

FILED

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEC 30 2021

ALLA ZORIKOVA

Appellant.

vs. TAMMY WILLET,  
JULIE PYLE, VEGAS SHEPHERD RESCUE

Respondent.

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *S. Young*  
DEPUTY CLERK

Supreme Court No. 83478

District Court No. A821249

### APPELLANT'S INFORMAL BRIEF

**INSTRUCTIONS:** If you are an appellant proceeding pro se (without an attorney) in the Nevada Supreme Court, you must file either (1) a brief that complies with Nevada Rule of Appellate Procedure (NRAP) 28(a), or (2) a completed copy of this informal brief form, see NRAP 28(k), with the Nevada Supreme Court on or before the due date, see NRAP 31. In civil appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court may dismiss your appeal. In postconviction criminal appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court or Nevada Court of Appeals may decide your appeal on the record without briefing.

**HOW TO FILL OUT THIS FORM:** This form must be typed, unless you are incarcerated, in which case it must be clearly handwritten. You do not need to refer to legal authority or the district court record. If you are completing your brief on this form, write only in the space allowed on the form. **Additional pages and attachments are not allowed.** If typing an informal brief, you may either use the lined paper contained in this form or an equivalent number of pages of your own paper. Your brief will be stricken if you fail to follow the directions in this form and the Nevada Rules of Appellate Procedure.

**WHERE TO FILE THE BRIEF:** You may submit your brief for filing in person or by mail.

**To file your brief in person:** Briefs may be submitted for filing Monday through Friday, 8:00 a.m. to 4:00 p.m.

**Carson City:** Bring the brief to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada, 89701.

**Las Vegas:** Place your brief in the Clerk's Office Drop Box at the Las Vegas courthouse for the Nevada Appellate Courts, 408 East Clark Avenue, Las Vegas, Nevada, 89101.

Informal Brief Form October 2017

21-37237

**To file your brief by mail:** Mail the brief to the Clerk of the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada 89701. **Your brief must be postmarked on or before the due date.**

You must file the original brief and 1 copy with the clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your brief, you must file the original form and 2 copies and include a self-addressed, stamped envelope. Documents cannot be faxed or emailed to the Supreme Court Clerk's Office.

Copies of the brief must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also include a proper certificate of service or complete the certificate that is attached to the informal brief form.

**CAUTION:** Pro se parties are prohibited from representing other parties. A pro se party may not complete a brief on behalf of other parties. Pro se parties may collaborate on their briefs, however, provided that if one brief is submitted on behalf of multiple pro se parties, each party must sign and date the brief to confirm that he or she has participated in the preparation of the brief and, by his or her signature, joins in the arguments and representations contained therein.

**Judgment or Order You Are Appealing.** List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
09/02/2021	ORDER TO DISMISS CASE WITH PREJUDICE

**Notice of Appeal.** Give the date you filed your notice of appeal in the district court: 09/04/2021

**Related Cases.** List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
5:21-CV-1691	ALLA ZORIKOVA VS CASEY GISH	Federal Central District CA
CIVDS2017383	ZORIKOVA VS LAMEY, PEASE	San Bernardino Superior
37202000036459	ZORIKOVA VS PEASE	San Diego 8th District

**Pro Bono Counsel.** Would you be interested in having pro bono counsel assigned to represent you in this appeal?

☐ Yes ☒ No

**NOTE:** If the court determines that your case may be appropriate for having pro bono counsel assigned, an appropriate order will be entered. Assignment of pro bono counsel is not automatic.

**Statement of Facts.** Explain the facts of your case. (Your answer must be provided in the space allowed.)

This is an appeal from Order of Dismissal Appellant's Complaint with prejudice by District Court from September 02 of 2021. The district court's findings of fact were clearly erroneous and are not supported by substantial evidence.

On September 15, 2020 Appellant filed her complaint against Julie Pyle, Tammy Willet, and Vegas Shepherd Rescue. Complaint alleges 6 causes of action, including theft, civil conspiracy, property damage, intentional infliction of emotional distress, fraud and trespass.

Appellant was falsely detained on August 08 of 2020 (never been arrested by definition of CA Criminal Code as falsely claimed by Respondents in each of their pleadings), no charges have been filed by District attorney, case was turned down in 2020 and dismissed. County paid \$325,000 to Appellant in settlement as compensation for deputy's mistake and wrongdoing.

