case Type: **Intentional Misconduct**Case Status: **02/04/2021 Closed****DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number A-19-791254-C
 Court Department 23
 Date Assigned 01/04/2021
 Judicial Officer Lilly-Spells, Jasmin

PARTY INFORMATION**Plaintiff****Daisy Trust***Lead Attorneys*

Croteau, Roger P, ESQ
Retained
 702-254-7775(W)

Defendant**Green Valley South Owners Association No. 1**

Ebert, John William
Retained
 702-382-1500(W)

Nevada Association Services Inc

Wood, Brandon E.
Retained
 702-804-8885(W)

Arbitrator**Milne, Gary**

Milne, Gary C.
Retained
 7025585357(W)

Milne, Gary C.**DATE****EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

03/15/2019

**Complaint**

Filed By: Plaintiff Daisy Trust

[1] Complaint

03/15/2019

**Initial Appearance Fee Disclosure**

Filed By: Plaintiff Daisy Trust

[2] Initial Appearance Fee Disclosure

03/15/2019


**Summons Electronically Issued - Service Pending**

Party: Plaintiff Daisy Trust

[3] Summons - HOA

CASE SUMMARY

CASE NO. A-19-791254-C

03/15/2019	 Summons Electronically Issued - Service Pending Party: Plaintiff Daisy Trust <i>[4] Summons</i>
03/21/2019	 Affidavit of Service Filed By: Plaintiff Daisy Trust <i>[5] Affidavit of Service</i>
03/21/2019	 Affidavit of Service Filed By: Plaintiff Daisy Trust <i>[6] Affidavit of Service</i>
03/21/2019	 Affidavit of Service Filed By: Plaintiff Daisy Trust <i>[7] Affidavit of Service</i>
04/05/2019	 Answer to Complaint Filed by: Defendant Green Valley South Owners Association No. 1 <i>[8] GREEN VALLEY SOUTH OWNERS ASSOCIATON NO. 1 S ANSWER TO PLAINTIFF S COMPLAINT</i>
04/05/2019	 Initial Appearance Fee Disclosure Filed By: Defendant Green Valley South Owners Association No. 1 <i>[9] Initial Appearance Fee Disclosure</i>
04/29/2019	Case Reassigned to Department 9 <i>Judicial Reassignment to Department 9 - Judge Cristina Silva</i>
05/28/2019	 Appointment of Arbitrator <i>[10] Appointment of Arbitrator</i>
07/18/2019	 Notice of Early Arbitration Conference Filed By: Attorney Milne, Gary C. <i>[11] Notice of Early Arbitration Conference</i>
07/24/2019	 Notice to Appear for Arbitration Hearing Filed by: Attorney Milne, Gary C. <i>[12] Notice of Arbitration Hearing</i>
07/24/2019	 Arbitration Discovery Order Filed By: Attorney Milne, Gary C. <i>[13] Arbitration Discovery Order</i>
09/20/2019	 Motion To Dismiss - Alternative Motion For Summary Judgment Filed By: Defendant Green Valley South Owners Association No. 1 <i>[14] Defendant Green Valley South Owners' Association's Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment</i>
09/23/2019	 Clerk's Notice of Hearing <i>[15] Notice of Hearing</i>
10/18/2019	 Joinder Filed By: Defendant Nevada Association Services Inc <i>[16] Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners'</i>

CASE SUMMARY

CASE NO. A-19-791254-C

Association's Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment

10/29/2019	 Opposition to Motion to Dismiss Filed By: Plaintiff Daisy Trust <i>[17] Plaintiff's Opposition to Green Valley South Owners Association's Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment and Nevada Association Services, Inc.'s Joinder Thereto</i>
11/06/2019	 Stipulation and Order Filed by: Plaintiff Daisy Trust <i>[18] Stipulation and Order to Extend Deadlines and Continue Hearing regarding Defendant Green Valley South Owners' Association's Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment</i>
11/15/2019	 Stipulation and Order Filed by: Defendant Green Valley South Owners Association No. 1 <i>[19] Stipulation and Order to Extend Deadlines and Continue Hearing Regarding Defendant Green Valley South Owners' Association's Motion to Dismiss, or in the Alternatively, Motion for Partial Summary Judgment</i>
11/18/2019	 Notice of Entry of Stipulation and Order Filed By: Defendant Green Valley South Owners Association No. 1 <i>[20] Notice of Entry of Order</i>
12/03/2019	 Reply to Opposition Filed by: Defendant Green Valley South Owners Association No. 1 <i>[21] Defendant Green Valley South Owners' Association's Reply to Daisey Trust's Opposition to Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment</i>
02/07/2020	 Order Granting Filed By: Plaintiff Daisy Trust <i>[22] Order Granting In Part Defendant Green Valley South Homeowners Association's Motion to Dismiss</i>
02/07/2020	 Notice of Entry of Order Filed By: Plaintiff Daisy Trust <i>[23] Notice of Entry of Order Granting in part Defendant Green Valley South Homeowners Association's Motion to Dismiss</i>
02/18/2020	 ADR - Action Required - Arbitrator <i>[24] ADR-Action Required-Arbitrator-Award</i>
03/03/2020	 Joint Request for Exemption Filed by: Defendant Green Valley South Owners Association No. 1 <i>[25] Joint Request for Exemption from Arbitration</i>
03/12/2020	 Commissioners Decision on Request for Exemption - Granted <i>[26] Commissioner's Decision on Request for Exemption - GRANTED</i>
03/31/2020	 Arbitrators Bill for Fees and Costs Filed By: Attorney Milne, Gary C. <i>[27] Arbitrator's Fees and Costs</i>
04/30/2020	 Three Day Notice of Intent to Default Filed By: Plaintiff Daisy Trust

CASE SUMMARY

CASE NO. A-19-791254-C

[28] Three Day Notice of Intent to Enter Default Against Nevada Association Services, Inc.

04/30/2020



Joint Case Conference Report

Filed By: Plaintiff Daisy Trust

[29] Joint Case Conference Report

05/01/2020



Answer to Complaint

Filed by: Defendant Nevada Association Services Inc

[30] Nevada Association Services, Inc.' Answer to Complaint

05/13/2020



Mandatory Rule 16 Conference Order

[31] Order to Appear for Mandatory Scheduling Conference (Parties Have Reached Joint Case Conference Report)

06/01/2020



Individual Case Conference Report

Filed By: Defendant Nevada Association Services Inc

[32] Individual Case Conference Report

06/05/2020



Scheduling and Trial Order

[33] Scheduling Order and Order Setting Civil Non-Jury Trial and Calendar Call

10/06/2020



Stipulation and Order to Extend Discovery Deadlines

Filed By: Defendant Green Valley South Owners Association No. 1

[34] STIPULATION AND ORDER EXTEND DISCOVERY DEADLINES AND TRIAL DATE PURSUANT TO EDCR 2.35

10/07/2020



Notice of Entry of Stipulation and Order

Filed By: Defendant Green Valley South Owners Association No. 1

[35] NOTICE OF ENTRY OF ORDER OF STIPULATION AND ORDER TO EXTEND DISCOVERY DEADLINES AND TRIAL DATE PURSUANT TO EDCR 2.35 [FIRST REQUEST]

10/15/2020



Amended Order Setting Civil Non-Jury Trial

[36] Amended Order Setting Civil Non- Jury Trial and Calendar Call

10/25/2020



Motion To Dismiss - Alternative Motion For Summary Judgment

Filed By: Defendant Green Valley South Owners Association No. 1

[37] Defendant Green Valley South Owners' Association's Renewed Motion to Dismiss, or Alternatively, Motion for Summary Judgment

10/26/2020



Clerk's Notice of Hearing

[38] Notice of Hearing

10/29/2020



Joinder to Motion For Partial Summary Judgment

Filed By: Defendant Nevada Association Services Inc

[39] Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners Association's Renewed Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment

11/09/2020



Opposition

Filed By: Plaintiff Daisy Trust

[40] Plaintiff's Opposition to Renewed Motion to Dismiss

11/24/2020



Reply to Opposition

Filed by: Defendant Green Valley South Owners Association No. 1

CASE SUMMARY

CASE NO. A-19-791254-C

[41] DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION S REPLY TO
DAISEY TRUST S OPPOSITION TO MOTION TO DISMISS, OR ALTERNATIVELY,
MOTION FOR PARTIAL SUMMARY JUDGMENT

11/24/2020



Filing Fee Remittance

[42] Filing Fee Remittance

01/04/2021

Case Reassigned to Department 23

Judicial Reassignment to Judge Jasmin Lilly-Spells

01/07/2021



Notice of Department Reassignment

[43] Notice of Department Reassignment

02/04/2021



Findings of Fact, Conclusions of Law and Order

Filed By: Defendant Green Valley South Owners Association No. 1

[45] Findings of Fact, Conclusions of Law and Order on Defendant Green Valley South
Owner's Association's Motion to Dismiss, or Alternatively Motion for Summary Judgment

02/05/2021



Findings of Fact, Conclusions of Law and Order

Filed By: Defendant Green Valley South Owners Association No. 1

[44] (Duplicate See 2/4/21) Findings of Fact, Conclusions of Law and Order on Defendant
Green Valley South Owner's Association's Motion to Dismiss, or Alternatively Motion for
Summary Judgment

