

1 **NOAS**  
2 **LAW OFFICES OF F. PETER JAMES, ESQ.**  
3 **F. Peter James, Esq.**  
4 **Nevada Bar No. 10091**  
5 **3821 West Charleston Boulevard, Suite 250**  
6 **Las Vegas, Nevada 89102**  
7 **Peter@PeterJamesLaw.com**  
8 **702-256-0087**  
9 **702-256-0145 (fax)**  
10 **Counsel for Plaintiff**

Electronically Filed  
Oct 12 2021 03:53 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

6 **DISTRICT COURT, FAMILY DIVISION**  
7 **CLARK COUNTY, NEVADA**

8 **JASWINDER SINGH,**  
9 **Plaintiff,**

CASE NO. : 04D323977  
DEPT. NO. : X

10 **vs.**

**NOTICE OF APPEAL**

11 **RAJWANT KAUR,**  
12 **Defendant.**

14 Notice is hereby given that Plaintiff, Jaswinder Singh, by and through his  
15 counsel, F. Peter James, Esq. hereby appeals to the Supreme Court of Nevada

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20 ///

1 from the Findings of Fact, Conclusions of Law and Order entered on September  
2 14, 2021.

3 Dated this 1<sup>st</sup> day of October, 2021

4 /s/ *F. Peter James*

5 

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LAW OFFICES OF F. PETER JAMES

F. Peter James, Esq.

6 Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

7 Las Vegas, Nevada 89102

702-256-0087

8 Counsel for Plaintiff

1 **CERTIFICATE OF SERVICE**

2 I certify that on this 1<sup>st</sup> day of October, 2021, I caused the above and  
3 foregoing document entitled **NOTICE OF APPEAL** to be served as follows:

4 [X] pursuant to EDCR 8.05(A), EDCR 8.05(F), NRCp 5(b)(2)(D)  
5 and Administrative Order 14-2 captioned "In the Administrative  
6 Matter of Mandatory Electronic Service in the Eighth Judicial  
District Court," by mandatory electronic service through the  
Eighth Judicial District Court's electronic filing system;

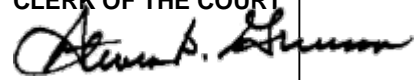
7 [ ] by placing same to be deposited for mailing in the United States  
8 Mail, in a sealed envelope upon which first class postage was  
prepaid in Las Vegas, Nevada;

9 to the attorney(s) / party(ies) listed below at the address(es), email address(es),  
10 and/or facsimile number(s) indicated below:

11 Andrew L. Kynaston, Esq.  
12 Kainen Law Group  
3303 Novat Street, Suite 200  
13 Las Vegas, Nevada 89129  
Counsel for Defendant

14 By: /s/ *F. Peter James*

15 \_\_\_\_\_  
An employee of the Law Offices of F. Peter James, Esq., PLLC  
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18  
19  
20



ASTA  
LAW OFFICES OF F. PETER JAMES, ESQ.  
F. Peter James, Esq.  
Nevada Bar No. 10091  
3821 West Charleston Boulevard, Suite 250  
Las Vegas, Nevada 89102  
Peter@PeterJamesLaw.com  
702-256-0087  
702-256-0145 (fax)  
Counsel for Plaintiff

**DISTRICT COURT, FAMILY DIVISION  
CLARK COUNTY, NEVADA**

JASWINDER SINGH,  
  
Plaintiff,

vs.

RAJWANT KAUR,  
  
Defendant.

CASE NO. : 04D323977  
DEPT. NO. : X

**CASE APPEAL STATEMENT**

**1. Name of the appellant filing this Case Appeal Statement:**

Jaswinder Singh, the Plaintiff in the district court.

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

Hon. Heidi Almase, District Court Judge (Family Division), Dept. X.

**3. Identify each appellant and the name and address of counsel for each appellant:**

1 Jaswinder Singh, Appellant

2 F. Peter James, Esq.  
3 Law Offices of F. Peter James, Esq.  
3821 West Charleston Boulevard, Suite 250  
4 Las Vegas, Nevada 89102  
702-256-0087  
5 702-256-0145 (fax)  
Counsel for Appellant

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

10 Respondent, Rajwant Kaur

11 Andrew L. Kynaston, Esq.  
12 Kainen Law Group  
3303 Novat Street, Suite 200  
13 Las Vegas, Nevada 89129  
Counsel for Defendant

14 **5. Indicate whether any attorney identified above in response to question**  
15 **3 or 4 is not licensed to practice law in Nevada and, if so, whether the**  
16 **district court granted that attorney permission to appear under SCR**  
17 **42 (attach a copy of any district court order granting such**  
18 **permission):**

19 All counsel referenced above are licensed to practice law in the State of  
20 Nevada.

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

3 Appellant was represented by retained counsel in the district court.

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

6 Appellant is represented by retained counsel on appeal.

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

10 Appellant was never granted leave to proceed in forma pauperis.

11 **9. Indicate the date the proceedings commenced in the district court:**

12 The Joint Petition for Summary Decree of Divorce was filed on August 27,  
13 2004.

14 **10. Provide a brief description of the action and result in the district court,**  
15 **including the type of judgment or order being appealed and the relief**  
16 **granted by the district court:**

17 The original matter was a joint petition for divorce in 2004. In 2019,  
18 Rajwant Kaur moved the district court to set aside the Decree. The matter  
19 went to trial, where Jaswinder prevailed. Rajwant appealed; Jaswinder

1 Cross appealed. The Supreme Court published an opinion and remanded  
2 the matter back for further proceedings on the judicial estoppel issue.

3 The district court held an evidentiary hearing as to the judicial estoppel  
4 issue. The district court ruled in Rajwant's favor and set aside the Decree  
5 of Divorce.

6 **11. Indicate whether the case has previously been the subject of an appeal**  
7 **to or original writ proceeding in the Supreme Court and, if so, the**  
8 **caption and Supreme Court docket number of the prior proceeding:**

9 Yes. Rajwant Kaur, Appellant / Cross-Respondent v. Jaswinder Singh,  
10 Respondent / Cross-Appellant. Nevada Supreme Court No. 80090.

11 **12. Please state whether the appeal involves child custody or visitation:**

12 The appeal does involve child custody and visitation issues.

13 **13. Please state whether the appeal involves the possibility of settlement:**

14 This matter is binary and is highly unlikely to resolve in mediation.

15 Dated this 1<sup>st</sup> day of October, 2021

16 /s/ *F. Peter James*

17 

---

LAW OFFICES OF F. PETER JAMES

18 F. Peter James, Esq.

19 Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

19 Las Vegas, Nevada 89102

702-256-0087

20 Counsel for Plaintiff

1 **CERTIFICATE OF SERVICE**

2 I certify that on this 1<sup>st</sup> day of October, 2021, I caused the above and  
3 foregoing document entitled **CASE APPEAL STATEMENT** to be served as  
4 follows:

5 [X] pursuant to EDCR 8.05(A), EDCR 8.05(F), NRCP 5(b)(2)(D)  
6 and Administrative Order 14-2 captioned “In the Administrative  
7 Matter of Mandatory Electronic Service in the Eighth Judicial  
8 District Court,” by mandatory electronic service through the  
9 Eighth Judicial District Court’s electronic filing system;

8 [ ] by placing same to be deposited for mailing in the United States  
9 Mail, in a sealed envelope upon which first class postage was  
prepaid in Las Vegas, Nevada;

10 to the attorney(s) / party(ies) listed below at the address(es), email address(es),  
11 and/or facsimile number(s) indicated below:

12 Andrew L. Kynaston, Esq.  
13 Kainen Law Group  
3303 Novat Street, Suite 200  
14 Las Vegas, Nevada 89129  
Counsel for Defendant

15 By: /s/ *F. Peter James*







16 

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An employee of the Law Offices of F. Peter James, Esq., PLLC  
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18  
19  
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














**CASE SUMMARY****CASE NO. 04D323977****In the Matter of the Joint Petition for Divorce of:  
Jaswinder Singh and Rajwant Kaur**§  
§  
§  
§Location: **Department X**  
Judicial Officer: **Almase, Heidi**  
Filed on: **08/27/2004**  
Case Number History:**CASE INFORMATION****Statistical Closures**09/14/2021 Judgment Reached (Bench Trial)  
10/22/2019 Settled/Withdrawn With Judicial Conference or HearingCase Type: **Divorce - Joint Petition**  
Subtype: **Joint Petition No Minor(s)**Case  
Status: **09/14/2021 Closed****DATE****CASE ASSIGNMENT****Current Case Assignment**Case Number 04D323977  
Court Department X  
Date Assigned 01/04/2021  
Judicial Officer Almase, Heidi**PARTY INFORMATION****Petitioner****Kaur, Rajwant****Kynaston, Andrew**  
*Retained*  
702-823-4900(W)**Singh, Jaswinder****James, F Peter, ESQ**  
*Retained*  
702-256-0087(W)**Conversion  
Extended****Financial Conversion 04D323977****Connection Type**Removed: 03/23/2007  
Converted From Blackstone**DATE****EVENTS & ORDERS OF THE COURT****EVENTS**

10/01/2021	 Case Appeal Statement Filed By: Petitioner Singh, Jaswinder <i>[75] Case Appeal Statement</i>
10/01/2021	 Notice of Appeal Filed By: Petitioner Singh, Jaswinder <i>[74] Notice of Appeal</i>
09/15/2021	 Notice of Entry of Order Filed By: Petitioner Kaur, Rajwant <i>[73] Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
09/14/2021	 Findings of Fact, Conclusions of Law and Judgment <i>[72] Findings of Fact, Conclusions of Law and Order</i>
09/13/2021	 Brief Filed By: Petitioner Singh, Jaswinder <i>[71] Plaintiff's Closing Brief</i>
09/13/2021	 Brief Filed By: Petitioner Kaur, Rajwant




# CASE SUMMARY

CASE No. 04D323977

	<i>[70] Defendant's Closing Brief</i>
08/13/2021	 Financial Disclosure Form Filed by: Petitioner Singh, Jaswinder <i>[69] General Financial Disclosure Form</i>
08/09/2021	 Pre-trial Memorandum Filed By: Petitioner Singh, Jaswinder <i>[68] Plaintiff's Pre-Trial Memorandum</i>
08/09/2021	 Pre-trial Memorandum Filed By: Petitioner Kaur, Rajwant <i>[67] Defendant's Pre-Trial Memorandum</i>
06/15/2021	 Order Setting Evidentiary Hearing <i>[66] Order Setting Evidentiary Hearing</i>
04/13/2021	 Notice of Hearing <i>[65] Notice of Hearing</i>
04/13/2021	 NV Supreme Court Clerks Certificate/Judgment -Remanded <i>[64] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Reversed and Remand; Rehearing Denied; Petition Denied</i>
01/04/2021	Administrative Reassignment to Department X <i>Case Reassignment - Judicial Officer Heidi Almase</i>
01/31/2020	 Transcript of Proceedings <i>[63] SEPTEMBER 13, 2019</i>
01/31/2020	 Reporters Transcript <i>[62] SEPTEMBER 12, 2019</i>
01/31/2020	 Certification of Transcripts Notification of Completion <i>[61] SEPTEMBER 12, 2019; SEPTEMBER 13, 2019</i>
01/31/2020	 Final Billing of Transcript <i>[60] SEPTEMBER 12, 2019; SEPTEMBER 13, 2019</i>
01/31/2020	 Receipt of Copy <i>[59] SEPTEMBER 12, 2019; SEPTEMBER 13, 2019</i>
12/31/2019	 Estimate of Transcript <i>[58] SEPTEMBER 12, 2019 &amp; SEPTEMBER 13, 2019</i>
12/31/2019	 Request Filed By: Petitioner Kaur, Rajwant <i>[57] Request for Transcript of Proceedings</i>
11/29/2019	 Case Appeal Statement Filed By: Petitioner Singh, Jaswinder <i>[56] Case Appeal Statement</i>
11/29/2019	 Notice of Appeal Filed By: Petitioner Singh, Jaswinder <i>[55] Notice of Cross-Appeal</i>
11/20/2019	 Certificate of Service Filed by: Petitioner Kaur, Rajwant <i>[54] Certificate of Service of Notice of Appeal, Case Appeal Statement, and Notice of Filing Cost Bond</i>
11/19/2019	 Notice Filed By: Petitioner Kaur, Rajwant <i>[53] Notice of Filing Cost Bond</i>