Animal Control officers arrived on 08/08/2020, 08/17/2020 and in October of 2020 always found

all dogs to be in good health, not distressed, having proper shelter and water and therefore on 08/08/2020, they had to wait 48 hr looking for the owners before they are legally would be allowed to take the dogs into shelter if owners are not found (were detained).

Animal Control arrived onto property on August 09 of 2020, fed the dogs.

Animal Control arrived onto property on August 10 of 2020, and discovered that 25 german shepherds, including young puppies (valued over \$1,000,000) were missing. Later they discovered Appellant's dogs in possession of Respondents in Las Vegas, NV.

When Appellant picked up her dogs from Animal Shelter on August 12 of 2020, animal control staff told her that missing 25 dogs without authorization were transported by Lamey in CA and by Respondents and other entities to Las Vegas.

In August of 2020 Sheriffs of San Bernardino county and LVPD started their investigation into stolen Appellant's dogs.

3 different state judges issued search warrants and detectives visited residences of some of the Respondents. Criminal investigation on stolen Appellant's dogs have been completed in August of 2021 (police report # 082001074) and case is still in Victorville's DA Office under review. Appellant filed her Complaint.

Appellant hired Olivia Jeong, dully qualified by NRCP 4, to serve Summons and related documents upon Respondents. Olivia Jeong timely served documents on October 5 and 9 of 2020 and submitted her Affidavits of Service and later Declaration of Service to the Appellant. Ms Jeong confirmed the same during her testimony on August 18 of 2021.

By NCRP 4 Appellant has duty to serve summons through qualified server from whom Appellant will receive Affidavits of Service. There is no NRCP can be found by which Respondent has neither privilege, nor right, nor duty to disclose to the Court if Respondent has been served or not, because it's clearly NOT in Respondent's interest to admit being serve. Only 3<sup>rd</sup> independent party (such as qualified server Olivia Jeong) by law is qualified to fill out Affidavits of Service and only server's, not Respondent's statement of service has weight as evidence of service.

Appellant visited place of service upon Respondents on October 6 of 2020. Respondents received sufficient notice of the complaint. Respondents responded to Appellant's pleadings and yourself filed multiple pleadings.

Claimed lack of service is not prejudicial to Respondents for this reason. Appellant filed Ms Jeong's Affidavits of Service with District Court in December of 2020 for both cases: case by Judge Johnson and for related case by Nancy Alf.

Appellant refiled those Affidavits in June of 2021 for case by Judge Johnson after her surprising discovery that Affidavits for case by Judge Alf was reflected on dockets from December of 2020, while for case by Judge Johnson were not. Again, Respondents replied to Appellant's pleadings, attended hearings, filed multiple motions from January of 2021 to present.

Appellant's ExParte application to return her dogs have been scheduled for hearing in June of 2021. Judge Johnson ordered Appellant to prepare Proposed Order. Appellant filed Motion for Sanction for Respondent's false representations to the Court. Here Respondent

decides to fabricate "Appellant's false service of Summons" and while NOT a SINGLE alleged "false statement" by Appellant, especially supported by evidence, not speaking about clear and convincing evidence neither was, nor could be found, Respondent attempting to frame Appellant by fabricating Appellant's "false statements" and baselessly requests to dismiss the case with prejudice.

Later Appellant had requested "statement of facts of alleged "falsity"" be provided by Court, Court failed to provide statements – because there were none of such statements. There were no any facts of alleged "false statements" by Appellant nor her witness provided during that evidentiary hearing.

In Court's final order Court just referred to "false statements" without stating it.

Appellant filed Affidavit of Prejudice on October 08 of 2021. Judge Johnson failed to recuse himself and continued to rule on motions.

Notice of Appeal has been timely filed on Sept 04 of 2021.

**Statement of District Court Error.** Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed.)

Issues that need to be solved:

1. WHETHER THE DISTRICT COURT ABUSED ITS DISCRETION IN DISMISSING THE CASE WITH PREJUDICE.
2. WHETHER JUDGE JOHNSON HAD JURISDICTION TO RULE ON APPELLANT'S MOTION AFTER AFFIDAVIT OF PREJUDICE HAS BEEN FILED.
3. DID DISTRICT COURT ERRED IN AWARDING RESPONDENTS ATTORNEY COSTS AND FEES?
4. DID DISTRICT COURT VIOLATED APPELLANT'S DUE PROCESS AND HER CONSTITUTIONAL RIGHTS FOR FAIR TRIAL AND HEARINGS?