02/16/2021



Notice of Entry

Filed By: Defendant Green Valley South Owners Association No. 1

[47] NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
ON DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION S MOTION TO
DISMISS OR ALTERNATIVELY MOTION FOR SUMMARY JUDGMENT

02/23/2021



Motion for Attorney Fees and Costs

Filed By: Defendant Green Valley South Owners Association No. 1

[48] Defendant Green Valley South Owner's Association's Motion for Attorney's Fees and
Costs

02/24/2021



Clerk's Notice of Hearing

[49] Notice of Hearing

03/09/2021



Notice of Appeal

Filed By: Plaintiff Daisy Trust

[50] Notice of Appeal

03/09/2021



Case Appeal Statement

Filed By: Plaintiff Daisy Trust

[51] Case Appeal Statement

03/09/2021



Opposition to Motion

Filed By: Plaintiff Daisy Trust

[52] Plaintiff's Opposition to Defendant Green Valley South Owners' Association's Motion for
Attorney Fees and Costs and Motion to Retax Costs

04/09/2021









Request

Filed by: Plaintiff Daisy Trust

[53] Request for Transcript of Proceedings

CASE SUMMARY

CASE NO. A-19-791254-C

05/10/2021	 Transcript of Proceedings <i>[54] Transcript of Proceedings All Pending Motions December 1, 2020</i>
05/10/2021	 Transcript of Proceedings <i>[55] Transcript of Proceedings All Pending Motions December 10, 2019</i>
07/28/2021	 Findings of Fact, Conclusions of Law and Order Filed By: Defendant Green Valley South Owners Association No. 1 <i>[56] Findings of Fact, Conclusions of Law and Order on Defendant Green Valley South Owner's Association's Motion for Attorney's Fees and Costs</i>
08/03/2021	 Notice of Entry Filed By: Defendant Green Valley South Owners Association No. 1 <i>[57] Notice of Entry of Order</i>
09/02/2021	 Notice of Appeal Filed By: Plaintiff Daisy Trust <i>[58] Notice of Appeal</i>
09/02/2021	 Case Appeal Statement Filed By: Plaintiff Daisy Trust <i>[59] Case Appeal Statement</i>

DISPOSITIONS

02/07/2020	Order of Dismissal (Judicial Officer: Silva, Cristina D.) Debtors: Green Valley South Owners Association No. 1 (Defendant) Creditors: Daisy Trust (Plaintiff) Judgment: 02/07/2020, Docketed: 02/07/2020 Comment: Certain Cause
02/04/2021	Summary Judgment (Judicial Officer: Lilly-Spells, Jasmin) Debtors: Daisy Trust (Plaintiff) Creditors: Green Valley South Owners Association No. 1 (Defendant), Nevada Association Services Inc (Defendant) Judgment: 02/04/2021, Docketed: 02/05/2021
07/28/2021	Order (Judicial Officer: Lilly-Spells, Jasmin) Debtors: Daisy Trust (Plaintiff) Creditors: Green Valley South Owners Association No. 1 (Defendant) Judgment: 07/28/2021, Docketed: 07/29/2021 Total Judgment: 930.69

HEARINGS

10/22/2019	CANCELED Motion for Partial Summary Judgment (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Vacated - Duplicate Entry</i> <i>Defendant Green Valley South Owners' Association's Motion to Dismiss or Alternatively, Motion for Partial Summary Judgment</i>
11/12/2019	Motion to Dismiss (8:30 AM) (Judicial Officer: Silva, Cristina D.) 11/12/2019, 12/10/2019 <i>Defendant Green Valley South Owners Association's Motion to Dismiss or, Alternatively, Motion for Partial Summary Judgment</i> Granted in Part; Off Calendar; Granted in Part; Off Calendar;

CASE SUMMARY

CASE NO. A-19-791254-C

11/12/2019

Joinder (8:30 AM) (Judicial Officer: Silva, Cristina D.)

11/12/2019, 12/10/2019

Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners Association's Motion to Dismiss or, Alternatively, Motion for Partial Summary Judgment

Granted in Part;

Off Calendar;

Granted in Part;

Off Calendar;

11/12/2019



All Pending Motions (8:30 AM) (Judicial Officer: Silva, Cristina D.)

Defendant Green Valley South Owners Association's Motion to Dismiss or, Alternatively, Motion for Partial Summary Judgment . . . Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners Association's Motion to Dismiss or, Alternatively, Motion for Partial Summary Judgment

Matter Heard;

Journal Entry Details:

ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT . . . NEVADA ASSOCIATION SERVICES, INC.'S JOINDER TO DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR, ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT This is the time set for hearing on the above-named motions. Mr. Croteau advised that a Stipulation and Order to extend Deadlines and Continue the hearing was signed and circulated by counsel; the Court advised that the Stipulation and Order has not been submitted to the Court for consideration. Mr. Wong CONCURRED; it appears that the Motions have been continued to December 10, 2019. Therefore, COURT ORDERED, Motions OFF CALENDAR.;

12/10/2019



All Pending Motions (8:30 AM) (Judicial Officer: Silva, Cristina D.)

Matter Heard;

Journal Entry Details:

DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR, ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT....NEVADA ASSOCIATION SERVICES, INC.'S JOINDER TO DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR, ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT Upon Court's inquiry regarding misrepresentations Green Valley South made, Mr. Croteau stated both these complaints were drafted against both the HOA and HOA trustee. The agent of the HOA is the HOA trustee; the HOA trustee sold the property at the foreclosure sale. There were allegations of inquiry and attempts to ascertain whether or not a payment was made. The misrepresentation was they failed to disclose facts, pursuant to NRS 116.113. Upon Court's inquiry regarding the fact that there were no warranties on the property, Mr. Croteau stated basically the deed was without warranty as to many issues, but not things known by the HOA and HOA trustee. Colloquy regarding case law. Following arguments by counsel, Court advised it does not believe there is a basis to maintain an action for civil conspiracy between the HOA and the HOA trustee. For purposes of this argument, it was considering this as a Motion to Dismiss, not a Motion for Summary Judgement for the civil conspiracy. COURT ORDERED, Motion GRANTED. As to misrepresentations, Court stated the issue it has was proof of the misrepresentation. As to punitive damages, Court advised it does not see how it applies in this matter. Arguments by counsel. Court advised there was not enough information to say there was an intentional misrepresentation, which would rise to the level of fraud. Court advised it was going to allow the litigation to continue as to that issue, specifically, the misrepresentation. Mr. Croteau to submit a written order, approved as to form and content by opposing counsel. Ms. Isaacson stated they have an arbitration scheduled in January. COURT ORDERED, matter SET for status check regarding receipt of order. 1/6/20 (CHAMBERS) STATUS CHECK: RECEIPT OF ORDER (12/10/19) CLERK'S NOTE: The foregoing minute order was prepared by court clerk Louisa Garcia via review of the JAVS recording. /lg 12-16-19 ;

01/06/2020



Status Check (3:00 AM) (Judicial Officer: Silva, Cristina D.)

01/06/2020, 02/04/2020

Status Check: Receipt of Order (12/10/19)

Matter Continued; Receipt of Order (12/10/19)

Order filed 02-07-2020

Order Submitted

CASE SUMMARY

CASE NO. A-19-791254-C

Matter Continued; Receipt of Order (12/10/19)

Journal Entry Details:

This is the time set for the Status Check on Receipt of the Order from December 10, 2019. Court noted that an Order was submitted yesterday (February 3); however, the Court has not had an opportunity to review it. Therefore, COURT ORDERED, matter CONTINUED. If the Order is sufficient, the matter will be VACATED. CONTINUED TO: 02/11/20 8:30 AM ;

Matter Continued; Receipt of Order (12/10/19)

Order filed 02-07-2020

Order Submitted

Matter Continued; Receipt of Order (12/10/19)

Journal Entry Details:

The Court heard oral argument on Defendant Green Valley South Owners Association's Motion to Dismiss or, Alternatively, Motion for Partial Summary Judgment and Joinder on December 10, 2019. At that hearing, the Court Ordered the matter to be status checked for the receipt of an Order from Mr. Croteau. To date, no Order has been submitted; therefore, COURT ORDERED, this matter shall be CONTINUED to this Court's Oral Calendar; if the Order has been received, the status check will be VACATED. CONTINUED TO: 02/04/20 8:30 AM CLERK S NOTE: Counsel is to ensure a copy of the foregoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the listed Service Recipients in the Odyssey eFileNV system. ;

01/16/2020

Arbitration Hearing (7:00 AM)

06/01/2020



Mandatory Rule 16 Conference (11:00 AM) (Judicial Officer: Silva, Cristina D.)

Matter Heard;

Journal Entry Details:

Mr. Croteau and Ms. Isaacson appearing via BlueJeans. For the record, this Court's staff was notified by Brandon Wood, Esq., that he would not be present this morning as his flight was canceled. This is the time set for the Mandatory Rule 16 Conference. Court addressed the requirements of Rule 16. Counsel anticipate the trial will take two (2) to three (3) days; this action involves the recovery of monetary damages, punitive damages, attorney's fees, and interest related to the improper sale of property; no settlement conference has been requested. The Court advised that it has reviewed the Joint Case Conference Report (JCCR) and inquired as to whether the dates set out in the JCCR were realistic due to the COVID-19 pandemic; both counsel believe the dates are fine. COURT ORDERED, the dates in the JCCR would remain as is; a Schedule and Trial Order shall issue. Court noted that counsel are requesting a Bench Trial; colloquy as to whether this is a matter that could possibly resolve. Mr. Crotrau advised that, as it stands now, there is no possibility of resolution. Ms. Isaacson CONCURRED; however, these issues are before the Nevada Supreme Court at this time and if, in the near future, counsel receive some guidance from them, that may open the door later. ;

12/01/2020

Motion to Dismiss (9:00 AM) (Judicial Officer: Silva, Cristina D.)