# CASE SUMMARY

CASE NO. 04D323977

11/19/2019	 Case Appeal Statement Filed By: Petitioner Kaur, Rajwant <i>[52] Case Appeal Statement</i>
11/19/2019	 Notice of Appeal Filed By: Petitioner Kaur, Rajwant <i>[51] Notice of Appeal</i>
10/22/2019	 Notice of Entry of Order Filed By: Petitioner Singh, Jaswinder <i>[50] Notice of Entry of Findings of Fact, Conclusions of Law, and Order</i>
10/22/2019	 Findings of Fact, Conclusions of Law and Judgment <i>[49] Findings of Fact, Conclusions and Law and Judgment</i>
09/10/2019	 Certificate of Service <i>[48] Certificate of Service</i>
09/10/2019	 Order Shortening Time <i>[47] Order Shortening Time</i>
09/10/2019	 Receipt of Copy <i>[46] Receipt of Plaintiff's Trial Exhibits</i>
09/09/2019	 Witness List <i>[45] Plaintiff's Witness List</i>
09/09/2019	 Notice of Hearing <i>[44] Notice of Hearing</i>
09/06/2019	 Family Court Motion Opposition Fee Information Sheet Filed by: Petitioner Kaur, Rajwant <i>[43] Family Court Motion Opposition Fee Sheet</i>
09/06/2019	 Opposition and Countermotion Filed By: Petitioner Kaur, Rajwant <i>[42] Defendant's Opposition to Plaintiff's Motion in Limine and Defendant's Countermotion for Attorney's Fees and Costs</i>
09/05/2019	 Pre-trial Memorandum Filed By: Petitioner Kaur, Rajwant <i>[41] Defendant's Pre-Trial Memorandum</i>
09/05/2019	 Pre-trial Memorandum Filed By: Petitioner Singh, Jaswinder <i>[40] Plaintiff's Pre-Trial Memorandum</i>
09/04/2019	 Certificate of Service <i>[39] Certificate of Service</i>
09/03/2019	 Notice of Hearing <i>[38] Notice of Hearing</i>
08/30/2019	 Ex Parte Application <i>[37] Ex Parte Application for An Order Shortening Time on Motion for Limine</i>
08/30/2019	 Ex Parte Application <i>[36] Ex Parte Application for an Order Shortening Time on Motion for Limine</i>
08/30/2019	 Exhibits <i>[35] Exhibits in Support of Motion in Limine</i>
08/30/2019	 Motion in Limine <i>[34] Motion in Limine</i>

# CASE SUMMARY

CASE NO. 04D323977

08/29/2019	 Acceptance of Service Filed by: Petitioner Kaur, Rajwant <i>[33] Acceptance of Service - Subpoena to Jagtar Singh</i>
08/29/2019	 Acceptance of Service Filed by: Petitioner Kaur, Rajwant <i>[32] Acceptance of Service - Subpoena to Guriqbal Pandher</i>
08/29/2019	 Acceptance of Service Filed by: Petitioner Kaur, Rajwant <i>[31] Acceptance of Service - Subpoena to Sukhpal Grewal</i>
08/29/2019	 Subpoena Filed By: Petitioner Kaur, Rajwant <i>[30] Trial Subpoena - Jagtar Singh</i>
08/29/2019	 Subpoena Filed By: Petitioner Kaur, Rajwant <i>[29] Trial Subpoena - Guriqbal Pandher</i>
08/29/2019	 Subpoena Filed By: Petitioner Kaur, Rajwant <i>[28] Trial Subpoena - Sukhpal Grewal</i>
06/18/2019	 Notice of Taking Deposition Filed by: Petitioner Kaur, Rajwant <i>[27] Notice of Taking Deposition</i>
06/17/2019	 Notice of Deposition <i>[26] Re-Notice of Taking Deposition of Defendant Rajwant Kaur</i>
06/03/2019	 Notice of Entry of Stipulation and Order Filed by: Petitioner Kaur, Rajwant <i>[25] Notice of Entry of Stipulation and Order to Continue Trial (First Request)</i>
05/30/2019	 Stipulation and Order Filed By: Petitioner Kaur, Rajwant <i>[24] Stipulation and Order to Continue Trial (First Request)</i>
05/21/2019	 Notice to Take Deposition <i>[23] Re-Notice of Taking Deposition of Defendant Rajwant Kaur</i>
05/14/2019	 Notice of Deposition <i>[22] Notice of Taking Deposition of Rajwant Kaur</i>
05/13/2019	 Notice of Entry of Stipulation and Order Filed by: Petitioner Kaur, Rajwant <i>[21] Notice of Entry of Stipulation and Order Re: Discovery</i>
05/10/2019	 Stipulation and Order Filed By: Petitioner Kaur, Rajwant <i>[20] Stipulation and Order Re: Discovery</i>
04/09/2019	 Transcript of Proceedings <i>[19] February 13, 2019</i>
04/09/2019	 Final Billing of Transcript <i>[18] February 13, 2019</i>
03/19/2019	 Estimate of Transcript <i>[17] Hearing date February 13, 2019</i>
03/19/2019	 Notice of Entry of Order Filed By: Petitioner Kaur, Rajwant

# CASE SUMMARY

CASE NO. 04D323977

	[16] Notice of Entry of Order from Hearing Held February 13, 2019
03/14/2019	 Order Filed By: Petitioner Kaur, Rajwant [15] Order from Hearing Held February 13, 2019
02/12/2019	 Supplement Filed by: Petitioner Kaur, Rajwant [14] Defendant's Supplemental Filing
02/08/2019	 Reply to Opposition Filed by: Petitioner Kaur, Rajwant [13] Defendant's Reply to Plaintiff's Opposition to Defendant's Motion to Set Aside Decree of Divorce and Defendant's Opposition to Plaintiff's Countermotion
01/23/2019	 Financial Disclosure Form Filed by: Petitioner Singh, Jaswinder [12] Financial Disclosure Form
01/23/2019	 Opposition and Countermotion [11] Pltf's Opposition to Motion to Set Aside Decree of Divorce; Countermotion
01/16/2019	 Notice of Appearance Party: Petitioner Singh, Jaswinder [10] Notice of Appearance of Counsel
01/09/2019	 Affidavit of Service Filed By: Petitioner Kaur, Rajwant [9] Affidavit of Service
01/07/2019	 Motion to Set Aside Filed by: Petitioner Kaur, Rajwant [8] Dft's Motion to Set Aside Decree of Divorce
01/04/2019	 Exhibits Filed By: Petitioner Singh, Jaswinder; Petitioner Kaur, Rajwant [7] Appendix of Exhibits to Defendant's Motion to Set Aside Decree of Divorce
01/04/2019	 Family Court Motion Opposition Fee Information Sheet Filed by: Petitioner Singh, Jaswinder; Petitioner Kaur, Rajwant [6] MOFI
04/15/2013	Administrative Reassignment to Department P Case reassigned from Judge Cynthia Giuliani Dept K
09/08/2004	 Document Archive [5]
09/08/2004	Judgment Filed By: Petitioner Singh, Jaswinder [4] DECREE OF DIVORCE SCH/PER Date: 09/10/2004 Blackstone OC:
08/27/2004	Child Support and Welfare Party Identification Sheet Filed by: Petitioner Singh, Jaswinder; Petitioner Kaur, Rajwant [3] SS NUMBER DECLARATION NRS 125.130 SCH/PER Date: Blackstone OC:
08/27/2004	Affidavit Filed By: Petitioner Singh, Jaswinder [2] AFFIDAVIT OF RESIDENT WITNESS SCH/PER Date: Blackstone OC:
08/27/2004	Petition Filed By: Petitioner Singh, Jaswinder [1] JOINT PETITION FOR SUMMARY DECREE OF DIVORCE FEE \$142.00 SCH/PER Date: Blackstone OC:

## **DISPOSITIONS**

09/08/2004 8:12 AM **Divorce Granted** (Judicial Officer: Del Vecchio, N Anthony)

# CASE SUMMARY

CASE No. 04D323977

Converted Disposition:

Description : DECREE OF DIVORCE  
Debtor : Kaur, Rajwant  
Creditor : Singh, Jaswinder  
Amount Awarded : \$0.00  
Attorney Fees : \$0.00  
Costs : \$0.00  
Interest Amount : \$0.00  
Total : \$0.00

## HEARINGS

08/16/2021



**Evidentiary Hearing** (1:30 PM) (Judicial Officer: Almase, Heidi)

(In Person)

Matter Heard;

Journal Entry Details:

*EVIDENTIARY HEARING: (IN PERSON) Attorney Peter James, Bar No. 10091, present with Plaintiff, Jaswinder Singh. Attorney Andrew Kynaston, Bar No. 8147, present with Defendant, Rajwant Kaur. For the purpose of this minute order, the Plaintiff is Jaswinder Singh and the Defendant is Rajwant Kaur. The Court reviewed the history of the case and noted the underlying pleadings. Discussion regarding: Nevada Supreme Court's Findings. Mr. Kynaston noted exhibits that were previously admitted in the case on 09/12/2019 and 09/13/2019 and Mr. James agreed that the exhibits had been previously admitted and were available for reference. Mr. James stated the parties stipulated to publish the previously admitted Deposition of Rajwant Kaur and Mr. Kynaston agreed that was correct. Parties SWORN and TESTIFIED. Testimony and exhibits presented (see worksheets). COURT ORDERED the following: 1. Per STIPULATION, Defendant's, Rajwant Kaur's, Deposition previously stipulated to and admitted on 09/12/2019 will be PUBLISHED to the Court. 2. CLOSING BRIEFS shall be filed by both counsel by no later than close of business on 09/13/2021 with service upon the opposing party. Closing briefs shall be no longer than twenty-five (25) pages. 3. The Court shall issue its written DECISION upon receipt and review of the Closing Briefs. CLERK'S NOTE: On 09/03/2021 a copy of the Court's Minute Order was provided to each Attorney via email, if an email address is on record with the Court; if no email address is available then the Minute Order was mailed to the physical address of record. (qm);*

05/10/2021



**Status Check** (9:00 AM) (Judicial Officer: Almase, Heidi)

re: Supreme Court Remand

### MINUTES

Matter Heard;

Journal Entry Details:

*RE: SUPREME COURT REMAND For the purpose of this minute order, the Plaintiff is Jaswinder Singh and the Defendant is Rajwant Kaur. Plaintiff and Counsel participated via BLUEJEANS Defendant participated TELEPHONICALLY. Attorney Kynaston participated via BLUEJEANS Upon the matter being called, the COURT NOTED papers and pleadings on file. Court advised because the parties are coming back from the Nevada Supreme Court an evidentiary hearing is needed. Attorney James stated there has already been testimony for many of the issues but he agreed there needs to be some evidence taken. Attorney Kynaston agreed with Attorney James that there should be some additional evidence and testimony to determine whether the Decree should be declared void. Counsel agreed half day trial would be more than enough time. Attorney Kynaston advised each party will need a Punjabi interpreter. A Hindi interpreter can be used as a backup. COURT stated its FINDINGS and ORDERED the following: EVIDENTIARY HEARING set for August 13, 2021 at 9:00 a.m. regarding a continuation to set aside Decree. Trial shall take place IN PERSON. The Court's Judicial Executive Assistant (JEA) shall prepare and send out a Scheduling Order, to include the deadlines for discovery, the exchange of Witness List, Exhibits List and Documents, and the submission of the Pre-Trial Memorandums. Minutes shall suffice as the Order from today's hearing. Clerk's Note: The Evidentiary Hearing has been reset to August 16, 2021, at 1:30 p.m. (Half day). Chambers notified both attorneys. (mt\_06.03.21);*

### SCHEDULED HEARINGS



**Evidentiary Hearing** (08/16/2021 at 1:30 PM) (Judicial Officer: Almase, Heidi)

(In Person)

09/13/2019



**Evidentiary Hearing** (9:30 AM) (Judicial Officer: Pomrenze, Sandra)

**CASE SUMMARY****CASE No. 04D323977**

Voiding Divorce

Denied;


Journal Entry Details:

**EVIDENTIARY HEARING: VOIDING DIVORCE** Petitioner Jaswinder Singh is referred to as Plaintiff herein. Petitioner Rajwant Kaur is referred to as Defendant herein. Nevada registered Punjabi interpreter Munir Qureshi, present with Plaintiff and Defendant. Testimony and exhibits presented (see worksheets). Argument and discussion regarding the relative issues for this hearing. Testimony and exhibit presentation resumed (see worksheets). Argument and discussion regarding the Court taking judicial notice that entry of a Decree Of Divorce ends a marriage and that being the issue before the Court in these proceedings. Court advised counsel it was taking judicial notice that a Decree Of Divorce was entered on September 04, 2004. Testimony and exhibit presentation resumed (see worksheets). Colloquy at the bench.