Standard of Review.

The district court's findings of fact will be upheld on appeal unless they are clearly erroneous or are not supported by substantial evidence. *May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005). Questions of law are reviewed de novo (id.), *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 41, 293 P.3d 874, 878 (2013).

Sufficiency of service is governed by NCRP Rule 4. The Ninth Circuit has held that "Rule 4 is a flexible rule that should be liberally construed so long as a party receives sufficient notice of the complaint." *United Food & Commercial Workers Union v. Alpha Beta Co.*, 736 F.2d 1371, 1382(9<sup>th</sup> Cir 1984). Thus, "dismissal is generally not justified absent a showing of prejudice.

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In the absence of prejudice, dismissal is not warranted. *See Alcatel-Lucent USA, Inc. v. Dugdale Commc'ns, Inc., No. 09-cv-2140 PSG (JCx), 2009 WL 3346784, at 3(C.D.Cal. Oct.13, 2009).*

Respondents had responded on Appellant's Pleadings and clearly were notified as to regarding to this lawsuit.

In its order District Court states that "Appellant's conduct has not impacted Respondent's ability to develop the merits of the case if it was to ultimately go to trial" and "Appellant's conduct was substantially prejudicial to Respondents as it sought to cause Respondents to defend a lawsuit not properly served upon them" those referring as potential prejudice as to "service" and NOT to alleged "false statement".

However, dismissal of meritorious Appellant's Complaint, moreover, with prejudice is absolutely prejudicial to the Appellant. The district court's denial of Zorikova's request for relief deprived Zorikova of the opportunity to have this matter heard on its merits and therefore, the merits of Zorikova's case will never be determined.

Appellant's filed Affidavit of prejudice did not lead to recusal of Judge Johnson while he required to recuse himself by law.

Further, Appellant filed Motion for recusal. In response to Motion for Recusal Judge Bell deliberately refused to respond to "Affidavit's of Prejudice" as a Appellant's grounds for Judge's Johnson recusal but instead, attempted to respond on some nonexistent, nor never filed by Appellant "Motion for Disqualification". Appellant Zorikova in her Affidavit of Prejudice asserts rule 1.235 by which Judge must recuse immediately after Affidavit of Prejudice filed. Not speaking that Judge Bell failed to respond to matter of Judge Jonson being twice investigated on public corruption and yet sitting as judge in District Court.

In its final order from September 02 of 2021, TWICE, on page 2 (lines 13 and 24) Court states that it is found that Olivia Jeong served packages of "materials" on October 5<sup>th</sup> of 2021 and October 6<sup>th</sup> of 2021 (page 3 line 10). However, the Court also found from Respondent's Pyle testimony (page 4 line 2,10,14) of the said order and Appellant stated the same in her multiple pleadings previously that Appellant visited Respondent's office (mailbox station) on October 6<sup>th</sup> of 2021. P. 4 (Video -14, Pyle- 2, 10, ), Page 3 line 10 – Appellant's testimony. October 6<sup>th</sup> visit by Appellant is irrelevant to Ms Jeong's service on Oct 5<sup>th</sup> and 9<sup>th</sup>. Dates discrepancy alone fully and completely destroys all fabrication of "evidentiary hearing" called by Respondents in order to unruly and without legal nor factual grounds to dismiss meritorious Appellant's Complaint, moreover, with Prejudice, which is unheard of.

Page 4 line 17 – Court falsely states that Appellant's "admitted" that woman on video is her, while in reality, Appellant stated multiple times, including in her pleadings prior to August 01 of 2021 that she visited office of Respondents on October 06, of 2020 and moreover, stated from the beginning that there is no need for any "pretending of looking for evidence of Appellant's visit to Respondent's office on October 06 of 2020" because, Appellant states and had stated the same multiple times and her visit is not related to the service of Summons to Respondent's office on October 05 and 09 of 2020 by qualified server Olivia Jeong.