Defendant Green Valley South Owners' Association's Renewed Motion to Dismiss, or Alternatively, Motion for Summary Judgment

Granted;

12/01/2020

Joinder (9:00 AM) (Judicial Officer: Silva, Cristina D.)

Events: 10/29/2020 Joinder to Motion For Partial Summary Judgment

Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners Association's Renewed Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment

Granted;

12/01/2020



All Pending Motions (9:00 AM) (Judicial Officer: Silva, Cristina D.)

Matter Heard;

Journal Entry Details:

Defendant Green Valley South Owners' Association's Renewed Motion to Dismiss, or Alternatively, Motion for Summary Judgment...Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners Association's Renewed Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment... Court noted matter is considered as a motion for Summary Judgment. Ms. Isaacson indicated the Court has determined that Plaintiff's arguments are invalid and they have no basis in law or fact. Upon Court's inquiry, Mr. Wood indicated he rests on the pleadings. Mr. Croteau argued in opposition of the motion.

CASE SUMMARY

CASE NO. A-19-791254-C

12/29/2020



Status Check (3:00 AM) (Judicial Officer: Lilly-Spells, Jasmin)

12/29/2020, 02/04/2021

Status Check: Submitted Draft of Order

Matter Continued; Status Check: Submitted Draft of Order

Off Calendar; Status Check: Submitted Draft of Order

Journal Entry Details:

The Status Check on Submission of an Order can before this Court on February 4, 2021. The Order was submitted for signature. The court signed a Findings of Fact, Conclusions of Law and Order on February 4, 2021. Thus, COURT ORDERED matter taken OFF CALENDAR. CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. // cbm 04/26/2021;

Matter Continued; Status Check: Submitted Draft of Order

Off Calendar; Status Check: Submitted Draft of Order

Journal Entry Details:

The Status Check on the submission of a proposed order came before this Court on the December 29, 2020 Chambers Calendar. To date , no proposed order has been filed. Therefore, COURT ORDERED matter CONTNUED to this Court s Oral Calendar on January 19, 2021 for an Order To Show Cause Hearing as to why counsel should not be held in contempt for failing to file the order. CLERK S NOTE: Counsel are to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the registered service recipients via Odyssey eFileNV E-Service (12/29/2020 ks).;

04/13/2021

CANCELED Calendar Call (9:00 AM) (Judicial Officer: Silva, Cristina D.)

Vacated - per Stipulation and Order

04/15/2021



Motion for Attorney Fees and Costs (3:00 AM) (Judicial Officer: Lilly-Spells, Jasmin)

Defendant Green Valley South Owner's Association's Motion for Attorney's Fees and Costs

Granted in Part; Defendant Green Valley South Owner's Association's Motion for Attorney's Fees and Costs

Journal Entry Details:

Defendant Green Valley South Owners Association s Motion for Attorney s Fees and Costs came before this court on April 15, 2021, Chamber s calendar. The procedural history is as follows: on December 1, 2020, the Court Granted Defendant Green Valley South Association s Motion to Dismiss, or Alternatively Motion for Summary Judgment. Defendant Green Valley South Owners Association filed the instant Motion for Attorney s Fees on February 23, 2021. Upon reviewing the motion, opposition, and exhibits contained therein, other relevant pleadings in the case, case law, and good cause appearing, the Court hereby GRANTS IN PART and DENIED IN PART Defendant Green Valley South Owners Association s Motion for Attorney s Fees and Costs. The Court DENIES the request for attorney s fees. Defendant argues that NRS 116.4117 provides that any person may bring a civil action for damages or other appropriate believe for the failure to comply with NRS Chapter 116 or the Homeowners Association s (HOA) Covenants, Conditions and Restrictions (CC&Rs). NRS 116.4117(1). Defendant further states that [t]he Court may award reasonable attorney s fees to the prevailing party. Motion at 3:7-10. This Court agrees with Defendant s restatement of the statute, however, finds that the instant case did not arise from a failure to comply with NRS Chapter 116 or a failure to comply with the HOA CC&Rs thereby Defendant is not a person whom the statute was meant to protect. Accordingly, Defendant s request for attorney fees pursuant to NRS 116.4117 is DENIED. Defendant Green Valley South Owners Association also seeks attorney s fees pursuant to NRS 18.010(2). NRS 18.010(2) allows for the award of attorney s fees to prevailing parties when: (1) the prevailing party has not recovered more than \$20,000 or (2) the court finds that the opposing party brought or maintained litigation without reasonable ground or to harass the prevailing party. A prevailing party is required to obtain a monetary judgment for recovery of attorney fees under NRS 18.010(2)(a). Singer v. Chase Manhattan Bank, 111 Nev. 289, 294, 890 P.2d 1305, 1308 (1995). In the instant matter, Defendant did not obtain a monetary judgment and therefore the request for attorney fees pursuant to NRS 18.010(2)(a) is DENIED. Further, if this Court were to find that attorney fees

CASE SUMMARY**CASE NO. A-19-791254-C**

were awardable, Defendant has presented billing for three (3) people but only presented a Brunzell analysis for one (1). In determining the amount of an award for attorney fees, the court looks to: (1) the qualities of the advocate: his/her ability, his/her training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; (4) the result: whether the attorney was successful and what benefits were derived. *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). Absent a Brunzell analysis for each person for whose services Defendant seeks an award, this Court cannot grant attorney fees for those persons. Defendant, Green Valley South Owners Association also seeks costs. A party who receives favor in a judgment and seeks costs must file a request for costs and serve a copy of the request for costs upon the adverse party, within five (5) days after the entry of judgment or at a further time as the court or judge grants. NRS 18.110. The court inadvertently filed the Findings of Fact, Conclusions of Law and Order regarding Defendant's Motion to Dismiss or Alternatively Summary of Judgement on February 4, 2021 and February 5, 2021. Defendant Green Valley South Owners Association filed Notice of Entry of Findings of Fact, Conclusions of Law and Order on referencing the February 5, 2021 entry of Findings of Fact on February 11 and February 16, 2021. The February 11, 2021 Notice did not include the Findings of Fact/Conclusions of Law/Order attached. The Court finds that the Defendant's Motion for Attorney's Fees and Costs was untimely; however the court has discretion to decide the motion on its merits. NRS 18.110. NRS 18.020(1) states that costs must be granted to the prevailing party against any adverse party against whom judgment is rendered in an action for the recovery of real property or a possessory right thereto. This Court further finds that Defendant was the prevailing party as described by NRS 18.020(1) and the request for costs is GRANTED. The determination of allowable costs is within the sound discretion of the trial court. However, statutes permitting the recovery of costs are to be strictly construed because they are in derogation of the common law. *Gibellini v. Klindt*, 110 Nev. 1201, 1205, 885 P.2d 540, 543 (1994). Pursuant to NRS 18.005, costs must be reasonable. Reasonable costs must be actual and reasonable not a reasonable estimate or calculation of such costs. *Gibellini*, 110 Nev. at 1206, 885 P.2d at 543. *Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1352, 971 P.2d 383, 385 86 (1998). The decision to award attorney's fees is within the sound discretion of the trial court. *Bergmann v. Boyce*, 109 Nev. 670, 674, 856 P.2d 560, 563 (1993). Having reviewed Defendant's expense report in light of NRS 18.005, the Court finds the request for \$930.69 as reasonable costs associated with this case. Defendant Green Valley South Owners Association, Inc. is ordered to submit Findings of Facts, Conclusions of Law and Order granting in part and denying in part the Defendant's Motion for Attorney's Fees and Costs, in both Word and PDF versions to DC23inbox@clarkcountycourts.us; after having Plaintiff review and approve as to form and content within 14 days pursuant to EDCR 7.21. The court filed a Findings of Fact, Conclusions of Law and Order on Defendant Green Valley South Owner's Association's Motion to Dismiss or Alternatively, Motion for Summary Judgement on February 4, 2021. On February 5, 2021 a duplicate was mistakenly filed under the belief that the February 4th order did not go through. The February 5, 2021 duplicate order is thereby ordered stricken from the record. The Defendants thereby filed Notice of Entry of Findings of Fact, Conclusions of Law and Order on Defendant Green Valley South Owners Associations Motion to Dismiss or Alternatively Motion for Summary Judgement on both February 11, 2021 and February 16th, 2021. Both of these filings reference the Order filed on February 5, 2021. The Notice of Entry filed on February 16, 2021, includes a copy of the Order whereas the one filed on February 11, 2021 does not. Therefore, COURT ADDITIONALLY ORDERED the Notice of Entry filed on February 11, 2021 is hereby STRICKEN from the record. CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. // cbm 05-17-2021;

04/19/2021	CANCELED Bench Trial (9:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Vacated - per Stipulation and Order</i>
01/25/2022	Pretrial/Calendar Call (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)
02/07/2022	Jury Trial (1:00 PM) (Judicial Officer: Lilly-Spells, Jasmin)