Testimony and exhibit presentation resumed (see worksheets). **MATTER TRAILED. MATTER RECALLED.** All present as before. Court advised counsel it received documents in chambers and it conferred with the Presiding Judge and it was agreed the documents did not divest this Court of jurisdiction and the matters would proceed. Counsel concurred with the Court. Testimony and exhibit presentation resumed (see worksheets). Upon Court's inquiry both counsel agreed to conduct a conference with the Court. **MATTER TRAILED** for the Court to conduct a conference with counsel off the record and outside of the courtroom. **MATTER RECALLED.** All parties present as before. Court stated for the record and advised the parties of the matters discussed in the conference with counsel. Testimony and exhibit presentation resumed (see worksheets). Counsel moved the Court for judgment on the evidence. Court observed it questioned the Vaile case as it seemed to be illogical and it seemed to say it was okay to "pull a scam and get away with it" but it was Nevada law. Court further observed the testimony of the Defendant is not a far distance from the facts of the Vaile case. Argument and discussion regarding the fraudulent divorce, both parties' testimony about the divorce, the Vaile case decision, the facts of the Vaile case and counsel appealing this case to have the Supreme Court review of the Vaile case. Argument and discussion regarding neither party understanding what they were doing, Plaintiff's beliefs about getting a Nevada divorce, the California requirements for divorce and Nevada divorce law. Argument and discussion regarding the decision regarding the fraudulent divorce, Defendant not receiving any benefits after the last 15 years with Plaintiff, California making the decision and the Court's discretion under the Vaile case. Counsel requested the Court exercise its discretion and rule on the facts of the case. Discussion regarding the Court's obligation to rule on the facts of the law. Argument and discussion regarding the provisions of Rule 60b, the provisions of the Vaile case, Defendant's testimony and counsel appealing this case. Court advised counsel it would be exceeding its obligation if it did not rule on Plaintiff's motion (for judgment) based on the evidence presented and Defendant's deposition was not admitted or published so it could not review the deposition. Argument and discussion regarding the facts presented today being on point with the Vaile case and Defendant not meeting her burden of proof. **COURT** stated its **FINDINGS:** The Court does not find that Plaintiff was credible in any portion of his testimony. Based on the evidence presented Defendant was more credible, therefore, the Court does find that the parties perpetrated a fraud on the State Of Nevada by entering into a Decree Of Divorce without the requisite residency. Were that to be the end of the inquiry, because of the Vaile vs. Eighth Judicial District case, it was not the end of the inquiry. If sufficient time has passed the Court is obligated to make a decision to the merits as to how the fraudulent divorce was implemented (and) what were the parties' roles. In the Vaile case both spouses were willing participants (and) they both knew that they didn't have residency. They both knew they wanted a divorce sooner rather than later. It is not uncommon, unfortunately because we have such generous divorce laws, that people take advantage of those divorce laws and they come here thinking they'll get a quick divorce and they pretend to be residents. The Courts see that on a regular basis. Sometimes they get away with it, sometimes they don't but certainly, in this instance, the presiding judge had no reason to question the validity of the documents that were submitted and, therefore, executed the Decree. What Vaile says is if they make a distinction where there is a very old divorce the party who seeks to set it aside based on fraud (that party) must prove they were free from fault and you have 2 parties at fault and the Court in Vaile applied an equitable standard that they were not going to reward a "wrong doer" and that is why there is a requirement of some equitable reason why a "co-wrong doer" should not be permitted relief even though they are equally ( as much of) a wrong doer as the other party. So they set the standard that there has to be some threat or coercion or (an) equitable reason why that party is free from fault. In the instant case the Court finds the Defendant to be very credible, unlike the Plaintiff. However, what is missing from her testimony is that she was forced to sign those papers and, in fact in this instance, she knew there was a divorce in Nevada whether Plaintiff told her it was a piece of paper or not. This is a person who is a competent adult and (who) knew there was a divorce in Nevada until such time as she became upset with the Plaintiff, upon his allegation he had married someone else, she was content to "let sleeping dogs lie" and live together (with the Plaintiff). Ironically, they are still living


**CASE SUMMARY****CASE No. 04D323977**

together and, ironically, Plaintiff has not remarried. But it requires, in this instance, evidence of an unequal bargaining position at a minimum. There was nothing in Defendant's testimony that was evidence of an unequal bargaining position between the Plaintiff and Defendant. He said we're going to Nevada, we're going to sign some paperwork, it is going to be a divorce, it is going to be a "paper divorce", we're going to continue to live together (and) this was not a person with a mental defect or an inability to understand what was being told to her. She knew it, and in fact at his request and again it was a request not a demand according to her own testimony, she in fact went to India to marry his (Plaintiff's) brother. Was it a "sham" marriage? Of course it was. Did it assist the parties in their "end game"? No, because the brother never got a Visa and (did not) come to the U.S. But at the end of the day there is simply insufficient evidence that the Defendant acted under duress. So as much as I (the Court) find the facts of this case offensive, it cannot rule on what it finds offensive it has to rule on the law and precedent and Vaile is still precedent in this state. Should the Supreme Court choose to take a second look on appeal and, if in fact, they say that Vaile is not good law then the Court is happy to have the parties come back and the Court will even set a second hearing but on the testimony and the evidence the Court is compelled to grant the motion on the evidence and it is compelled to deny the motion to set aside. The COURT FURTHER FINDS because neither party comes to this court with clean hands neither party will receive an award of attorney's fees against the other. The Plaintiff is not entitled to an award of attorney's fees. He is equally, if not greater, at fault so he may be the prevailing party, but the Court will not reward someone with extremely unclean hands with an award of attorney's fees. The Defendant is not the prevailing party here and as much as there is some sympathy here, the Court does not rule on sympathy it must rule on the law and insofar as Defendant is not the prevailing party I (the Court) cannot award her any attorney's fees either. The Court was surprised when Defendant rested but counsel did and did not get to the heart of the Vaile case. It is not a criticism of counsel. The Court believes Defendant was honest and candid with the Court and counsel was left with the case he had. She (Defendant) knew what her husband wanted her to do and she went ahead and did it. There is no evidence that she refused or that he demanded or that he threatened her or anything else just like the parties did in the Vaile case and because of that the Court is compelled to deny the motion to set aside. There is an appealable issue there. The Court does not know what the Supreme Court will do. It is a question that has been answered in a way that most of us might not appreciate, but it is the question that has been answered and Defendant's testimony does not rise to the level for the Court to set aside the Decree Of Divorce. Counsel need to decide what they wish to do. This Court does not have the ability to "jump over" the Supreme Court and decide. COURT ORDERED: 1. The MOTION for judgment on the EVIDENCE is GRANTED. 2. Defendant's MOTION TO SET ASIDE the Decree Of Divorce is DENIED. 3. As neither party is the prevailing party there shall be NO AWARDS of ATTORNEY'S FEES to either party. Mr. James shall PREPARE the FINDINGS OF FACT, CONCLUSIONS OF LAW. Mr. Kynaston shall REVIEW the FINDINGS OF FACT, CONCLUSIONS OF LAW then COUNTERSIGN.;

09/12/2019  **All Pending Motions** (1:30 PM) (Judicial Officer: Pomrenze, Sandra)

09/12/2019 **Opposition & Countermotion** (1:30 PM) (Judicial Officer: Pomrenze, Sandra)  
Rajwant Kaur's Opposition to Plaintiff's Motion in Limine and Defendant's Countermotion for Attorney's Fees and Costs

09/12/2019  **Motion in Limine** (1:30 PM) (Judicial Officer: Pomrenze, Sandra)  
Petitioner's Motion in Limine  
Denied;  
Journal Entry Details:  
PETITIONER'S MOTION IN LIMINE...RAJWANT KAUR'S OPPOSITION TO PLAINTIFF'S MOTION IN LIMINE AND COUNTERMOTION FOR ATTORNEY'S FEES This matter was heard concurrently with the Evidentiary Hearing: Voiding Divorce calendared for September 12, 2019 and again on September 13, 2019. Please refer to the Minute Order under the Evidentiary Hearing for the hearing details and the Court's orders.;

09/12/2019  **Evidentiary Hearing** (1:30 PM) (Judicial Officer: Pomrenze, Sandra)  
Voiding Divorce  
Matter Heard;  
Journal Entry Details:  
EVIDENTIARY HEARING: VOIDING DIVORCE This matter was heard concurrently with Petitioner's Motion In Limine and Rajwant Kaur's Opposition To Plaintiff's Motion In Limine And Defendant's Countermotion For Attorney's Fees And Costs this date. Petitioner Jaswinder Singh is referred to as Plaintiff herein. Petitioner Rajwant Kaur is referred to as Defendant herein. Interpreter Munir Qureshi, Registered Interpreter in Punjabi, present with Plaintiff. Argument and discussion regarding the Motion In Limine. Counsel advised the Court he




# CASE SUMMARY

CASE No. 04D323977

wished to invoke the exclusionary rule. COURT SO ORDERED. COURT FURTHER ORDERED: 2. The MOTION is DENIED WITHOUT PREJUDICE. 3. Counsel shall ARGUE AGAINST Defendant's WITNESSES as they are CALLED to TESTIFY. Both counsel WAIVED OPENING STATEMENTS. Testimony and exhibits presented (see worksheets). Argument and discussion regarding counsel stipulating to admission of some of the exhibits. Counsel advised Plaintiff's exhibits, except for exhibits 3,6,8,9,11,12,16 and 17, were stipulated to for admission. Counsel further advised all of Defendant's exhibits, except for exhibits H, T, and U, were stipulated to for admission. Testimony and exhibit presentation resumed (see worksheets). MATTER TRAILED for counsel to confer with his client. MATTER RECALLED. All parties present as before. Testimony and exhibit presentation resumed (see worksheets). Plaintiff's DEPOSITION PUBLISHED IN OPEN COURT. Testimony and exhibit presentation resumed (see worksheets). MATTER TRAILED. MATTER RECALLED. All present as before. Testimony and exhibit presentation resumed (see worksheets). Colloquy at the bench. MATTER TRAILED. MATTER RECALLED. All present as before. Colloquy at the bench. Testimony and exhibit presentation resumed (see worksheets). Evidentiary Hearing proceeds to Day Two. Court adjourned. ;

02/13/2019

 All Pending Motions (10:00 AM) (Judicial Officer: Pomrenze, Sandra)

## MINUTES

Matter Heard;


Journal Entry Details:

DEFT'S MOTION TO SET ASIDE DECREE OF DIVORCE...PLTF'S OPPOSITION TO MOTION TO SET ASIDE DECREE OF DIVORCE AND COUNTERMOTION...DEFT'S REPLY TO PLTF'S OPPOSITION AND COUNTERMOTION Munir Qureshi, Punjabi interpreter, present with Jaswinder Singh. Petitioner Jaswinder Singh is referred to as Plaintiff herein. Co-Petitioner Rajwant Kaur is referred to as Defendant herein. Discussion regarding the Vaile case, there being evidence to be induced, the validity of residency and the issue of voluntary participation in fraud being perpetrated on the State Of Nevada. Further discussion regarding whether California recognizes "common law" marriages. Argument and discussion regarding adoption of the Marvin case, counsel appealing the Court, making findings and setting an evidentiary hearing. Argument regarding the fraud and void claims, whether fraud was perpetrated and the State Of Nevada being the victim of the fraud. Argument and discussion regarding Plaintiff's burden of proof, Defendant's burden of proof and the issues with divorces in Nevada. Argument and discussion regarding the fraud and the relief. Court advised counsel the issues were the fraudulent divorce, whether Defendant could lawfully exercise a right to void the divorce and what the date of the voiding of the marriage was. Argument and discussion regarding the events in 2004, both parties being remarried, Defendant's new evidence and whether Defendant would need an interpreter. COURT ORDERED: 1. The MATTERS are calendared for an EVIDENTIARY HEARING regarding VOIDING the DIVORCE for ONE and ONE HALF DAYS on June 13, 2019 at 1:30 P.M. and again on June 14, 2019 at 9:30 A.M. The parties shall BE PRESENT IN PERSON. NO TELEPHONIC APPEARANCES will be ALLOWED. 2. Prehearing briefs, including a Schedule Of Assets And Debts and the proposed property division, citing applicable law and applying the law to the facts in the case shall be EXCHANGED and FILED, with COURTESY COPIES delivered to chambers, NO LATER THAN June 06, 2019 at the close of the business day (5:00 P.M.). Briefs may be e-mailed or faxed to chambers if less than thirty pages. If the Briefs are more than 30 pages counsel shall Courtesy Copy a HARD COPY to the Court's CHAMBERS. In the event either of the parties do not timely submit their brief, the non-complying party will be subject to monetary sanctions. The TRIAL EXHIBITS SHALL NOT BE ATTACHED TO THE BRIEF THAT IS FILED. 3. DISCOVERY shall CLOSE on MAY 30, 2019 at the close of the business day (5:00 P.M.). WRITTEN DISCOVERY shall be SERVED ONE MONTH and ONE WEEK prior to the close of Discovery and in a fashion that allows the other party 30 DAYS to RESPOND. There shall be no written Discovery requests, no responses required and no depositions taken after the Discovery closing date. 4. Parties shall EXCHANGE LISTS of witnesses and exhibits, as well as copies of their proposed exhibits, NO LATER THAN MAY 01, 2019 at the close of business (5:00 P.M.). Counsel shall PROVIDE the witness and exhibit DISCLOSURES for trial SEPARATELY from the DISCOVERY DISCLOSURES and in a fashion that allows TIME for any needed DEPOSITIONS. Any witness not identified in advance of the hearing who is presented at the hearing will not be permitted to testify at the hearing absent compelling circumstances. Any exhibits not identified prior to the time set for hearing will not be admitted absent compelling circumstances. The TRIAL EXHIBITS SHALL NOT BE FILED. 5. Counsel shall MAKE the ARRANGEMENTS for the INTERPRETERS PRIOR to the TRIAL. Mr. Kynaston shall PREPARE the ORDER. Mr. James shall REVIEW the ORDER then COUNTERSIGN. ;

02/13/2019

Hearing (10:00 AM) (Judicial Officer: Pomrenze, Sandra)