On pages 2 to 3 (lines 1-4 ) of its final order from September 02 of 2021 the Court states

that “Ms. Jeong stated she paid an unknown middle age male to take her from Barstow in a truck to the 2620 Regatta Drive address” and finds it unrealistic and therefore, testimony be not credible. This is outrageous. Judge shall be clearly biased to find that mere riding in ford truck from Barstow to Las Vegas is a “fraudulent statement” or testimony is “not credible” based on demeanor.

On Lines 21 to 26 of page 3 of the said order, Court further state evasive statement erroneously stating that “Appellant admitted to the Court that answer about her address was false answer”. This is absolutely not true. Appellant had never “admitted” to any falsely, because there were none, and even today, December 24 of 2021, Appellant does not know the address of new Texas’ ranch that she was on in August of 2021, and the address for which (as new property) was just assigned in August of 2021. Appellant had never had chance to look up that assigned address, nor need for it as she used her mailing address in Los Angeles, CA and in El Paso, TX.

Court erroneously cites and misplaces *Cf. Meeker v. Rizley*, 324 F.2d 269,271 (10<sup>th</sup> Cir. 1963), because in that case Court dismissed the case for Respondent’s failure to appear, which is not related to Appellant’s case.

Further, Court erroneously cites and misplaces *Batson v. Neal Spelce Associates*, 765 F.2d 511,514 (5<sup>th</sup> Cir.1985)), because in that case Court dismissed the case for Respondent’s failure to comply with discovery order, which is not related to Appellant’s case.

Further, Court erroneously cites *Pierce v. Heritage Properties, Inc.*, 688 So.2d 1385, 1390 (Miss.1997), because in that case Court dismissed the case for Respondent’s abuse of discovery process which is not related to Appellant’s case and In *Pierce v Heritage* case Appellant’s false discovery disclosures were strictly material and substantial by not disclosing material fact witness in multiple discovery responses including interrogatories and depositions while in Appellant’s case District Court failed even to state those alleged “false statements”, moreover to find those nonexistent statements material.

Appellant did not violate neither District Court’s orders, nor failed to comply with any discovery requests, nor provided any material nor immaterial “false testimony”, nor failed to respond to depositions, nor to interrogatories.

Nevertheless, the trial court should dismiss cause of action for failure to comply with discovery only under the most extreme circumstances, *Hapgood v. Biloxi Regional Medical Center*, 540 So.2d 630, 634 (Miss.1989).


Such dismissal by the trial court are reviewed under an abuse of discretion standard. *Palmer*, 564 So.2d at 1368. When this Court reviews a decision that is within the trial court’s discretion, it first asks if the court below applied the correct legal standard. *Burkett v. Burkett*, 537 So.2d 443, 446 (Miss.1989)

Court erroneously cites Nat'l Hockey League v. Metro.Hockey Club, Inc., 427 U.S. 639, 643 (1976), based on the fact that in that case Court dismissed the case for Respondent's failure to answer interrogatories, which is again, not related to Appellant's case. Appellant had never exposed neither lack of prosecution, nor she failed to follow judge's orders, nor failed to answer any discovery. Furthermore, pursuant to NRCp 18 attorney's fees can be awarded only based on contractual agreements and other (none of which is applies to this case) circumstances, awarding attorney's fees without legal and factual basis is once again exposes bias of Judge Johnson toward Appellant.

### CONCLUSION

The district court abused its discretion when without neither legal nor factual basis entered final order to dismiss this case with prejudice. The district court's denial of Zorikova's request for relief deprived Zorikova of the opportunity to have this matter heard on its merits and therefore, the merits of Zorikova's case will never be determined. Accordingly, this case should be remanded to the District Court for determination on merits on trial by jury..

DATED this 27th day of DECEMBER, 2021.

  
\_\_\_\_\_  
Signature of Appellant

ALA ZORIKOVA  
\_\_\_\_\_  
Print Name of Appellant



### CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed informal brief form upon all parties to the appeal as follows:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first-class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served):

ATTORNEY FOR DEFENDANTS CASEY GISH

5940 S Rainbow Blvd.,  
Las Vegas, NV 89118

DATED this 27 day of DECEMBER, 2020.

  
\_\_\_\_\_  
Signature of Appellant

Alla Zorikova  
\_\_\_\_\_  
Print Name of Appellant

1905 Wilcox #175  
\_\_\_\_\_  
Address

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\_\_\_\_\_  
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3232095186  
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