DATE**FINANCIAL INFORMATION**

Defendant Green Valley South Owners Association No. 1
 Total Charges
 Total Payments and Credits
Balance Due as of 9/7/2021

623.00
 623.00
0.00

CASE SUMMARY

CASE NO. A-19-791254-C

Defendant Nevada Association Services Inc

Total Charges 423.00

Total Payments and Credits 423.00

Balance Due as of 9/7/2021 0.00

Plaintiff Daisy Trust

Total Charges 318.00

Total Payments and Credits 318.00

Balance Due as of 9/7/2021 0.00

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

Case No. _____

(Assigned by Clerk's Office)

I. Party Information *(provide both home and mailing addresses if different)*

Plaintiff(s) (name/address/phone): <div style="text-align: center;">Daisy Trust</div> <div style="text-align: center;">c/o Roger P. Croteau & Associates, Ltd</div> <div style="text-align: center;">2810 W. Charleston Blvd., Ste. 75</div> <div style="text-align: center;">Las Vegas, NV 89102</div>	Defendant(s) (name/address/phone): <div style="text-align: center;">Green Valley South Owners Association No. 1</div> <div style="text-align: center;">Nevada Association Services</div>
Attorney (name/address/phone): <div style="text-align: center;">Roger P. Croteau, Esq. (SBN 4958)</div> <div style="text-align: center;">2810 W. Charleston Blvd., Ste. 75</div> <div style="text-align: center;">Las Vegas, NV 89148</div> <div style="text-align: center;">702-254-7775</div>	Attorney (name/address/phone):

CASE NO: A-19-791254-C
Department 8

II. Nature of Controversy *(please select the one most applicable filing type below)*

Civil Case Filing Types

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input checked="" type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate <i>(select case type and estate value)</i> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet

3/15/19

Date

Signature of initiating party or representative

See other side for family-related case filings.

LIPSON NEILSON P.C.
J. WILLIAM EBERT, ESQ.
Nevada Bar No. 2697
JANEEN V. ISAACSON, ESQ.
Nevada Bar No. 6429
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
bebert@lipsonneilson.com
jisaacson@lipsonneilson.com

*Attorneys for Defendant,
Green Valley South Owner's Association*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DAISEY TRUST, a Nevada trust

Plaintiff,

vs.

GREEN VALLEY SOUTH OWNERS
ASSOCIATION NO. 1, a Nevada non-
profit corporation; and NEVADA
ASSOCIATION SERVICES, INC., a
domestic corporation;

Defendants.

Case No.: A-19-791254-C
Dept.: XXIII

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER ON DEFENDANT
GREEN VALLEY SOUTH OWNER'S
ASSOCIATION'S MOTION FOR
ATTORNEY'S FEES AND COSTS**

On February 23, 2021, Defendant Green Valley South Owners Association No. 1 ("Green Valley" or the "HOA") filed its Motion for Attorney's Fees and Costs ("Motion"). On March 9, 2021, Plaintiff Daisey Trust ("Daisey Trust") filed its Opposition to the Motion. The parties submitted the matter to the Court in chambers.

The Court having reviewed the papers and pleadings, issues the following findings of fact, conclusions of law and order:

FINDINGS OF FACT

1. On February 4, 2021, the Court filed a Findings of Fact, Conclusions of Law and Order on Defendant Green Valley South Owner's Association's Motion to

1 Dismiss or Alternatively, Motion for Summary Judgment granting the Motion and
2 dismissing the lawsuit. The Findings of Fact and Conclusions of Law contained therein
3 are incorporated by reference.

4 2. The Court inadvertently filed the Findings of Fact, Conclusions of Law and
5 Order regarding Defendant's Motion to Dismiss or Alternatively Motion for Summary
6 Judgement on February 4, 2021 and February 5, 2021.

7 3. The Notice of Entry of Findings of Fact, Conclusions of Law and Order
8 enclosing a copy of the Court's Order regarding Defendant's Motion to Dismiss or
9 Alternatively Motion for Summary Judgement was filed on February 16, 2021.

10 4. Defendant's expense report contained a request for \$930.69 in costs
11 associated with the case.

12 **CONCLUSIONS OF LAW**

13 1. While NRS 116.4117 provides that any person may bring a civil action for
14 damages or other appropriate relief for the failure to comply with NRS Chapter 116 or
15 Covenants, Conditions and Restrictions (CC&R's), the Court finds that the instant case
16 did not arise from a failure to comply with NRS Chapter 116 or the HOA's CC&R's and
17 thereby Defendant is not a person whom the statute was meant to protect.

18 2. NRS 18.010(2) allows for the award of attorney's fees to prevailing parties
19 when: (1) the prevailing party has not recovered more than \$20,000 or (2) the Court
20 finds that the opposing party brought or maintained litigation without reasonable ground
21 or to harass the prevailing party. A prevailing party is required to obtain a monetary
22 judgment for recovery of attorney fees under NRS 18.010(2)(a). *Singer v. Chase*
23 *Manhattan Bank*, 111 Nev. 289, 294, 890 P.2d 1305, 1308 (1995). In the instant matter,
24 Defendant did not obtain a monetary judgment.

25 3. Further, if this Court were to find that attorney fees were awardable,
26 Defendant has presented billing for three (3) people but only presented a Brunzell
27 analysis for one (1) In determining the amount of an award for attorney fees, the Court
28 looks to: (1) the qualities of the advocate: his/her ability, his/her training, education,

1 experience, professional standing and skill; (2) the character of the work to be done: its
2 difficulty, its intricacy, its importance, time and skill required, the responsibility imposed
3 and the prominence and character of the parties where they affect the importance of the
4 litigation; (3) the work actually performed by the lawyer: the skill, time and attention
5 given to the work; (4) the result: whether the attorney was successful and what benefits
6 were derived. Brunzell v. Golden Gate Nat. Bank, 85 Nev. 345, 349, 455 P.2d 31, 33
7 (1969). Absent a Brunzell analysis for each person for whose services Defendant seeks
8 an award, this Court cannot grant attorney fees for those persons.

9 5. A party who receives favor in a judgment and seeks costs must file a
10 request for costs and serve a copy of the request for costs upon the adverse party,
11 within five (5) days after the entry of judgment or at a further time as the Court or Judge
12 grants. NRS 18.110. Defendant's Motion for Attorney's Fees and Costs was untimely;
13 however the Court has discretion to decide the motion on its merits. NRS 18.110. NRS
14 18.020(1) states that costs must be granted to the prevailing party against any adverse
15 party against whom judgment is rendered in an action for the recovery of real property
16 or a possessory right thereto.

17 6. The determination of allowable costs is within the sound discretion of the
18 trial Court. However, statutes permitting the recovery of costs are to be strictly
19 construed because they are in derogation of the common law." Gibellini v. Klindt, 110
20 Nev. 1201, 1205, 885 P.2d 540, 543 (1994). Pursuant to NRS 18.005, costs must be
21 reasonable. Reasonable costs must be actual and reasonable not a reasonable
22 estimate or calculation of such costs. Gibellini, 110 Nev. at 1206, 885 P.2d at 543."
23 Bobby Berosini, A-19-791254-C PRINT DATE: 05/17/2021 Page 3 of 3 Minutes Date:
24 April 15, 2021 Ltd. v. People for the Ethical Treatment of Animals, 114 Nev. 1348, 1352,
25 971 P.2d 383, 385-86 (1998). The decision to award attorney's fees is within the sound
26
27
28

discretion of the trial Court. Bergmann v. Boyce, 109 Nev. 670, 674, 856 P.2d 560, 563 (1993) Defendant's expert report, in light of NRS 18.005, is reasonable under statute.

ORDER

Defendant's Motion for Attorney Fees is **DENIED** but Defendant's Motion for Costs is **GRANTED** in the amount of \$930.69.

Dated this _____ day of June, 2021.

Dated this 28th day of July, 2021


HONORABLE JASMIN LILLY-SPELLS

Submitted by:

LIPSON NEILSON P.C.

E28 58E 32AB BCDF
Jasmin Lilly-Spells
District Court Judge

/s/ Janeen V. Isaacson

Janeen V. Isaacson, Esq. (Bar No.6429)
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144

Attorneys for Defendant
Green Valley Ranch South Owner's
Association

Approved as to form and Content

Approved as to form and content

ROGER P. CROTEAU & ASSOCATES

NEVADA ASSOCIATION SERVICES,
INC.

Christopher L. Benner

/s/ Brandon E. Wood

Roger P. Croteau, Esq. (Bar No. 4958)
Christopher L. Benner, Esq., (Bar No. 8963)
2810 W. Charleston Blvd., Suite 75
Las Vegas, Nevada 89102
Attorneys for Plaintiff, Daisy Trust

Brandon E. Wood, Esq.
6625 S. Valley View Blvd., Suite 300
Las Vegas, Nevada 89118
Attorneys for Nevada Association
Services, Inc.

Renee Rittenhouse

From: Janeen Isaacson
Sent: Friday, June 11, 2021 1:36 PM
To: Renee Rittenhouse
Subject: FW: FFCL Order on Motion for Attorney Fees and Costs - red lined changes - A-19-791254-C

From: Brandon Wood <brandon@nas-inc.com>
Sent: Friday, June 11, 2021 1:36 PM
To: Janeen Isaacson <jisaacson@lipsonneilson.com>; Susan Moses <susanm@nas-inc.com>
Subject: RE: FFCL Order on Motion for Attorney Fees and Costs - red lined changes - A-19-791254-C

Janeen,

You may use my electronic signature.