**CASE SUMMARY****CASE NO. 04D323977**

	Events: 02/08/2019 Reply to Opposition <i>Def't's Reply to Plaintiff's Opposition to Defendant's Motion to Set Aside Decree of Divorce and Defendant's Opposition to Plaintiff's Countermotion</i> Matter Heard;
02/13/2019	<b>Hearing</b> (10:00 AM) (Judicial Officer: Pomrenze, Sandra) Events: 01/23/2019 Opposition and Countermotion <i>Pltl's Opposition To Motion To Set Aside Decree Of Divorce; Countermotion</i> Evidentiary Hearing;
02/13/2019	<b>Motion</b> (10:00 AM) (Judicial Officer: Pomrenze, Sandra) Events: 01/07/2019 Motion to Set Aside <i>Dft's Motion to Set Aside Decree of Divorce</i>
	<b>MINUTES</b>  Motion to Set Aside Filed by: Petitioner Kaur, Rajwant <i>[8] Dft's Motion to Set Aside Decree of Divorce</i> Evidentiary Hearing;
02/13/2019	<b>CANCELED Motion</b> (10:00 AM) (Judicial Officer: Pomrenze, Sandra) <i>Vacated - per Clerk</i> <i>Defendant's Motion to Set Aside Decree of Divorce</i>

**DATE****FINANCIAL INFORMATION**

<b>Conversion Extended Connection Type</b>	Financial Conversion 04D323977
Total Charges	258.00
Total Payments and Credits	258.00
<b>Balance Due as of 10/5/2021</b>	<b>0.00</b>
<b>Attorney</b> James, F Peter, ESQ	
Total Charges	12.50
Total Payments and Credits	12.50
<b>Balance Due as of 10/5/2021</b>	<b>0.00</b>
<b>Petitioner</b> Kaur, Rajwant	
Total Charges	49.00
Total Payments and Credits	49.00
<b>Balance Due as of 10/5/2021</b>	<b>0.00</b>
<b>Petitioner</b> Singh, Jaswinder	
Total Charges	135.00
Total Payments and Credits	135.00
<b>Balance Due as of 10/5/2021</b>	<b>0.00</b>
<b>Petitioner</b> Kaur, Rajwant	
Registry/Trust Account-- FM Registry Balance as of 10/5/2021	<b>500.00</b>

FFCO

DISTRICT COURT  
CLARK COUNTY, NEVADA

JASWINDER SINGH,  
Plaintiff,

Case No: 04-D-323977  
Dept. No: X

vs.

DATE OF HEARING: 08/16/2021  
TIME OF HEARING: 1:30PM

RAJWANT KAUR,  
Defendant

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

This matter came before the Court for non-jury bench trial in the above-captioned matter on August 16, 2021 following a December 19, 2020 Order of Reversal and Remand in Kaur v. Singh, 135 Nev. Adv. Op. 77, 477 P.3d 358 (2020), *reh'g denied* (January 13, 2021), *en banc reconsideration denied*, (March 18, 2021).

Jaswinder (Jaswinder) Singh was present in the courtroom and represented by F. Peter James, Law Offices of F. Peter James. Rajwant (Rajwant) Kaur was present in the courtroom and represented by Andrew L. Kynaston, Kainen Law Group PLLC. Each party had the use of court-certified interpreter during the proceedings.

Having reviewed the papers and pleadings on file herein and, after considering and weighing the credibility of the witnesses and exhibits admitted into evidence, this Court issues its *Findings of Fact, Conclusions of Law and Order*.

**PROCEDURAL HISTORY**

On August 27, 2004, the parties filed a Joint Petition for Summary Decree of Divorce (Joint Petition). Both parties were self-represented. The Joint Petition indicated the parties

1 married on November 11, 1989 in Punjab, India. Both parties signed the Joint Petition which  
2 included Verifications. Also on August 27, 2004, the parties filed an Affidavit of Resident  
3 Witness wherein Balbinder Singh Pabla averred Jaswinder was a resident of Clark County,  
4 Nevada. On September 8, 2004, a Summary Decree of Divorce (Decree) was filed. Though the  
5 parties had then been married for a period of eighteen (18) years, no community property or  
6 debt was divided and neither party received an award for spousal support.  
7

8 On January 7, 2019, Rajwant filed a Motion to Set Aside Decree of Divorce. In her  
9 motion, Rajwant requested the Decree be set aside pursuant to NRCP 60(b) and, further, alleged  
10 the Decree was void due to neither Rajwant nor Jaswinder being a resident of Nevada at the  
11 time the Decree was filed. On January 23, 2019, Jaswinder filed his Opposition and  
12 Countermotion for Award for Attorney Fees and Costs. Rajwant timely replied. Following  
13 hearing on the pleadings, the Court determined a bench trial was warranted. See Order (filed  
14 March 14, 2019).  
15

16 On September 12 and 13, 2019 bench trial was held. On October 22, 2019, the Court  
17 issued its Findings of Fact, Conclusions of Law and Order (Order). Specifically, relying on  
18 Vaile v. Eighth Jud. Dist. Ct., 118 Nev. 262, 44 P.3d 512 (2002), the Court denied Rajwant's  
19 motion to set aside the September 8, 2004 Decree of Divorce. In the nine-page order, the Court  
20 found Jaswinder "not credible in any portion of his testimony." See Order at p.4, ll.14-15 (filed  
21 October 22, 2019). With respect to Rajwant's testimony, the Court found her "more credible".  
22 Id. The Court's conclusion Rajwant failed to demonstrate threat, duress or coercion, is tied to  
23 its application of the Vaile case which included its finding Rajwant knew she was executing  
24 divorce documents in Nevada. Id. at p.4, ll.14-20, p.5, ll.1-20, p.6, ll.1-20 and p.7, ll.1-5. Last,  
25 the Court additionally ordered both parties to bear his/her own attorney fees and costs.  
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1 On November 19, 2019, Rajwant filed her Notice of Appeal followed, on November 29,  
2 2019, with Jaswinder's Notice of Appeal. On November 12, 2020, oral argument was held on  
3 the appeal and cross-appeal. As noted above, on December 19, 2020, the Nevada Supreme  
4 Court issued an Opinion wherein the matter was ordered reversed and remanded. On January  
5 13, 2021, Jaswinder's December 28, 2020 Petition for Rehearing was denied. On March 18,  
6 2021, Jaswinder's January 27, 2021 Petition for En Banc Rehearing was denied. On April 13,  
7 2021, Remittitur issued.  
8

9 On January 4, 2021, this case was administratively reassigned from Department P to  
10 Department X.  
11

12 Following testimony and admission of exhibits, the parties stipulated to filing closing  
13 briefs. Accordingly, on September 13, 2021, the parties filed and served their written closing  
14 briefs. This decision follows.  
15

## 16 **FINDINGS OF FACT**

### 17 **JURISDICTION**

18 Both parties in this case reside in California. At issue in this case is the validity of the  
19 September 8, 2004 Summary Decree of Divorce filed in this Court. This Court has the  
20 appropriate subject matter and personal jurisdiction to enter a decision on the challenged issues.  
21

### 22 **TESTIMONY**

23 The following witness offered testimony in this case:

24 Rajwant Kaur (Defendant).

25 Rajwant testified she is currently 64 years of age. Rajwant testified her marriage was an  
26 arranged marriage taking place in 1989 in India. Rajwant testified she has the equivalent of a  
27 high school education and her native language is Punjabi. Rajwant testified she immigrated to  
28

1 the United States in 1989 and her English language abilities at that time were negligible.

2       Currently, Rajwant testified she does not speak much English and can understand the  
3 English language to a limited extent. Specifically, Rajwant testified she can read some English,  
4 is not able to write very much English but can find her way around. Rajwant testified she has  
5 been employed at Sherman Oaks Hospital as a certified nursing assistant, a job she has held for  
6 twenty years. Rajwant testified she was not required to take a written test to obtain her  
7 employment and is only required to speak some English in order to engage in basic nursing,  
8 cleaning, feeding and hygiene assistance duties.  
9

10       Rajwant testified she currently resides with Jaswinder in their California residence.  
11 Rajwant testified other family members co-reside with her and Jaswinder at the residence.  
12

13       Rajwant testified she traveled with Jaswinder to Las Vegas in 2004. Rajwant testified  
14 Jaswinder told her they were going to obtain a “paper divorce” in order to assist bringing his  
15 brother to the United States from India. Rajwant testified, on arrival in Las Vegas, she and  
16 Jaswinder went to a friend of Jaswinder’s, had some food and signed divorce paperwork which  
17 had already been prepared. Rajwant testified she did not know what the papers were at the time  
18 and did not understand what the papers meant. Specifically, Rajwant testified she did not assist  
19 in the preparation of the papers she signed, was not given the opportunity to read the documents  
20 but did not understand or was able to read the documents in any event. Rajwant testified that, in  
21 2004, her ability to read and understand English was more limited than presently and even if she  
22 had been given additional time to read the Nevada divorce documents, she would not have been  
23 able to understand the documents. In particular, Rajwant testified she had no additional  
24 expertise understanding legal documents. Rajwant denied being given the opportunity to have  
25 the documents translated to her native language. Rajwant additionally testified she was not told  
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1 by Jaswinder or any other person she had the right to consult with any attorney related to the  
2 Nevada divorce documents.

3 Rajwant testified she was never given a copy of the Joint Petition or Decree. Rajwant  
4 additionally testified she was never notified of any Nevada residency requirement or the need  
5 for an Affidavit of Resident Witness in support of the Decree. When asked if she knew what a  
6 Joint Petition for Divorce was, Rajwant testified she did not know what kind of document it was.  
7 Rajwant testified she signed the Nevada divorce documents because her husband, Jaswinder,  
8 told her to sign and she always did as he told her. Rajwant testified she and Jaswinder left Las  
9 Vegas in 2004 after their visit and returned to California. Rajwant testified, upon return to their  
10 California home, she and Jaswinder continued to live as husband and wife. Specifically,  
11 Rajwant testified “nothing changed”. Rajwant testified the parties continue to live together,  
12 have combined finances and that her paycheck continues to be a direct deposit to the parties’  
13 joint bank account.  
14

15  
16 Rajwant testified she believed the Nevada proceeding was, as Jaswinder told her, a  
17 “paper divorce” which would allow her to marry his brother. To that end, Rajwant testified she  
18 traveled to India and married Jaswinder’s brother. Afterwards, Rajwant testified she returned to  
19 the United States with Jaswinder and her in-laws. Rajwant denied consummating the marriage  
20 to Jaswinder’s brother and testified the brother was, in fact, married to someone else in India.  
21 Additionally, Rajwant testified Jaswinder married his brother’s wife. Rajwant testified  
22 Jaswinder’s brother was not able to obtain a US VISA, despite her marriage to him, resulting in  
23 the brother remaining in India. Rajwant testified she ultimately obtained a 2008 Indian divorce  
24 from Jaswinder’s brother. Rajwant testified she complied with the request to marry Jaswinder’s  
25 brother because Jaswinder’s family wanted to be together in the United States.  
26  
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28

1 Rajwant testified she became aware of the 2004 Nevada Decree of Divorce in 2018  
2 when she filed for divorce in California. Rajwant testified she had service of the California  
3 divorce documents effectuated on Jaswinder. Rajwant testified she became aware of the 2004  
4 Nevada divorce when Jaswinder filed responsive pleadings alleging the parties were already  
5 divorced. Rajwant testified the California divorce proceeding remains on hold pending the  
6 outcome of the instant case. Rajwant testified she did not fully understand what would happen  
7 to the California divorce proceedings if the 2004 Nevada Decree was not set aside. However,  
8 Rajwant testified she has no money of her own and was afraid Jaswinder would lock her out of  
9 the home. Rajwant testified she is twelve years older than Jaswinder and that “everything is in  
10 his name”.  
11

### 12 **CONCLUSIONS OF LAW**

13  
14 In its December 10, 2020 Opinion, the Nevada Supreme Court made specific findings  
15 and orders which govern the ambit of this Court’s bench trial on remand. First, the Court  
16 concluded Rajwant’s Motion to Set Aside the Decree was timely under NRCP 60(b)(3) and (4)  
17 and this Court did not abuse its discretion in making that determination. Kaur, 136 Adv. Op at  
18 \_\_\_, 477 P.3d at 361. Second, the Court concluded this court erroneously applied Vaile v.  
19 Eighth Jud. Dist. Ct., 118 Nev. 262, 44 P.3d 506 (2002). Id. at \_\_\_, 477 P.3d at 362. Next, the  
20 Supreme Court concluded this Court’s determination the 2004 divorce decree was voidable  
21 under Vaile was not erroneous. Id. Specifically, while the Supreme Court concluded the 2004  
22 Decree was not void, it could nonetheless be voidable if Rajwant demonstrated this Court did  
23 not have jurisdiction at the time it entered the Decree. Id. As such, the Nevada Supreme Court  
24 concluded this Court did not err when is concluded neither Rajwant or Jaswinder resided in  
25 Nevada for the requisite six weeks and the Decree was, therefore, voidable. Id. Last, the  
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1 Supreme Court concluded this Court erroneously applied the doctrine of judicial estoppel. Id. at  
2 \_\_\_, 477 P.3d at 363 (citing Vaile, 118 Nev. at 273, 44 P.3d at 514). In particular, the Supreme  
3 Court concluded this Court improperly applied Vaile by concluding judicial estoppel applied  
4 where Rajwant failed to prove she was operating under duress or coercion. Specifically, the  
5 Nevada Supreme Court concluded this Court failed to first determine if judicial estoppel applied  
6 under the In re Frei Irrevocable Tr. Dated Oct. 29, 1996, 133 Nev. 50, 56, 390 P.3d 646, 652  
7 (2017) five-factor test and, if so, to then determine if duress or coercion – defenses to judicial  
8 estoppel – applied. Id.

### 11 **Governing Law**

12 In Kaur, the Nevada Supreme Court clarified the five-factor test for judicial estoppel as  
13 follows:

14 “Well-established caselaw sets forth a five-factor test for courts to consider when  
15 determining whether judicial estoppel applies: whether “(1) the same party has taken two  
16 positions; (2) the positions were taken in judicial or quasi-judicial administrative  
17 proceedings; (3) the party was successful in asserting the first position (i.e., the  
18 tribunal adopted the position or accepted it as true); (4) the two positions are totally  
19 inconsistent; and (5) the first position was not taken as a result of ignorance, fraud, or  
20 mistake.” *In re Frei Irrevocable Tr. Dated Oct. 29, 1996*, 133 Nev. 50, 56, 390 P.3d 646,  
652 (2017) (internal quotation marks omitted).”

21 Kaur v. Singh, 136 Nev. Adv. Op. 77, 477 P.3d 358, 362–63 (2020).

22 The Supreme Court went on to clarify that, while application of judicial estoppel is  
23 discretionary with the trial court, “judicial estoppel should be applied only when a party’s  
24 inconsistent position arises from *intentional* wrongdoing or an attempt to obtain unfair  
25 advantage.” Id. at \_\_\_, 477 P.3d at 363 (emphasis in original)(quoting NOLM, LLC v. Cty. of  
26 Clark, 120 Nev. 736, 743, 100 P.3d 658, 663 (2004)). Thus, a party seeking application of  
27 judicial estoppel must show “the first position was not taken as a result of ignorance, fraud, or  
28 mistake.” Id. Put another way, in order for Jaswinder to prevail on his assertion Rajwant is

1 judicially estopped from challenging the 2004 Decree, he must demonstrate Rajwant did not  
2 take her initial, first position – executing the summary divorce documents – as a result of  
3 ignorance, fraud or mistake. To that end, the Nevada Supreme Court concluded as follows:

4  
5 “Significantly, the district court failed to make findings regarding whether Rajwant was  
6 operating under ignorance, fraud, or mistake when she signed the divorce decree, in light  
7 of her claims that she could not read or understand the decree. Had the district court  
8 made findings concerning this factor and determined that Rajwant *was* operating under  
9 ignorance, fraud, or mistake, it could have declined to apply the doctrine of judicial  
10 estoppel without ever reaching the issue of whether Rajwant's defense of duress and  
11 coercion was proven.”

12 Kaur v. Singh, 136 Nev. Adv. Op. 77, 477 P.3d 358, 363 (2020).

13 Accordingly, on remand, this Court must consider and apply the five-factor test set forth  
14 in In re Frei Irrevocable Trust in order to determine if the doctrine of judicial estoppel applies  
15 and, if so, whether Rajwant has met her burden demonstrating duress or coercion is a defense.

#### 16 **IN RE FREI IRREVOCABLE TRUST FIVE-FACTOR ANALYSIS**

##### 17 **Has Rajwant Taken Two Positions?**

18 In the first instance, the underlying record indicates Rajwant signed and verified both the  
19 August 27, 2004 Joint Petition for Divorce and the September 8, 2004 Summary Decree of  
20 Divorce (the First Position). The Court FINDS, on January 7, 2019, Rajwant filed her Motion  
21 to Set Aside the Decree of Divorce on the grounds Nevada did not have jurisdiction rendering  
22 the Decree void and that she was forced to execute the Nevada divorce documents (the Second  
23 Position). Accordingly, the Court FINDS Rajwant has taken a position in one proceeding that is  
24 contrary to her position in a previous position. Kaur, 136 Adv. Op. at \_\_\_, 477 P.3d at 362  
25 (citing Vaile, 118 Nev. at 273, 44 P.3d at 514).

26 ///

27 ///

1       **Were Rajwant's Positions Taken in a Judicial or Quasi-Judicial Administrative**  
2       **Proceeding?**

3       This Court FINDS it is a court of record in the Eighth Judicial District Court and that the  
4       2004 Decree of Divorce was duly executed and filed by this Court. Accordingly, this Court  
5       FINDS Rajwant's positions were taken in a judicial proceeding.

6       **Was Rajwant Successful in Asserting the First Position (Did the Tribunal Adopt**  
7       **the Position as True)?**

8       The Court FINDS, within the context of a summary divorce proceeding, the Court  
9       accepted as true the contents of the August 27, 2004 Joint Petition for Divorce and supporting  
10      August 27, 2004 Affidavit of Resident Witness. Thus, to the extent the parties sought and  
11      obtained a summary divorce, the parties were successful in asserting the jurisdiction of this  
12      Court in order to obtain the divorce. Accordingly, the Court FINDS Rajwant was successful in  
13      asserting her First Position.  
14

15      **Are the Two Positions Totally Inconsistent?**

16      The Court FINDS clear and convincing evidence has credibly established Rajwant's  
17      First Position and Second Position are totally inconsistent. In particular, the Court FINDS it  
18      clearly illogical Rajwant would be cognizant she was divorced in Nevada and, nonetheless, file  
19      for divorce in California fourteen years later. This course of conduct, filing for divorce in  
20      California in 2018, is directly opposed and inconsistent with Rajwant knowingly obtaining a  
21      2004 Nevada divorce. The Court FINDS no evidence suggesting Rajwant's first position was  
22      the result of *intentional* wrong-doing or an attempt to gain unfair advantage. Kaur, 136 Nev.  
23      Adv. Op at \_\_\_, 477 P.3d at 363 (quoting NOLM, LLC v. Cty. of Clark, 120 Nev. 736, 743, 100  
24      P.3d 658, 663 (2004)).  
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27      ///  
28

1           **Was Rajwant’s First Position NOT Taken as a result of Ignorance, Fraud or**  
2           **Mistake?**

3           The Court FINDS Rajwant credibly testified her ability to read and understand English is  
4 currently limited. The Court further FINDS Rajwant credibly testified her ability to read and  
5 understand English is better currently than it was in 2004 at the time the Nevada divorce papers  
6 were filed and executed by this Court. The Court FINDS credible Rajwant’s testimony she  
7 relied on Jaswinder’s assertion the 2004 Nevada divorce was a “paper divorce” only, that  
8 Rajwant was unable to read or understand the Nevada divorce documents Jaswinder gave her to  
9 sign and that Rajwant was not given a copy of the 2004 Nevada Decree. The Court FINDS  
10 credible Rajwant’s testimony she believed the Nevada proceeding was in name only where  
11 testimony clearly and convincingly demonstrated the parties returned to California and  
12 continued to cohabitate with combined property and finances. The Court FINDS Rajwant  
13 credibly testified she routinely did what Jaswinder told her to do throughout the marriage to  
14 include obeying his mandate she engage in a sham marriage with his brother in order to bolster  
15 the brother’s attempts to immigrate to the United States. Specifically, the Court FINDS  
16 Rajwant was an unknowing victim of a fraud perpetrated by Jaswinder in the Nevada courts.

17  
18           Jaswinder argues this Court is bound by its prior finding Rajwant understood the Nevada  
19 divorce documents and was knowingly divorcing Jaswinder to assist his brother’s immigration  
20 application. See Jaswinder’s Closing Brief at p.2, ll.19-20 and p.3, ll.1-10 (filed September 13,  
21 2021). However, as noted herein, the Nevada Supreme Court concluded this Court’s application  
22 of judicial estoppel was erroneous. See Kaur, 137 Nev. Adv. Op at \_\_\_, 477 P.3d at 362-  
23 63(noting duress and coercion are a *defense* to judicial estoppel and concluding the district court  
24 failed to first consider whether the five-factor test favored application of judicial estoppel).  
25 Contra Findings of Fact, Conclusions of Law and Order at pp.4-6 (filed October 22,  
26  
27  
28

1 2019)(concluding Rajwant knew there was a divorce in Nevada and failed to demonstrate  
2 sufficient evidence she acted under duress in executing the Nevada divorce documents). Thus,  
3 as directed by the Nevada Supreme Court, this Court must make findings “regarding whether  
4 Rajwant was operating under ignorance, fraud, or mistake when she signed the divorce decree. .  
5 .” Id. at \_\_\_, 477 P.3d 363. Further, the Nevada Supreme Court concluded this Court did not  
6 abuse its discretion where it concluded Rajwant credibly testified she believed the 2004 divorce  
7 “was merely a paper divorce as Jaswinder told her” and where “she did not believe she and  
8 Jaswinder were divorced where they continued living together”. Id. at \_\_\_, 477 P.3d at  
9 362(addressing the timeliness of Rajwant’s motion for NRCp 60(b) relief). It is implausible the  
10 Supreme Court would find this Court did not abuse its discretion in finding Rajwant credible  
11 related to her testimony about the 2004 Nevada Decree in one instance but not credible as to the  
12 same testimony in a second instance. Therefore, this Court finds no support for Jaswinder’s  
13 assertion it is bound by the prior finding.  
14

15  
16 Accordingly, the Court FINDS Rajwant was operating under ignorance where clear and  
17 convincing evidence demonstrates Rajwant was not able to adequately read or understand  
18 English sufficient to understand the nature of the 2004 Nevada divorce documents. The Court  
19 also FINDS clear and convincing evidence demonstrated Rajwant executed the documents  
20 based on Jaswinder’s fraudulent representations the proceeding was a “paper divorce” or  
21 divorce in name only. Thus, the Court FINDS Rajwant was operating under ignorance or fraud.  
22 Because this Court FINDS clear and convincing evidence credibly demonstrates Rajwant was  
23 operating under ignorance, fraud or mistake, the Court DECLINES to apply the doctrine of  
24 judicial estoppel.  
25

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28

1 **ORDERS**

2 NOW THEREFORE, based on the foregoing *Findings of Fact and Conclusions of Law*  
3 and, good cause appearing:  
4

5 IT IS HEREBY ORDERED that this Court has complete jurisdiction to enter a final  
6 Order in this matter.

7 IT IS FURTHER ORDERED that, having reviewed the five-factor test set forth In re  
8 Frei Irrevocable Tr. Dated Oct. 29, 1996, 133 Nev. 50, 56, 390 P.3d 646, 652 (2017), clear and  
9 convincing evidence credibly demonstrates Defendant Rajwant Kaur was operating under  
10 ignorance, fraud or mistake. Therefore, the Court DECLINES to apply the doctrine of judicial  
11 estoppel.  
12

13 IT IS FURTHER ORDERED that the September 8, 2004 Decree of Divorce is  
14 VOIDABLE where neither party resided in Nevada for the requisite six weeks prior to filing of  
15 the August 27, 2004 Joint Petition for Divorce. Therefore, this Court did not have jurisdiction  
16 to enter the September 8, 2004 Decree of Divorce.  
17

18 IT IS FURTHER ORDERED that Defendant Rajwant Kaur's January 7, 2019 Motion  
19 to Set Aside Decree of Divorce pursuant to NRCP 60(b) is GRANTED and the September 8,  
20 2004 Decree of Divorce is found VOIDABLE and ORDERED SET ASIDE.  
21

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27 ///

1 IT IS FURTHER ORDERED that Plaintiff Jaswinder Singh's January 23, 2019  
2 Countermotion for Award for Attorney Fees and Costs is DENIED.  
3  
4

5 Dated this 14th day of September, 2021

6   
7 HEIDI ALMASE  
8 District Court Judge

9 7B8 E22 7449 FA70  
10 Heidi Almase  
11 District Court Judge  
12  
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1 **CSERV**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5  
6 In the Matter of the Joint Petition  
7 for Divorce of:

8 Jaswinder Singh and Rajwant  
9 Kaur

CASE NO: 04D323977

DEPT. NO. Department X

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

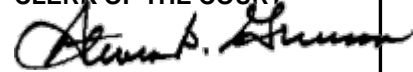
12 This automated certificate of service was generated by the Eighth Judicial District  
13 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the  
14 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
15 case as listed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

16 Service Date: 9/14/2021

17 F Peter James	peter@peterjameslaw.com
18 Service KLG	service@kainenlawgroup.com
19 Hagen Anderson	hagen@kainenlawgroup.com
20 Andrew Kynaston	Service@KainenLawGroup.com
21 April Schultz	April@PeterJamesLaw.com
22 Jaswinder Singh	Singh2816@yahoo.com

23  
24  
25  
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28





1 **NEOJ**  
2 **ANDREW L. KYNASTON, ESQ.**  
3 Nevada Bar No. 8147  
4 **KAINEN LAW GROUP, PLLC**  
5 3303 Novat Street, Suite 200  
6 Las Vegas, Nevada 89129-8714  
7 PH: (702) 823-4900  
8 FX: (702) 823-4488  
9 Service@KainenLawGroup.com  
10 Attorney for Defendant

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

13 **JASWINDER SINGH,**

14 **Plaintiff,**

15 **vs.**

16 **RAJWANT KAUR,**

17 **Defendant.**

**CASE NO. 04D323977**

**DEPT NO. X**

18 **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW**  
19 **AND ORDER**

20 **TO: JASWINDER SINGH, Plaintiff; and**


21 **TO: F. PETER JAMES, ESQ., Counsel for Plaintiff:**

22 **PLEASE TAKE NOTICE** that on the 14<sup>th</sup> day of September, 2021, the  
23 Honorable Heidi Almase entered a *Findings of Fact, Conclusions of Law and Order*, a  
24 copy of which is attached hereto.