Due to the recent Nevada State Government directive, all visitors will be required to wear mask to enter our office front lobby. Our office is open during normal business hours Monday – Thursday 9-5, Friday 9-4:30 and closed for lunch from 12-1 daily. There is a drop-box available in front of our office during normal business hours and lunch. Should you want to meet with any team member to discuss your account please contact our office to make an appointment. Appointments are required.

Best,

Brandon E. Wood, Esq.

Nevada Association Services, Inc.
6625 S. Valley View Blvd. Suite 300
Las Vegas, NV 89118
702-804-8885 Office
702-804-8887 Fax



PERSONAL AND CONFIDENTIAL: Nevada Association Services, Inc. is a debt collector. Nevada Association Services, Inc. is attempting to collect a debt. Any information obtained will be used for that purpose. This message originates from Nevada Association Services, Inc. This message and any file(s) or attachment(s) transmitted with it are confidential, intended only for the named recipient, and may contain information that is a trade secret, proprietary, or is otherwise protected against unauthorized use or disclosure. Any disclosure, distribution, copying, or use of this information by anyone other than the intended recipient, regardless of address or routing, is strictly prohibited. Personal messages express only the view of the sender and are not attributable to Nevada Association Services, Inc.

From: Janeen Isaacson [<mailto:jisaacson@lipsonneilson.com>]
Sent: Friday, June 11, 2021 1:16 PM

To: Brandon Wood <brandon@nas-inc.com>; Susan Moses <susanm@nas-inc.com>

Subject: FW: FFCL Order on Motion for Attorney Fees and Costs - red lined changes

Brandon and Susan,

Can you approve the language?

From: Janeen Isaacson

Sent: Wednesday, June 9, 2021 4:21 PM

To: Renee Rittenhouse <rrittenhouse@lipsonneilson.com>

Subject: FW: FFCL Order on Motion for Attorney Fees and Costs - red lined changes

Please see below.

From: Janeen Isaacson

Sent: Wednesday, June 9, 2021 4:19 PM

To: Roger Croteau <rcroteau@croteaulaw.com>; 'Chris Benner' <chris@croteaulaw.com>

Subject: FFCL Order on Motion for Attorney Fees and Costs - red lined changes

Roger and Chris,

Attached please see the proposed Order in the above referenced matter. Can you let me know if it's ok to submit to the Court.

Sincerely,

Lipson|Neilson

Janeen V. Isaacson, Esq.

Lipson Neilson P.C.

9900 Covington Cross Drive, Suite 120

Las Vegas, Nevada 89144-7052

(702) 382-1500

(702) 382-1512 (fax)

E-Mail: jisaacson@lipsonneilson.com

Website: www.lipsonneilson.com

OFFICES IN NEVADA, COLORADO, ARIZONA & MICHIGAN

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Renee Rittenhouse

From: Janeen Isaacson
Sent: Thursday, June 10, 2021 8:04 PM
To: Renee Rittenhouse
Subject: FW: FFCL Order on Motion for Attorney Fees and Costs - red lined changes

Follow Up Flag: Follow up
Flag Status: Flagged

Please submit to the Court tomorrow. Thanks.

From: Chris Benner <chris@croteaulaw.com>
Sent: Thursday, June 10, 2021 7:32 PM
To: Janeen Isaacson <jisaacson@lipsonneilson.com>; Roger Croteau <rcroteau@croteaulaw.com>
Subject: RE: FFCL Order on Motion for Attorney Fees and Costs - red lined changes

Yes, please submit with my e-signature. Thank you.

Christopher L. Benner, Esq.
Roger P. Croteau & Associates
2810 Charleston Boulevard, No. H-75
Las Vegas, NV 89102
(702) 254-7775
chris@croteaulaw.com

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From: Janeen Isaacson <jisaacson@lipsonneilson.com>
Sent: Wednesday, June 09, 2021 4:19 PM
To: Roger Croteau <rcroteau@croteaulaw.com>; Chris Benner <chris@croteaulaw.com>
Subject: FFCL Order on Motion for Attorney Fees and Costs - red lined changes

Roger and Chris,

Attached please see the proposed Order in the above referenced matter. Can you let me know if it's ok to submit to the Court.

Sincerely,

Lipson|Neilson

Janeen V. Isaacson, Esq.
Lipson Neilson P.C.
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144-7052
(702) 382-1500
(702) 382-1512 (fax)
E-Mail: jisaacson@lipsonneilson.com
Website: www.lipsonneilson.com

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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Daisy Trust, Plaintiff(s)

CASE NO: A-19-791254-C

7 vs.

DEPT. NO. Department 23

8 Green Valley South Owners
9 Association No. 1, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the
14 court's electronic eFile system to all recipients registered for e-Service on the above entitled
15 case as listed below:

Service Date: 7/28/2021

16 J. William Ebert

bebert@lipsonneilson.com

17 Susana Nutt

snutt@lipsonneilson.com

18 Renee Rittenhouse

rrittenhouse@lipsonneilson.com

19 Brandon Wood

brandon@nas-inc.com

20 Roger Croteau

croteaulaw@croteaulaw.com

21 Susan Moses

susanm@nas-inc.com

22 Croteau Admin

receptionist@croteaulaw.com

23 Janeen Isaacson

JIsaacson@lipsonneilson.com

24 Christopher Benner

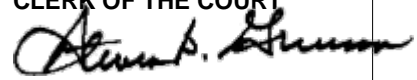
chris@croteaulaw.com

25

26

27

28



LIPSON NEILSON P.C.
J. WILLIAM EBERT, ESQ.
Nevada Bar No. 2697
JANEEN V. ISAACSON, ESQ.
Nevada Bar No. 6429
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
bebert@lipsonneilson.com
jisaacson@lipsonneilson.com

*Attorneys for Defendant,
Green Valley South Owner's Association*

DISTRICT COURT
CLARK COUNTY, NEVADA

DAISEY TRUST, a Nevada trust
Plaintiff,

vs.

GREEN VALLEY SOUTH OWNERS
ASSOCIATION NO. 1, a Nevada non-
profit corporation; and NEVADA
ASSOCIATION SERVICES, INC., a
domestic corporation;

Defendants.

Case No.: A-19-791254-C
Dept.: XVIII

NOTICE OF ENTRY ORDER

///

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1 PLEASE TAKE NOTICE that the Findings of Fact, Conclusions of Law and Order
2 on Defendant Green Valley South Owners Association's Motion for Attorney's Fees and
3 Costs was filed with the court this 28th day of July, 2021, a copy of which is attached.

4 DATED this 3rd day of August, 2021.

5 LIPSON NEILSON P.C.

6 */s/ Janeen Isaacson*

7 By:

J. William Ebert, Esq. (Bar No. 2697)
Janeen V. Isaacson, Esq. (Bar No. 6429)
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144

10 *Attorneys for Defendant,*
11 *Green Valley South Owners Association*
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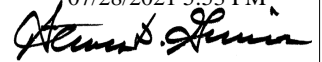
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and Administrative Order 14-2, on the 3rd day of August, 2021, I electronically transmitted the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ON DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION FOR ATTORNEY'S FEES AND COSTS** to the Clerk's Office using the Odyssey eFileNV & Serve system for filing and transmittal to the following Odyssey eFileNV& Serve registrants addressed to:

Brandon D. Wood, Esq. NEVADA ASSOCIATION SERVICES, INC. 6625 S. Valley View Blvd., Suite 300 Las Vegas, Nevada 89118 <i>Attorney for Nevada Association Services, Inc.</i>	Roger P. Croteau, Esq. Timothy E. Rhoda, Esq. ROGER P. CROTEAU & ASSOCIATES, LTD. 2810 W. Charleston Blvd., Suite 75 Las Vegas, NV 89148 <i>Attorneys for Plaintiff Daisy Trust</i>
---	---

Renee M. Rittenhouse

An Employee of LIPSON NEILSON P.C.


CLERK OF THE COURT

LIPSON NEILSON P.C.
J. WILLIAM EBERT, ESQ.
Nevada Bar No. 2697
JANEEN V. ISAACSON, ESQ.
Nevada Bar No. 6429
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
bebert@lipsonneilson.com
jisaacson@lipsonneilson.com

*Attorneys for Defendant,
Green Valley South Owner's Association*

DISTRICT COURT
CLARK COUNTY, NEVADA

DAISEY TRUST, a Nevada trust

Plaintiff,

vs.

GREEN VALLEY SOUTH OWNERS
ASSOCIATION NO. 1, a Nevada non-
profit corporation; and NEVADA
ASSOCIATION SERVICES, INC., a
domestic corporation;

Defendants.

Case No.: A-19-791254-C
Dept.: XXIII

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER ON DEFENDANT
GREEN VALLEY SOUTH OWNER'S
ASSOCIATION'S MOTION FOR
ATTORNEY'S FEES AND COSTS**

On February 23, 2021, Defendant Green Valley South Owners Association No. 1 ("Green Valley" or the "HOA") filed its Motion for Attorney's Fees and Costs ("Motion"). On March 9, 2021, Plaintiff Daisey Trust ("Daisey Trust") filed its Opposition to the Motion. The parties submitted the matter to the Court in chambers.