25 **DATED this 15<sup>th</sup> day of September, 2021.**

26 **KAINEN LAW GROUP, PLLC**

27 **By:**

28   
**ANDREW L. KYNASTON, ESQ.**

Nevada Bar No. 8147  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
Attorney for Defendant

**KAINEN LAW GROUP, PLLC**  
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Las Vegas, Nevada 89129  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 15 day of September, 2021, I caused to be served the *Notice of Entry of Findings of Fact and Conclusions of Law and Order* to all interested parties as follows:

\_\_\_ BY MAIL: Pursuant to NRCP 5(b), I caused a true copy thereof to be placed in the U.S. Mail, enclosed in a sealed envelope, postage fully prepaid thereon, addressed as follows:

\_\_\_ BY CERTIFIED MAIL: I caused a true copy thereof to be placed in the U.S. Mail, enclosed in a sealed envelope, certified mail, return receipt requested, postage fully paid thereon, addressed as follows:

\_\_\_ BY FACSIMILE: Pursuant to EDCR 7.26, I caused a true copy thereof to be transmitted, via facsimile, to the following number(s):

X BY ELECTRONIC MAIL: Pursuant to EDCR 7.26 and NEFCR Rule 9, I caused a true copy thereof to be served via electronic mail, via Wiznet, to the following e-mail address(es):

*Peter@peterjameslaw.com*

*April@peterjameslaw.com*

*Singh2816@yahoo.com*

*Chandana*

An Employee of  
KAINEN LAW GROUP, PLLC

1 FFCO

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

**E-SERVED**  
**SEP 14 2021**

5  
6 JASWINDER SINGH,  
7 Plaintiff,

Case No: 04-D-323977  
Dept. No: X

8 vs.

DATE OF HEARING: 08/16/2021  
TIME OF HEARING: 1:30PM

9 RAJWANT KAUR,  
10 Defendant

11 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

12  
13 This matter came before the Court for non-jury bench trial in the above-captioned matter  
14 on August 16, 2021 following a December 19, 2020 Order of Reversal and Remand in Kaur v.  
15 Singh, 135 Nev. Adv. Op. 77, 477 P.3d 358 (2020), *reh'g denied* (January 13, 2021), *en banc*  
16 *reconsideration denied*, (March 18, 2021).

17 Jaswinder (Jaswinder) Singh was present in the courtroom and represented by F. Peter  
18 James, Law Offices of F. Peter James. Rajwant (Rajwant) Kaur was present in the courtroom  
19 and represented by Andrew L. Kynaston, Kainen Law Group PLLC. Each party had the use of  
20 court-certified interpreter during the proceedings.

21  
22 Having reviewed the papers and pleadings on file herein and, after considering and  
23 weighing the credibility of the witnesses and exhibits admitted into evidence, this Court issues  
24 its *Findings of Fact, Conclusions of Law and Order*.

25  
26 **PROCEDURAL HISTORY**

27 On August 27, 2004, the parties filed a Joint Petition for Summary Decree of Divorce  
28 (Joint Petition). Both parties were self-represented. The Joint Petition indicated the parties

1 married on November 11, 1989 in Punjab, India. Both parties signed the Joint Petition which  
2 included Verifications. Also on August 27, 2004, the parties filed an Affidavit of Resident  
3 Witness wherein Balbinder Singh Pabla averred Jaswinder was a resident of Clark County,  
4 Nevada. On September 8, 2004, a Summary Decree of Divorce (Decree) was filed. Though the  
5 parties had then been married for a period of eighteen (18) years, no community property or  
6 debt was divided and neither party received an award for spousal support.  
7

8 On January 7, 2019, Rajwant filed a Motion to Set Aside Decree of Divorce. In her  
9 motion, Rajwant requested the Decree be set aside pursuant to NRCP 60(b) and, further, alleged  
10 the Decree was void due to neither Rajwant nor Jaswinder being a resident of Nevada at the  
11 time the Decree was filed. On January 23, 2019, Jaswinder filed his Opposition and  
12 Countermotion for Award for Attorney Fees and Costs. Rajwant timely replied. Following  
13 hearing on the pleadings, the Court determined a bench trial was warranted. See Order (filed  
14 March 14, 2019).  
15

16 On September 12 and 13, 2019 bench trial was held. On October 22, 2019, the Court  
17 issued its Findings of Fact, Conclusions of Law and Order (Order). Specifically, relying on  
18 Vaile v. Eighth Jud. Dist. Ct., 118 Nev. 262, 44 P.3d 512 (2002), the Court denied Rajwant's  
19 motion to set aside the September 8, 2004 Decree of Divorce. In the nine-page order, the Court  
20 found Jaswinder "not credible in any portion of his testimony." See Order at p.4, ll.14-15 (filed  
21 October 22, 2019). With respect to Rajwant's testimony, the Court found her "more credible".  
22 Id. The Court's conclusion Rajwant failed to demonstrate threat, duress or coercion, is tied to  
23 its application of the Vaile case which included its finding Rajwant knew she was executing  
24 divorce documents in Nevada. Id. at p.4, ll.14-20, p.5, ll.1-20, p.6, ll.1-20 and p.7, ll.1-5. Last,  
25 the Court additionally ordered both parties to bear his/her own attorney fees and costs.  
26  
27  
28

1 On November 19, 2019, Rajwant filed her Notice of Appeal followed, on November 29,  
2 2019, with Jaswinder's Notice of Appeal. On November 12, 2020, oral argument was held on  
3 the appeal and cross-appeal. As noted above, on December 19, 2020, the Nevada Supreme  
4 Court issued an Opinion wherein the matter was ordered reversed and remanded. On January  
5 13, 2021, Jaswinder's December 28, 2020 Petition for Rehearing was denied. On March 18,  
6 2021, Jaswinder's January 27, 2021 Petition for En Banc Rehearing was denied. On April 13,  
7 2021, Remittitur issued.  
8

9 On January 4, 2021, this case was administratively reassigned from Department P to  
10 Department X.  
11

12 Following testimony and admission of exhibits, the parties stipulated to filing closing  
13 briefs. Accordingly, on September 13, 2021, the parties filed and served their written closing  
14 briefs. This decision follows.  
15

## 16 **FINDINGS OF FACT**

### 17 **JURISDICTION**

18 Both parties in this case reside in California. At issue in this case is the validity of the  
19 September 8, 2004 Summary Decree of Divorce filed in this Court. This Court has the  
20 appropriate subject matter and personal jurisdiction to enter a decision on the challenged issues.  
21

### 22 **TESTIMONY**

23 The following witness offered testimony in this case:

24 Rajwant Kaur (Defendant).

25 Rajwant testified she is currently 64 years of age. Rajwant testified her marriage was an  
26 arranged marriage taking place in 1989 in India. Rajwant testified she has the equivalent of a  
27 high school education and her native language is Punjabi. Rajwant testified she immigrated to  
28

1 the United States in 1989 and her English language abilities at that time were negligible.

2       Currently, Rajwant testified she does not speak much English and can understand the  
3 English language to a limited extent. Specifically, Rajwant testified she can read some English,  
4 is not able to write very much English but can find her way around. Rajwant testified she has  
5 been employed at Sherman Oaks Hospital as a certified nursing assistant, a job she has held for  
6 twenty years. Rajwant testified she was not required to take a written test to obtain her  
7 employment and is only required to speak some English in order to engage in basic nursing,  
8 cleaning, feeding and hygiene assistance duties.  
9

10       Rajwant testified she currently resides with Jaswinder in their California residence.  
11  
12 Rajwant testified other family members co-reside with her and Jaswinder at the residence.

13       Rajwant testified she traveled with Jaswinder to Las Vegas in 2004. Rajwant testified  
14 Jaswinder told her they were going to obtain a "paper divorce" in order to assist bringing his  
15 brother to the United States from India. Rajwant testified, on arrival in Las Vegas, she and  
16 Jaswinder went to a friend of Jaswinder's, had some food and signed divorce paperwork which  
17 had already been prepared. Rajwant testified she did not know what the papers were at the time  
18 and did not understand what the papers meant. Specifically, Rajwant testified she did not assist  
19 in the preparation of the papers she signed, was not given the opportunity to read the documents  
20 but did not understand or was able to read the documents in any event. Rajwant testified that, in  
21 2004, her ability to read and understand English was more limited than presently and even if she  
22 had been given additional time to read the Nevada divorce documents, she would not have been  
23 able to understand the documents. In particular, Rajwant testified she had no additional  
24 expertise understanding legal documents. Rajwant denied being given the opportunity to have  
25 the documents translated to her native language. Rajwant additionally testified she was not told  
26  
27  
28

1 by Jaswinder or any other person she had the right to consult with any attorney related to the  
2 Nevada divorce documents.

3 Rajwant testified she was never given a copy of the Joint Petition or Decree. Rajwant  
4 additionally testified she was never notified of any Nevada residency requirement or the need  
5 for an Affidavit of Resident Witness in support of the Decree. When asked if she knew what a  
6 Joint Petition for Divorce was, Rajwant testified she did not know what kind of document it was.  
7 Rajwant testified she signed the Nevada divorce documents because her husband, Jaswinder,  
8 told her to sign and she always did as he told her. Rajwant testified she and Jaswinder left Las  
9 Vegas in 2004 after their visit and returned to California. Rajwant testified, upon return to their  
10 California home, she and Jaswinder continued to live as husband and wife. Specifically,  
11 Rajwant testified "nothing changed". Rajwant testified the parties continue to live together,  
12 have combined finances and that her paycheck continues to be a direct deposit to the parties'  
13 joint bank account.

14 Rajwant testified she believed the Nevada proceeding was, as Jaswinder told her, a  
15 "paper divorce" which would allow her to marry his brother. To that end, Rajwant testified she  
16 traveled to India and married Jaswinder's brother. Afterwards, Rajwant testified she returned to  
17 the United States with Jaswinder and her in-laws. Rajwant denied consummating the marriage  
18 to Jaswinder's brother and testified the brother was, in fact, married to someone else in India.  
19 Additionally, Rajwant testified Jaswinder married his brother's wife. Rajwant testified  
20 Jaswinder's brother was not able to obtain a US VISA, despite her marriage to him, resulting in  
21 the brother remaining in India. Rajwant testified she ultimately obtained a 2008 Indian divorce  
22 from Jaswinder's brother. Rajwant testified she complied with the request to marry Jaswinder's  
23 brother because Jaswinder's family wanted to be together in the United States.

1 Rajwant testified she became aware of the 2004 Nevada Decree of Divorce in 2018  
2 when she filed for divorce in California. Rajwant testified she had service of the California  
3 divorce documents effectuated on Jaswinder. Rajwant testified she became aware of the 2004  
4 Nevada divorce when Jaswinder filed responsive pleadings alleging the parties were already  
5 divorced. Rajwant testified the California divorce proceeding remains on hold pending the  
6 outcome of the instant case. Rajwant testified she did not fully understand what would happen  
7 to the California divorce proceedings if the 2004 Nevada Decree was not set aside. However,  
8 Rajwant testified she has no money of her own and was afraid Jaswinder would lock her out of  
9 the home. Rajwant testified she is twelve years older than Jaswinder and that "everything is in  
10 his name".  
11

### 12 CONCLUSIONS OF LAW

13  
14 In its December 10, 2020 Opinion, the Nevada Supreme Court made specific findings  
15 and orders which govern the ambit of this Court's bench trial on remand. First, the Court  
16 concluded Rajwant's Motion to Set Aside the Decree was timely under NRCP 60(b)(3) and (4)  
17 and this Court did not abuse its discretion in making that determination. Kaur, 136 Adv. Op at  
18 \_\_\_, 477 P.3d at 361. Second, the Court concluded this court erroneously applied Vaile v.  
19 Eighth Jud. Dist. Ct., 118 Nev. 262, 44 P.3d 506 (2002). Id. at \_\_\_, 477 P.3d at 362. Next, the  
20 Supreme Court concluded this Court's determination the 2004 divorce decree was voidable  
21 under Vaile was not erroneous. Id. Specifically, while the Supreme Court concluded the 2004  
22 Decree was not void, it could nonetheless be voidable if Rajwant demonstrated this Court did  
23 not have jurisdiction at the time it entered the Decree. Id. As such, the Nevada Supreme Court  
24 concluded this Court did not err when is concluded neither Rajwant or Jaswinder resided in  
25 Nevada for the requisite six weeks and the Decree was, therefore, voidable. Id. Last, the  
26  
27  
28



1 Supreme Court concluded this Court erroneously applied the doctrine of judicial estoppel. *Id.* at  
2 \_\_\_, 477 P.3d at 363 (citing *Vaile*, 118 Nev. at 273, 44 P.3d at 514). In particular, the Supreme  
3 Court concluded this Court improperly applied *Vaile* by concluding judicial estoppel applied  
4 where Rajwant failed to prove she was operating under duress or coercion. Specifically, the  
5 Nevada Supreme Court concluded this Court failed to first determine if judicial estoppel applied  
6 under the *In re Frei Irrevocable Tr. Dated Oct. 29, 1996*, 133 Nev. 50, 56, 390 P.3d 646, 652  
7 (2017) five-factor test and, if so, to then determine if duress or coercion – defenses to judicial  
8 estoppel – applied. *Id.*

#### 11 **Governing Law**

12 In *Kaur*, the Nevada Supreme Court clarified the five-factor test for judicial estoppel as  
13 follows:

14 “Well-established caselaw sets forth a five-factor test for courts to consider when  
15 determining whether judicial estoppel applies: whether “(1) the same party has taken two  
16 positions; (2) the positions were taken in judicial or quasi-judicial administrative  
17 proceedings; (3) the party was successful in asserting the first position (i.e., the  
18 tribunal adopted the position or accepted it as true); (4) the two positions are totally  
19 inconsistent; and (5) the first position was not taken as a result of ignorance, fraud, or  
20 mistake.” *In re Frei Irrevocable Tr. Dated Oct. 29, 1996*, 133 Nev. 50, 56, 390 P.3d 646,  
652 (2017) (internal quotation marks omitted).”

21 *Kaur v. Singh*, 136 Nev. Adv. Op. 77, 477 P.3d 358, 362–63 (2020).

22 The Supreme Court went on to clarify that, while application of judicial estoppel is  
23 discretionary with the trial court, “judicial estoppel should be applied only when a party’s  
24 inconsistent position arises from *intentional* wrongdoing or an attempt to obtain unfair  
25 advantage.” *Id.* at \_\_\_, 477 P.3d at 363 (emphasis in original)(quoting *NOLM, LLC v. Cty. of*  
26 *Clark*, 120 Nev. 736, 743, 100 P.3d 658, 663 (2004)). Thus, a party seeking application of  
27 judicial estoppel must show “the first position was not taken as a result of ignorance, fraud, or  
28 mistake.” *Id.* Put another way, in order for Jaswinder to prevail on his assertion Rajwant is

1 judicially estopped from challenging the 2004 Decree, he must demonstrate Rajwant did not  
2 take her initial, first position – executing the summary divorce documents – as a result of  
3 ignorance, fraud or mistake. To that end, the Nevada Supreme Court concluded as follows:

4 “Significantly, the district court failed to make findings regarding whether Rajwant was  
5 operating under ignorance, fraud, or mistake when she signed the divorce decree, in light  
6 of her claims that she could not read or understand the decree. Had the district court  
7 made findings concerning this factor and determined that Rajwant was operating under  
8 ignorance, fraud, or mistake, it could have declined to apply the doctrine of judicial  
9 estoppel without ever reaching the issue of whether Rajwant's defense of duress and  
10 coercion was proven.”

11 Kaur v. Singh, 136 Nev. Adv. Op. 77, 477 P.3d 358, 363 (2020).

12 Accordingly, on remand, this Court must consider and apply the five-factor test set forth  
13 in In re Frei Irrevocable Trust in order to determine if the doctrine of judicial estoppel applies  
14 and, if so, whether Rajwant has met her burden demonstrating duress or coercion is a defense.

#### 15 **IN RE FREI IRREVOCABLE TRUST FIVE-FACTOR ANALYSIS**

##### 16 **Has Rajwant Taken Two Positions?**

17 In the first instance, the underlying record indicates Rajwant signed and verified both the  
18 August 27, 2004 Joint Petition for Divorce and the September 8, 2004 Summary Decree of  
19 Divorce (the First Position). The Court FINDS, on January 7, 2019, Rajwant filed her Motion  
20 to Set Aside the Decree of Divorce on the grounds Nevada did not have jurisdiction rendering  
21 the Decree void and that she was forced to execute the Nevada divorce documents (the Second  
22 Position). Accordingly, the Court FINDS Rajwant has taken a position in one proceeding that is  
23 contrary to her position in a previous position. Kaur, 136 Adv. Op. at \_\_\_, 477 P.3d at 362  
24 (citing Vaile, 118 Nev. at 273, 44 P.3d at 514).

25 ///

26 ///

1       **Were Rajwant's Positions Taken in a Judicial or Quasi-Judicial Administrative**  
2       **Proceeding?**

3       This Court FINDS it is a court of record in the Eighth Judicial District Court and that the  
4       2004 Decree of Divorce was duly executed and filed by this Court. Accordingly, this Court  
5       FINDS Rajwant's positions were taken in a judicial proceeding.

6       **Was Rajwant Successful in Asserting the First Position (Did the Tribunal Adopt**  
7       **the Position as True)?**

8       The Court FINDS, within the context of a summary divorce proceeding, the Court  
9       accepted as true the contents of the August 27, 2004 Joint Petition for Divorce and supporting  
10      August 27, 2004 Affidavit of Resident Witness. Thus, to the extent the parties sought and  
11      obtained a summary divorce, the parties were successful in asserting the jurisdiction of this  
12      Court in order to obtain the divorce. Accordingly, the Court FINDS Rajwant was successful in  
13      asserting her First Position.  
14

15      **Are the Two Positions Totally Inconsistent?**

16      The Court FINDS clear and convincing evidence has credibly established Rajwant's  
17      First Position and Second Position are totally inconsistent. In particular, the Court FINDS it  
18      clearly illogical Rajwant would be cognizant she was divorced in Nevada and, nonetheless, file  
19      for divorce in California fourteen years later. This course of conduct, filing for divorce in  
20      California in 2018, is directly opposed and inconsistent with Rajwant knowingly obtaining a  
21      2004 Nevada divorce. The Court FINDS no evidence suggesting Rajwant's first position was  
22      the result of *intentional* wrong-doing or an attempt to gain unfair advantage. Kaur, 136 Nev.  
23      Adv. Op at \_\_\_, 477 P.3d at 363 (quoting NOLM, LLC v. Cty. of Clark, 120 Nev. 736, 743, 100  
24      P.3d 658, 663 (2004)).  
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1       **Was Rajwant's First Position NOT Taken as a result of Ignorance, Fraud or**  
2       **Mistake?**

3       The Court FINDS Rajwant credibly testified her ability to read and understand English is  
4 currently limited. The Court further FINDS Rajwant credibly testified her ability to read and  
5 understand English is better currently than it was in 2004 at the time the Nevada divorce papers  
6 were filed and executed by this Court. The Court FINDS credible Rajwant's testimony she  
7 relied on Jaswinder's assertion the 2004 Nevada divorce was a "paper divorce" only, that  
8 Rajwant was unable to read or understand the Nevada divorce documents Jaswinder gave her to  
9 sign and that Rajwant was not given a copy of the 2004 Nevada Decree. The Court FINDS  
10 credible Rajwant's testimony she believed the Nevada proceeding was in name only where  
11 testimony clearly and convincingly demonstrated the parties returned to California and  
12 continued to cohabitate with combined property and finances. The Court FINDS Rajwant  
13 credibly testified she routinely did what Jaswinder told her to do throughout the marriage to  
14 include obeying his mandate she engage in a sham marriage with his brother in order to bolster  
15 the brother's attempts to immigrate to the United States. Specifically, the Court FINDS  
16 Rajwant was an unknowing victim of a fraud perpetrated by Jaswinder in the Nevada courts.

17  
18       Jaswinder argues this Court is bound by its prior finding Rajwant understood the Nevada  
19 divorce documents and was knowingly divorcing Jaswinder to assist his brother's immigration  
20 application. See Jaswinder's Closing Brief at p.2, ll.19-20 and p.3, ll.1-10 (filed September 13,  
21 2021). However, as noted herein, the Nevada Supreme Court concluded this Court's application  
22 of judicial estoppel was erroneous. See Kaur, 137 Nev. Adv. Op at \_\_\_, 477 P.3d at 362-  
23 63(noting duress and coercion are a *defense* to judicial estoppel and concluding the district court  
24 failed to first consider whether the five-factor test favored application of judicial estoppel).  
25 Contra Findings of Fact, Conclusions of Law and Order at pp.4-6 (filed October 22,  
26  
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28

1 2019)(concluding Rajwant knew there was a divorce in Nevada and failed to demonstrate  
2 sufficient evidence she acted under duress in executing the Nevada divorce documents). Thus,  
3 as directed by the Nevada Supreme Court, this Court must make findings “regarding whether  
4 Rajwant was operating under ignorance, fraud, or mistake when she signed the divorce decree. .  
5 .” *Id.* at \_\_\_, 477 P.3d 363. Further, the Nevada Supreme Court concluded this Court did not  
6 abuse its discretion where it concluded Rajwant credibly testified she believed the 2004 divorce  
7 “was merely a paper divorce as Jaswinder told her” and where “she did not believe she and  
8 Jaswinder were divorced where they continued living together”. *Id.* at \_\_\_, 477 P.3d at  
9 362(addressing the timeliness of Rajwant’s motion for NRCP 60(b) relief). It is implausible the  
10 Supreme Court would find this Court did not abuse its discretion in finding Rajwant credible  
11 related to her testimony about the 2004 Nevada Decree in one instance but not credible as to the  
12 same testimony in a second instance. Therefore, this Court finds no support for Jaswinder’s  
13 assertion it is bound by the prior finding.  
14

15  
16 Accordingly, the Court FINDS Rajwant was operating under ignorance where clear and  
17 convincing evidence demonstrates Rajwant was not able to adequately read or understand  
18 English sufficient to understand the nature of the 2004 Nevada divorce documents. The Court  
19 also FINDS clear and convincing evidence demonstrated Rajwant executed the documents  
20 based on Jaswinder’s fraudulent representations the proceeding was a “paper divorce” or  
21 divorce in name only. Thus, the Court FINDS Rajwant was operating under ignorance or fraud.  
22 Because this Court FINDS clear and convincing evidence credibly demonstrates Rajwant was  
23 operating under ignorance, fraud or mistake, the Court DECLINES to apply the doctrine of  
24 judicial estoppel.  
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1 IT IS FURTHER ORDERED that Plaintiff Jaswinder Singh's January 23, 2019  
2 Countermotion for Award for Attorney Fees and Costs is DENIED.  
3  
4

5 Dated this 14th day of September, 2021

6   
7 HEIDI ALMASE  
8 District Court Judge

9 7B8 E22 7449 FA70  
10 Heidi Almase  
11 District Court Judge  
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1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
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5  
6 In the Matter of the Joint Petition  
7 for Divorce of:

CASE NO: 04D323977

DEPT. NO. Department X

8 Jaswinder Singh and Rajwant  
9 Kaur

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

Service Date: 9/14/2021

15 F Peter James	peter@peterjameslaw.com
16 Service KLG	service@kainenlawgroup.com
17 Hagen Anderson	hagen@kainenlawgroup.com
18 Andrew Kynaston	Service@KainenLawGroup.com
19 April Schultz	April@PeterJamesLaw.com
20 Jaswinder Singh	Singh2816@yahoo.com
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Divorce - Joint Petition****COURT MINUTES****February 13, 2019**

04D323977

In the Matter of the Joint Petition for Divorce of:  
Jaswinder Singh and Rajwant Kaur

**February 13, 2019 10:00 AM****All Pending Motions****HEARD BY:** Pomrenze, Sandra**COURTROOM:** Courtroom 10**COURT CLERK:** Carol Critchett**PARTIES:**

Jaswinder Singh, Petitioner, present

F James, Attorney, present

Rajwant Kaur, Petitioner, not present

Andrew Kynaston, Attorney, present

<b>JOURNAL ENTRIES</b>
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- DEFT'S MOTION TO SET ASIDE DECREE OF DIVORCE...PLTF'S OPPOSITION TO MOTION TO SET ASIDE DECREE OF DIVORCE AND COUNTERMOTION...DEFT'S REPLY TO PLTF'S OPPOSITION AND COUNTERMOTION

Munir Qureshi, Punjabi interpreter, present with Jaswinder Singh.

Petitioner Jaswinder Singh is referred to as Plaintiff herein.

Co-Petitioner Rajwant Kaur is referred to as Defendant herein.

Discussion regarding the Vaile case, there being evidence to be induced, the validity of residency and the issue of voluntary participation in fraud being perpetrated on the State Of Nevada. Further discussion regarding whether California recognizes

"common law" marriages. Argument and discussion regarding adoption of the Marvin case, counsel appealing the Court, making findings and setting an evidentiary hearing. Argument regarding the fraud and void claims, whether fraud was perpetrated and the State Of Nevada being the victim of the fraud. Argument and discussion regarding Plaintiff's burden of proof, Defendant's burden of proof and the issues with divorces in Nevada. Argument and discussion regarding the fraud and the relief. Court advised counsel the issues were the fraudulent divorce, whether Defendant could lawfully exercise a right to void the divorce and what the date of the voiding of the marriage was.

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Argument and discussion regarding the events in 2004, both parties being remarried, Defendant's new evidence and whether Defendant would need an interpreter.