The Court having reviewed the papers and pleadings, issues the following findings of fact, conclusions of law and order:

FINDINGS OF FACT

1. On February 4, 2021, the Court filed a Findings of Fact, Conclusions of Law and Order on Defendant Green Valley South Owner's Association's Motion to

1 Dismiss or Alternatively, Motion for Summary Judgment granting the Motion and
2 dismissing the lawsuit. The Findings of Fact and Conclusions of Law contained therein
3 are incorporated by reference.

4 2. The Court inadvertently filed the Findings of Fact, Conclusions of Law and
5 Order regarding Defendant's Motion to Dismiss or Alternatively Motion for Summary
6 Judgement on February 4, 2021 and February 5, 2021.

7 3. The Notice of Entry of Findings of Fact, Conclusions of Law and Order
8 enclosing a copy of the Court's Order regarding Defendant's Motion to Dismiss or
9 Alternatively Motion for Summary Judgement was filed on February 16, 2021.

10 4. Defendant's expense report contained a request for \$930.69 in costs
11 associated with the case.

12 **CONCLUSIONS OF LAW**

13 1. While NRS 116.4117 provides that any person may bring a civil action for
14 damages or other appropriate relief for the failure to comply with NRS Chapter 116 or
15 Covenants, Conditions and Restrictions (CC&R's), the Court finds that the instant case
16 did not arise from a failure to comply with NRS Chapter 116 or the HOA's CC&R's and
17 thereby Defendant is not a person whom the statute was meant to protect.

18 2. NRS 18.010(2) allows for the award of attorney's fees to prevailing parties
19 when: (1) the prevailing party has not recovered more than \$20,000 or (2) the Court
20 finds that the opposing party brought or maintained litigation without reasonable ground
21 or to harass the prevailing party. A prevailing party is required to obtain a monetary
22 judgment for recovery of attorney fees under NRS 18.010(2)(a). *Singer v. Chase*
23 *Manhattan Bank*, 111 Nev. 289, 294, 890 P.2d 1305, 1308 (1995). In the instant matter,
24 Defendant did not obtain a monetary judgment.

25 3. Further, if this Court were to find that attorney fees were awardable,
26 Defendant has presented billing for three (3) people but only presented a Brunzell
27 analysis for one (1) In determining the amount of an award for attorney fees, the Court
28 looks to: (1) the qualities of the advocate: his/her ability, his/her training, education,

1 experience, professional standing and skill; (2) the character of the work to be done: its
2 difficulty, its intricacy, its importance, time and skill required, the responsibility imposed
3 and the prominence and character of the parties where they affect the importance of the
4 litigation; (3) the work actually performed by the lawyer: the skill, time and attention
5 given to the work; (4) the result: whether the attorney was successful and what benefits
6 were derived. Brunzell v. Golden Gate Nat. Bank, 85 Nev. 345, 349, 455 P.2d 31, 33
7 (1969). Absent a Brunzell analysis for each person for whose services Defendant seeks
8 an award, this Court cannot grant attorney fees for those persons.

9 5. A party who receives favor in a judgment and seeks costs must file a
10 request for costs and serve a copy of the request for costs upon the adverse party,
11 within five (5) days after the entry of judgment or at a further time as the Court or Judge
12 grants. NRS 18.110. Defendant's Motion for Attorney's Fees and Costs was untimely;
13 however the Court has discretion to decide the motion on its merits. NRS 18.110. NRS
14 18.020(1) states that costs must be granted to the prevailing party against any adverse
15 party against whom judgment is rendered in an action for the recovery of real property
16 or a possessory right thereto.

17 6. The determination of allowable costs is within the sound discretion of the
18 trial Court. However, statutes permitting the recovery of costs are to be strictly
19 construed because they are in derogation of the common law." Gibellini v. Klindt, 110
20 Nev. 1201, 1205, 885 P.2d 540, 543 (1994). Pursuant to NRS 18.005, costs must be
21 reasonable. Reasonable costs must be actual and reasonable not a reasonable
22 estimate or calculation of such costs. Gibellini, 110 Nev. at 1206, 885 P.2d at 543."
23 Bobby Berosini, A-19-791254-C PRINT DATE: 05/17/2021 Page 3 of 3 Minutes Date:
24 April 15, 2021 Ltd. v. People for the Ethical Treatment of Animals, 114 Nev. 1348, 1352,
25 971 P.2d 383, 385–86 (1998). The decision to award attorney's fees is within the sound
26
27
28

discretion of the trial Court. Bergmann v. Boyce, 109 Nev. 670, 674, 856 P.2d 560, 563 (1993) Defendant's expert report, in light of NRS 18.005, is reasonable under statute.

ORDER

Defendant's Motion for Attorney Fees is **DENIED** but Defendant's Motion for Costs is **GRANTED** in the amount of \$930.69.

Dated this _____ day of June, 2021.

Dated this 28th day of July, 2021


HONORABLE JASMIN LILLY-SPELLS

Submitted by:

LIPSON NEILSON P.C.

E28 58E 32AB BCDF
Jasmin Lilly-Spells
District Court Judge

/s/ Janeen V. Isaacson

Janeen V. Isaacson, Esq. (Bar No.6429)
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144

Attorneys for Defendant
Green Valley Ranch South Owner's
Association

Approved as to form and Content

Approved as to form and content

ROGER P. CROTEAU & ASSOCATES

NEVADA ASSOCIATION SERVICES,
INC.

Christopher L. Benner

/s/ Brandon E. Wood

Roger P. Croteau, Esq. (Bar No. 4958)
Christopher L. Benner, Esq., (Bar No. 8963)
2810 W. Charleston Blvd., Suite 75
Las Vegas, Nevada 89102
Attorneys for Plaintiff, Daisy Trust

Brandon E. Wood, Esq.
6625 S. Valley View Blvd., Suite 300
Las Vegas, Nevada 89118
Attorneys for Nevada Association
Services, Inc.

Renee Rittenhouse

From: Janeen Isaacson
Sent: Friday, June 11, 2021 1:36 PM
To: Renee Rittenhouse
Subject: FW: FFCL Order on Motion for Attorney Fees and Costs - red lined changes - A-19-791254-C

From: Brandon Wood <brandon@nas-inc.com>
Sent: Friday, June 11, 2021 1:36 PM
To: Janeen Isaacson <jisaacson@lipsonneilson.com>; Susan Moses <susanm@nas-inc.com>
Subject: RE: FFCL Order on Motion for Attorney Fees and Costs - red lined changes - A-19-791254-C

Janeen,

You may use my electronic signature.

Due to the recent Nevada State Government directive, all visitors will be required to wear mask to enter our office front lobby. Our office is open during normal business hours Monday – Thursday 9-5, Friday 9-4:30 and closed for lunch from 12-1 daily. There is a drop-box available in front of our office during normal business hours and lunch. Should you want to meet with any team member to discuss your account please contact our office to make an appointment. Appointments are required.

Best,

Brandon E. Wood, Esq.

Nevada Association Services, Inc.
6625 S. Valley View Blvd. Suite 300
Las Vegas, NV 89118
702-804-8885 Office
702-804-8887 Fax



PERSONAL AND CONFIDENTIAL: Nevada Association Services, Inc. is a debt collector. Nevada Association Services, Inc. is attempting to collect a debt. Any information obtained will be used for that purpose. This message originates from Nevada Association Services, Inc. This message and any file(s) or attachment(s) transmitted with it are confidential, intended only for the named recipient, and may contain information that is a trade secret, proprietary, or is otherwise protected against unauthorized use or disclosure. Any disclosure, distribution, copying, or use of this information by anyone other than the intended recipient, regardless of address or routing, is strictly prohibited. Personal messages express only the view of the sender and are not attributable to Nevada Association Services, Inc.

From: Janeen Isaacson [<mailto:jisaacson@lipsonneilson.com>]
Sent: Friday, June 11, 2021 1:16 PM

To: Brandon Wood <brandon@nas-inc.com>; Susan Moses <susanm@nas-inc.com>

Subject: FW: FFCL Order on Motion for Attorney Fees and Costs - red lined changes

Brandon and Susan,

Can you approve the language?

From: Janeen Isaacson

Sent: Wednesday, June 9, 2021 4:21 PM

To: Renee Rittenhouse <rittenhouse@lipsonneilson.com>

Subject: FW: FFCL Order on Motion for Attorney Fees and Costs - red lined changes

Please see below.

From: Janeen Isaacson

Sent: Wednesday, June 9, 2021 4:19 PM

To: Roger Croteau <rcroteau@croteaulaw.com>; 'Chris Benner' <chris@croteaulaw.com>

Subject: FFCL Order on Motion for Attorney Fees and Costs - red lined changes

Roger and Chris,

Attached please see the proposed Order in the above referenced matter. Can you let me know if it's ok to submit to the Court.

Sincerely,

Lipson|Neilson

Janeen V. Isaacson, Esq.

Lipson Neilson P.C.

9900 Covington Cross Drive, Suite 120

Las Vegas, Nevada 89144-7052

(702) 382-1500

(702) 382-1512 (fax)

E-Mail: jisaacson@lipsonneilson.com

Website: www.lipsonneilson.com

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Renee Rittenhouse

From: Janeen Isaacson
Sent: Thursday, June 10, 2021 8:04 PM
To: Renee Rittenhouse
Subject: FW: FFCL Order on Motion for Attorney Fees and Costs - red lined changes

Follow Up Flag: Follow up
Flag Status: Flagged

Please submit to the Court tomorrow. Thanks.

From: Chris Benner <chris@croteaulaw.com>
Sent: Thursday, June 10, 2021 7:32 PM
To: Janeen Isaacson <jisaacson@lipsonneilson.com>; Roger Croteau <rcroteau@croteaulaw.com>
Subject: RE: FFCL Order on Motion for Attorney Fees and Costs - red lined changes

Yes, please submit with my e-signature. Thank you.

Christopher L. Benner, Esq.
Roger P. Croteau & Associates
2810 Charleston Boulevard, No. H-75
Las Vegas, NV 89102
(702) 254-7775
chris@croteaulaw.com

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From: Janeen Isaacson <jisaacson@lipsonneilson.com>
Sent: Wednesday, June 09, 2021 4:19 PM
To: Roger Croteau <rcroteau@croteaulaw.com>; Chris Benner <chris@croteaulaw.com>
Subject: FFCL Order on Motion for Attorney Fees and Costs - red lined changes

Roger and Chris,

Attached please see the proposed Order in the above referenced matter. Can you let me know if it's ok to submit to the Court.

Sincerely,

Lipson|Neilson

Janeen V. Isaacson, Esq.
Lipson Neilson P.C.
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144-7052
(702) 382-1500
(702) 382-1512 (fax)
E-Mail: jisaacson@lipsonneilson.com
Website: www.lipsonneilson.com

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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Daisy Trust, Plaintiff(s)

CASE NO: A-19-791254-C

7 vs.

DEPT. NO. Department 23

8 Green Valley South Owners
9 Association No. 1, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the
14 court's electronic eFile system to all recipients registered for e-Service on the above entitled
15 case as listed below:

Service Date: 7/28/2021

16 J. William Ebert

bebert@lipsonneilson.com

17 Susana Nutt

snutt@lipsonneilson.com

18 Renee Rittenhouse

rrittenhouse@lipsonneilson.com

19 Brandon Wood

brandon@nas-inc.com

20 Roger Croteau

croteaulaw@croteaulaw.com

21 Susan Moses

susanm@nas-inc.com

22 Croteau Admin

receptionist@croteaulaw.com

23 Janeen Isaacson

JIsaacson@lipsonneilson.com

24 Christopher Benner

chris@croteaulaw.com

25

26

27

28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

November 12, 2019

A-19-791254-C Daisy Trust, Plaintiff(s)
vs.
Green Valley South Owners Association No. 1, Defendant(s)

November 12, 2019 8:30 AM All Pending Motions

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Croteau, Roger P, ESQ Attorney
 Wong, Jonathan K. Attorney

JOURNAL ENTRIES

- ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT . . . NEVADA ASSOCIATION SERVICES, INC.'S JOINDER TO DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR, ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT

This is the time set for hearing on the above-named motions. Mr. Croteau advised that a Stipulation and Order to extend Deadlines and Continue the hearing was signed and circulated by counsel; the Court advised that the Stipulation and Order has not been submitted to the Court for consideration. Mr. Wong CONCURRED; it appears that the Motions have been continued to December 10, 2019. Therefore, COURT ORDERED, Motions OFF CALENDAR.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

December 10, 2019

A-19-791254-C	Daisy Trust, Plaintiff(s) vs. Green Valley South Owners Association No. 1, Defendant(s)
---------------	---

December 10, 2019 8:30 AM All Pending Motions

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Croteau, Roger P, ESQ	Attorney
	Isaacson, Janeen V.	Attorney

JOURNAL ENTRIES

- DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR, ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT....NEVADA ASSOCIATION SERVICES, INC.'S JOINDER TO DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR, ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT

Upon Court's inquiry regarding misrepresentations Green Valley South made, Mr. Croteau stated both these complaints were drafted against both the HOA and HOA trustee. The agent of the HOA is the HOA trustee; the HOA trustee sold the property at the foreclosure sale. There were allegations of inquiry and attempts to ascertain whether or not a payment was made. The misrepresentation was they failed to disclose facts, pursuant to NRS 116.113. Upon Court's inquiry regarding the fact that there were no warranties on the property, Mr. Croteau stated basically the deed was without warranty as to many issues, but not things known by the HOA and HOA trustee. Colloquy regarding case law. Following arguments by counsel, Court advised it does not believe there is a basis to maintain an action for civil conspiracy between the HOA and the HOA trustee. For purposes

of this argument, it was considering this as a Motion to Dismiss, not a Motion for Summary Judgement for the civil conspiracy. COURT ORDERED, Motion GRANTED.

As to misrepresentations, Court stated the issue it has was proof of the misrepresentation. As to punitive damages, Court advised it does not see how it applies in this matter. Arguments by counsel. Court advised there was not enough information to say there was an intentional misrepresentation, which would rise to the level of fraud. Court advised it was going to allow the litigation to continue as to that issue, specifically, the misrepresentation. Mr. Croteau to submit a written order, approved as to form and content by opposing counsel. Ms. Isaacson stated they have an arbitration scheduled in January. COURT ORDERED, matter SET for status check regarding receipt of order.

1/6/20 (CHAMBERS) STATUS CHECK: RECEIPT OF ORDER (12/10/19)

CLERK'S NOTE: The foregoing minute order was prepared by court clerk Louisa Garcia via review of the JAVS recording. /lg 12-16-19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

January 06, 2020

A-19-791254-C	Daisy Trust, Plaintiff(s) vs. Green Valley South Owners Association No. 1, Defendant(s)
---------------	---

January 06, 2020	3:00 AM	Status Check	Receipt of Order (12/10/19)
------------------	---------	--------------	--------------------------------

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court heard oral argument on Defendant Green Valley South Owners Association's Motion to Dismiss or, Alternatively, Motion for Partial Summary Judgment and Joinder on December 10, 2019. At that hearing, the Court Ordered the matter to be status checked for the receipt of an Order from Mr. Croteau.

To date, no Order has been submitted; therefore, COURT ORDERED, this matter shall be CONTINUED to this Court's Oral Calendar; if the Order has been received, the status check will be VACATED.

CONTINUED TO: 02/04/20 8:30 AM

CLERK S NOTE: Counsel is to ensure a copy of the foregoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the listed Service Recipients in the Odyssey eFileNV system.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

February 04, 2020

A-19-791254-C	Daisy Trust, Plaintiff(s)
	vs.
	Green Valley South Owners Association No. 1, Defendant(s)

February 04, 2020	8:30 AM	Status Check	Receipt of Order (12/10/19)
-------------------	---------	--------------	--------------------------------

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- This is the time set for the Status Check on Receipt of the Order from December 10, 2019. Court noted that an Order was submitted yesterday (February 3); however, the Court has not had an opportunity to review it. Therefore, COURT ORDERED, matter CONTINUED. If the Order is sufficient, the matter will be VACATED.

CONTINUED TO: 02/11/20 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

June 01, 2020

A-19-791254-C	Daisy Trust, Plaintiff(s) vs. Green Valley South Owners Association No. 1, Defendant(s)
---------------	---

June 01, 2020	11:00 AM	Mandatory Rule 16 Conference
----------------------	-----------------	---

HEARD BY: Silva, Cristina D.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Croteau, Roger P, ESQ Isaacson, Janeen V.	Attorney Attorney
-----------------	--	----------------------

JOURNAL ENTRIES

- Mr. Croteau and Ms. Isaacson appearing via BlueJeans. For the record, this Court's staff was notified by Brandon Wood, Esq., that he would not be present this morning as his flight was canceled.

This is the time set for the Mandatory Rule 16 Conference. Court addressed the requirements of Rule 16. Counsel anticipate the trial will take two (2) to three (3) days; this action involves the recovery of monetary damages, punitive damages, attorney's fees, and interest related to the improper sale of property; no settlement conference has been requested.

The Court advised that it has reviewed the Joint Case Conference Report (JCCR) and inquired as to whether the dates set out in the JCCR were realistic due to the COVID-19 pandemic; both counsel believe the dates are fine.

COURT ORDERED, the dates in the JCCR would remain as is; a Schedule and Trial Order shall issue. Court noted that counsel are requesting a Bench Trial; colloquy as to whether this is a matter that could possibly resolve. Mr. Crotrau advised that, as it stands now, there is no possibility of

resolution. Ms. Isaacson CONCURRED; however, these issues are before the Nevada Supreme Court at this time and if, in the near future, counsel receive some guidance from them, that may open the door later.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

December 01, 2020

A-19-791254-C	Daisy Trust, Plaintiff(s) vs. Green Valley South Owners Association No. 1, Defendant(s)
---------------	---

December 01, 2020 9:00 AM All Pending Motions

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Nylasia Packer

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Croteau, Roger P, ESQ	Attorney
	Isaacson, Janeen V.	Attorney
	Wood, Brandon E.	Attorney

JOURNAL ENTRIES

- Defendant Green Valley South Owners' Association's Renewed Motion to Dismiss, or Alternatively, Motion for Summary Judgment...Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners Association's Renewed Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment...

Court noted matter is considered as a motion for Summary Judgment. Ms. Isaacson indicated the Court has determined that Plaintiff's arguments are invalid and they have no basis in law or fact. Upon Court's inquiry, Mr. Wood indicated he rests on the pleadings. Mr. Croteau argued in opposition of the motion. Following further arguments by counsel, Court stated its findings and ORDERED, motion GRANTED. Ms. Isaacson to draft a finding and facts and conclusions of law order and provide to Mr. Croteau for review prior to sending to chambers for review. FURTHER ORDERED, status check SET for chambers.

12/29/20 (CHAMBERS) STATUS CHECK: SUBMITTED DRAFT

PRINT DATE: 09/07/2021

Page 8 of 13

Minutes Date: November 12, 2019

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct**COURT MINUTES****December 29, 2020**

A-19-791254-C Daisy Trust, Plaintiff(s)
vs.
Green Valley South Owners Association No. 1, Defendant(s)

**December 29, 2020 3:00 AM Status Check Status Check:
Submitted Draft of
Order**

HEARD BY: Silva, Cristina D. **COURTROOM:** Chambers

COURT CLERK: Kory Schlitz

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Status Check on the submission of a proposed order came before this Court on the December 29, 2020 Chambers Calendar. To date , no proposed order has been filed. Therefore, COURT ORDERED matter CONTNUED to this Court s Oral Calendar on January 19, 2021 for an Order To Show Cause Hearing as to why counsel should not be held in contempt for failing to file the order.

CLERK S NOTE: Counsel are to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the registered service recipients via Odyssey eFileNV E-Service (12/29/2020 ks).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

February 04, 2021

A-19-791254-C	Daisy Trust, Plaintiff(s) vs. Green Valley South Owners Association No. 1, Defendant(s)
---------------	---

February 04, 2021	3:00 AM	Status Check	Status Check: Submitted Draft of Order
-------------------	---------	--------------	--

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** Chambers

COURT CLERK: Carina Bracamontez-Munguia

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Status Check on Submission of an Order can before this Court on February 4, 2021. The Order was submitted for signature. The court signed a Findings of Fact, Conclusions of Law and Order on February 4, 2021. Thus, COURT ORDERED matter taken OFF CALENDAR.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. // cbm
04/26/2021

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct**COURT MINUTES****April 15, 2021**

A-19-791254-C	Daisy Trust, Plaintiff(s) vs. Green Valley South Owners Association No. 1, Defendant(s)
---------------	---

April 15, 2021	3:00 AM	Motion for Attorney Fees and Costs	Defendant Green Valley South Owner's Association's Motion for Attorney's Fees and Costs
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HEARD BY: Lilly-Spells, Jasmin**COURTROOM:** Chambers**COURT CLERK:** Carina Bracamontez-Munguia**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Defendant Green Valley South Owners Association s Motion for Attorney s Fees and Costs came before this court on April 15, 2021, Chamber s calendar.

The procedural history is as follows: on December 1, 2020, the Court Granted Defendant Green Valley South Association s Motion to Dismiss, or Alternatively Motion for Summary Judgment. Defendant Green Valley South Owners Association filed the instant Motion for Attorney s Fees on February 23, 2021. Upon reviewing the motion, opposition, and exhibits contained therein, other relevant pleadings in the case, case law, and good cause appearing, the Court hereby GRANTS IN PART and DENIED IN PART Defendant Green Valley South Owners Association s Motion for Attorney s Fees and Costs.

The Court DENIES the request for attorney s fees. Defendant argues that NRS 116.4117 provides that

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any person may bring a civil action for damages or other appropriate believe for the failure to comply with NRS Chapter 116 or the Homeowners Association s (HOA) Covenants, Conditions and Restrictions (CC&Rs). NRS 116.4117(1). Defendant further states that [t]he Court may award reasonable attorney s fees to the prevailing party. Motion at 3:7-10. This Court agrees with Defendant s restatement of the statute, however, finds that the instant case did not arise from a failure to comply with NRS Chapter 116 or a failure to comply with the HOA CC&Rs thereby Defendant is not a person whom the statute was meant to protect. Accordingly, Defendant s request for attorney fees pursuant to NRS 116.4117 is DENIED.

Defendant Green Valley South Owners Association also seeks attorney s fees pursuant to NRS 18.010(2). NRS 18.010(2) allows for the award of attorney s fees to prevailing parties when: (1) the prevailing party has not recovered more than \$20,000 or (2) the court finds that the opposing party brought or maintained litigation without reasonable ground or to harass the prevailing party. A prevailing party is required to obtain a monetary judgment for recovery of attorney fees under NRS 18.010(2)(a). *Singer v. Chase Manhattan Bank*, 111 Nev. 289, 294, 890 P.2d 1305, 1308 (1995). In the instant matter, Defendant did not obtain a monetary judgment and therefore the request for attorney fees pursuant to NRS 18.010(2)(a) is DENIED.

Further, if this Court were to find that attorney fees were awardable, Defendant has presented billing for three (3) people but only presented a Brunzell analysis for one (1). In determining the amount of an award for attorney fees, the court looks to: (1) the qualities of the advocate: his/her ability, his/her training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; (4) the result: whether the attorney was successful and what benefits were derived. *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). Absent a Brunzell analysis for each person for whose services Defendant seeks an award, this Court cannot grant attorney fees for those persons.

Defendant, Green Valley South Owners Association also seeks costs. A party who receives favor in a judgment and seeks costs must file a request for costs and serve a copy of the request for costs upon the adverse party, within five (5) days after the entry of judgment or at a further time as the court or judge grants. NRS 18.110. The court inadvertently filed the Findings of Fact, Conclusions of Law and Order regarding Defendant s Motion to Dismiss or Alternatively Summary of Judgement on February 4, 2021 and February 5, 2021. Defendant Green Valley South Owners Association filed Notice of Entry of Findings of Fact, Conclusions of Law and Order on referencing the February 5, 2021 entry of Findings of Fact on February 11 and February 16, 2021. The February 11, 2021 Notice did not include the Findings of Fact/Conclusions of Law/Order attached. The Court finds that the Defendant s Motion for Attorney s Fees and Costs was untimely; however the court has discretion to decide the motion on its merits. NRS 18.110. NRS 18.020(1) states that costs must be granted to the prevailing party against any adverse party against whom judgment is rendered in an action for the recovery of real property or a possessory right thereto. This Court further finds that Defendant was

the prevailing party as described by NRS 18.020(1) and the request for costs is GRANTED.

The determination of allowable costs is within the sound discretion of the trial court. However, statutes permitting the recovery of costs are to be strictly construed because they are in derogation of the common law. *Gibellini v. Klindt*, 110 Nev. 1201, 1205, 885 P.2d 540, 543 (1994). Pursuant to NRS 18.005, costs must be reasonable. Reasonable costs must be actual and reasonable not a reasonable estimate or calculation of such costs. *Gibellini*, 110 Nev. at 1206, 885 P.2d at 543. *Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1352, 971 P.2d 383, 385 86 (1998). The decision to award attorney's fees is within the sound discretion of the trial court. *Bergmann v. Boyce*, 109 Nev. 670, 674, 856 P.2d 560, 563 (1993). Having reviewed Defendant's expense report in light of NRS 18.005, the Court finds the request for \$930.69 as reasonable costs associated with this case.

Defendant Green Valley South Owners Association, Inc. is ordered to submit Findings of Facts, Conclusions of Law and Order granting in part and denying in part the Defendant's Motion for Attorney's Fees and Costs, in both Word and PDF versions to DC23inbox@clarkcountycourts.us; after having Plaintiff review and approve as to form and content within 14 days pursuant to EDCR 7.21.

The court filed a Findings of Fact, Conclusions of Law and Order on Defendant Green Valley South Owner's Association's Motion to Dismiss or Alternatively, Motion for Summary Judgement on February 4, 2021. On February 5, 2021 a duplicate was mistakenly filed under the belief that the February 4th order did not go through. The February 5, 2021 duplicate order is thereby ordered stricken from the record. The Defendants thereby filed Notice of Entry of Findings of Fact, Conclusions of Law and Order on Defendant Green Valley South Owners Association's Motion to Dismiss or Alternatively Motion for Summary Judgement on both February 11, 2021 and February 16th, 2021. Both of these filings reference the Order filed on February 5, 2021. The Notice of Entry filed on February 16, 2021, includes a copy of the Order whereas the one filed on February 11, 2021 does not. Therefore, COURT ADDITIONALLY ORDERED the Notice of Entry filed on February 11, 2021 is hereby STRICKEN from the record.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. // cbm 05-17-2021



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

ROGER P. CROTEAU, ESQ.
2810 W. CHARLESTON BLVD., STE 75
LAS VEGAS, NV 89102

DATE: September 7, 2021
CASE: A-19-791254-C

RE CASE: DAISY TRUST vs. GREEN VALLEY SOUTH OWNERS ASSOCIATIONS NO. 1; NEVADA
ASSOCIATION SERVICES, INC.

NOTICE OF APPEAL FILED: September 2, 2021

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

***Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.*

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ON DEFENDANT GREEN VALLEY SOUTH OWNER'S ASSOCIATION'S MOTION FOR ATTORNEY'S FEES AND COSTS; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

DAISY TRUST,

Plaintiff(s),

vs.

GREEN VALLEY SOUTH OWNERS
ASSOCIATIONS NO. 1; NEVADA
ASSOCIATION SERVICES, INC.,

Defendant(s),

Case No: A-19-791254-C

Dept No: XXIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 7 day of September 2021.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