**COURT ORDERED:**

1. The MATTERS are calendared for an EVIDENTIARY HEARING regarding VOIDING the DIVORCE for ONE and ONE HALF DAYS on June 13, 2019 at 1:30 P.M. and again on June 14, 2019 at 9:30 A.M. The parties shall BE PRESENT IN PERSON. NO TELEPHONIC APPEARANCES will be ALLOWED.
2. Prehearing briefs, including a Schedule Of Assets And Debts and the proposed property division, citing applicable law and applying the law to the facts in the case shall be EXCHANGED and FILED, with COURTESY COPIES delivered to chambers, NO LATER THAN June 06, 2019 at the close of the business day (5:00 P.M.). Briefs may be e-mailed or faxed to chambers if less than thirty pages. If the Briefs are more than 30 pages counsel shall Courtesy Copy a HARD COPY to the Court's CHAMBERS. In the event either of the parties do not timely submit their brief, the non-complying party will be subject to monetary sanctions. The TRIAL EXHIBITS SHALL NOT BE ATTACHED TO THE BRIEF THAT IS FILED.
3. DISCOVERY shall CLOSE on MAY 30, 2019 at the close of the business day (5:00 P.M.). WRITTEN DISCOVERY shall be SERVED ONE MONTH and ONE WEEK prior to the close of Discovery and in a fashion that allows the other party 30 DAYS to RESPOND. There shall be no written Discovery requests, no responses required and no depositions taken after the Discovery closing date.
4. Parties shall EXCHANGE LISTS of witnesses and exhibits, as well as copies of their proposed exhibits, NO LATER THAN MAY 01, 2019 at the close of business (5:00 P.M.). Counsel shall PROVIDE the witness and exhibit DISCLOSURES for trial SEPARATELY from the DISCOVERY DISCLOSURES and in a fashion that allows TIME for any needed DEPOSITIONS. Any witness not identified in advance of the hearing who is presented at the hearing will not be permitted to testify at the hearing absent compelling circumstances. Any exhibits not identified prior to the time set for hearing will not be admitted absent compelling circumstances. The TRIAL EXHIBITS SHALL NOT BE FILED.
5. Counsel shall MAKE the ARRANGEMENTS for the INTERPRETERS PRIOR to the TRIAL.

Mr. Kynaston shall PREPARE the ORDER. Mr. James shall REVIEW the ORDER then COUNTERSIGN.

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**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Divorce - Joint Petition****COURT MINUTES**

September 12, 2019

04D323977

In the Matter of the Joint Petition for Divorce of:  
Jaswinder Singh and Rajwant Kaur

**September 12,  
2019****1:30 PM****Evidentiary Hearing****HEARD BY:** Pomrenze, Sandra**COURTROOM:** Courtroom 10**COURT CLERK:** Carol Critchett**PARTIES:**

Jaswinder Singh, Petitioner, present  
Rajwant Kaur, Petitioner, present

F James, Attorney, present  
Andrew Kynaston, Attorney, present

<b>JOURNAL ENTRIES</b>
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**- EVIDENTIARY HEARING: VOIDING DIVORCE**

This matter was heard concurrently with Petitioner's Motion In Limine and Rajwant Kaur's Opposition To Plaintiff's Motion In Limine And Defendant's Countermotion For Attorney's Fees And Costs this date.

Petitioner Jaswinder Singh is referred to as Plaintiff herein.  
Petitioner Rajwant Kaur is referred to as Defendant herein.

Interpreter Munir Qureshi, Registered Interpreter in Punjabi, present with Plaintiff.

Argument and discussion regarding the Motion In Limine. Counsel advised the Court he wished to invoke the exclusionary rule. COURT SO ORDERED.

**COURT FURTHER ORDERED:**

2. The MOTION is DENIED WITHOUT PREJUDICE.

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3. Counsel shall ARGUE AGAINST Defendant's WITNESSES as they are CALLED to TESTIFY.

Both counsel WAIVED OPENING STATEMENTS.

Testimony and exhibits presented (see worksheets).

Argument and discussion regarding counsel stipulating to admission of some of the exhibits.

Counsel advised

Plaintiff's exhibits, except for exhibits 3,6,8,9,11,12,16 and 17, were stipulated to for admission.

Counsel further advised all of Defendant's exhibits, except for exhibits H, T, and U, were stipulated to for admission.

Testimony and exhibit presentation resumed (see worksheets).

MATTER TRAILED for counsel to confer with his client.

MATTER RECALLED. All parties present as before.

Testimony and exhibit presentation resumed (see worksheets).

Plaintiff's DEPOSITION PUBLISHED IN OPEN COURT.

Testimony and exhibit presentation resumed (see worksheets).

MATTER TRAILED.

MATTER RECALLED. All present as before.

Testimony and exhibit presentation resumed (see worksheets).

Colloquy at the bench.

MATTER TRAILED.

MATTER RECALLED. All present as before.

Colloquy at the bench.

Testimony and exhibit presentation resumed (see worksheets).

Evidentiary Hearing proceeds to Day Two.

Court adjourned.

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**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Divorce - Joint Petition****COURT MINUTES**

September 12, 2019

04D323977

In the Matter of the Joint Petition for Divorce of:  
Jaswinder Singh and Rajwant Kaur

**September 12,  
2019****1:30 PM****Motion in Limine****HEARD BY:** Pomrenze, Sandra**COURTROOM:** Courtroom 10**COURT CLERK:** Carol Critchett**PARTIES:**

Jaswinder Singh, Petitioner, present  
Rajwant Kaur, Petitioner, present

F James, Attorney, present  
Andrew Kynaston, Attorney, present

<b>JOURNAL ENTRIES</b>
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- PETITIONER'S MOTION IN LIMINE...RAJWANT KAUR'S OPPOSITION TO PLAINTIFF'S  
MOTION IN LIMINE AND COUNTERMOTION FOR ATTORNEY'S FEES

This matter was heard concurrently with the Evidentiary Hearing: Voiding Divorce calendared for  
September 12, 2019 and  
again on September 13, 2019. Please refer to the Minute Order under the Evidentiary Hearing for the  
hearing details  
and the Court's orders.

**INTERIM CONDITIONS:****FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Divorce - Joint Petition****COURT MINUTES****September 13, 2019**

04D323977

In the Matter of the Joint Petition for Divorce of:  
Jaswinder Singh and Rajwant Kaur

**September 13,  
2019****9:30 AM****Evidentiary Hearing****HEARD BY:** Pomrenze, Sandra**COURTROOM:** Courtroom 10**COURT CLERK:** Carol Critchett**PARTIES:**

Jaswinder Singh, Petitioner, present  
Rajwant Kaur, Petitioner, present

F James, Attorney, present  
Andrew Kynaston, Attorney, present

<b>JOURNAL ENTRIES</b>
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**- EVIDENTIARY HEARING: VOIDING DIVORCE**

Petitioner Jaswinder Singh is referred to as Plaintiff herein.  
Petitioner Rajwant Kaur is referred to as Defendant herein.

Nevada registered Punjabi interpreter Munir Qureshi, present with Plaintiff and Defendant.

Testimony and exhibits presented (see worksheets).

Argument and discussion regarding the relative issues for this hearing.

Testimony and exhibit presentation resumed (see worksheets).

Argument and discussion regarding the Court taking judicial notice that entry of a Decree Of Divorce ends a marriage and that being the issue before the Court in these proceedings. Court advised counsel it was taking judicial notice that a Decree Of Divorce was entered on September 04, 2004.

Testimony and exhibit presentation resumed (see worksheets).

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Colloquy at the bench.

Testimony and exhibit presentation resumed (see worksheets).

MATTER TRAILED.

MATTER RECALLED. All present as before.

Court advised counsel it received documents in chambers and it conferred with the Presiding Judge and it was agreed the documents did not divest this Court of jurisdiction and the matters would proceed. Counsel concurred with the Court.

Testimony and exhibit presentation resumed (see worksheets).

Upon Court's inquiry both counsel agreed to conduct a conference with the Court.

MATTER TRAILED for the Court to conduct a conference with counsel off the record and outside of the courtroom.

MATTER RECALLED. All parties present as before.

Court stated for the record and advised the parties of the matters discussed in the conference with counsel.

Testimony and exhibit presentation resumed (see worksheets).

Counsel moved the Court for judgment on the evidence. Court observed it questioned the Vaile case as it seemed to be illogical and it seemed to say it was okay to "pull a scam and get away with it" but it was Nevada law. Court further observed the testimony of the Defendant is not a far distance from the facts of the Vaile case. Argument and discussion regarding the fraudulent divorce, both parties' testimony about the divorce, the Vaile case decision, the facts of the Vaile case and counsel appealing this case to have the Supreme Court review of the Vaile case. Argument and discussion regarding neither party understanding what they were doing, Plaintiff's beliefs about getting a Nevada divorce, the California requirements for divorce and Nevada divorce law. Argument and discussion regarding the decision regarding the fraudulent divorce, Defendant not receiving any benefits after the last 15 years with Plaintiff, California making the decision and the Court's discretion under the Vaile case. Counsel requested the Court exercise its discretion and rule on the facts of the case. Discussion regarding the Court's obligation to rule on the facts of the law. Argument and discussion regarding the provisions of Rule 60b, the provisions of the Vaile case, Defendant's testimony and counsel appealing this case. Court advised counsel it would be exceeding its obligation if it did not rule on Plaintiff's motion (for judgment) based on the evidence presented and Defendant's deposition was not admitted or published so it could not review the deposition.

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Argument and discussion regarding the facts presented today being on point with the Vaile case and Defendant not meeting her burden of proof.

COURT stated its FINDINGS:

The Court does not find that Plaintiff was credible in any portion of his testimony. Based on the evidence presented Defendant was more credible, therefore, the Court does find that the parties perpetrated a fraud on the State Of Nevada by entering into a Decree Of Divorce without the requisite residency. Were that to be the end of the inquiry, because of the Vaile vs. Eighth Judicial District case, it was not the end of the inquiry. If sufficient time has passed the Court is obligated to make a decision to the merits as to how the fraudulent divorce was implemented (and) what were the parties' roles. In the Vaile case both spouses were willing participants (and) they both knew that they didn't have residency. They both knew they wanted a divorce sooner rather than later. It is not uncommon, unfortunately because we have such generous divorce laws, that people take advantage of those divorce laws and they come here thinking they'll get a quick divorce and they pretend to be residents. The Courts see that on a regular basis. Sometimes they get away with it, sometimes they don't but certainly, in this instance, the presiding judge had no reason to question the validity of the documents that were submitted and, therefore, executed the Decree. What Vaile says is if they make a distinction where there is a very old divorce the party who seeks to set it aside based on fraud (that party) must prove they were free from fault and you have 2 parties at fault and the Court in Vaile applied an equitable standard that they were not going to reward a "wrong doer" and that is why there is a requirement of some equitable reason why a "co-wrong doer" should not be permitted relief even though they are equally ( as much of) a wrong doer as the other party. So they set the standard that there has to be some threat or coercion or (an) equitable reason why that party is free from fault. In the instant case the Court finds the Defendant to be very credible, unlike the Plaintiff. However, what is missing from her testimony is that she was forced to sign those papers and, in fact in this instance, she knew there was a divorce in Nevada whether Plaintiff told her it was a piece of paper or not. This is a person who is a competent adult and (who) knew there was a divorce in Nevada until such time as she became upset with the Plaintiff, upon his allegation he had married someone else, she was content to "let sleeping dogs lie" and live together (with the Plaintiff). Ironically, they are still living together and, ironically, Plaintiff has not remarried. But it requires, in this instance, evidence of an unequal bargaining position at a minimum.

There was nothing in Defendant's testimony that was evidence of an unequal bargaining position between the Plaintiff and Defendant. He said we're going to Nevada, we're going to sign some paperwork, it is going to be a divorce, it is going to be a "paper divorce", we're going to continue to live together (and) this was not a person with a mental defect or an inability to understand what was being told to her. She knew it, and in fact at his request and again it was a request not a demand according to her own testimony, she in fact went to India to marry his (Plaintiff's) brother. Was it a "sham" marriage? Of course it was. Did it assist the parties in their "end game"? No, because the brother never got a Visa and (did not) come to the U.S. But at the end of the day there is simply insufficient evidence that the Defendant acted

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under duress. So as much as I (the Court) find the facts of this case offensive, it cannot rule on what it finds offensive it has to rule on the law and precedent and Vaile is still precedent in this state.

Should the Supreme Court choose to take a second look on appeal and, if in fact, they say that Vaile is not good law then the Court is happy to have the parties come back and the Court will even set a second hearing but on the testimony and the evidence the Court is compelled to grant the motion on the evidence and it is compelled to deny the motion to set aside.

The COURT FURTHER FINDS because neither party comes to this court with clean hands neither party will receive an award of attorney's fees against the other.

The Plaintiff is not entitled to an award of attorney's fees. He is equally, if not greater, at fault so he may be the prevailing party, but the Court will not reward someone with extremely unclean hands with an award of attorney's fees.

The Defendant is not the prevailing party here and as much as there is some sympathy here, the Court does not rule on sympathy it must rule on the law and insofar as Defendant is not the prevailing party I (the Court) cannot award her any attorney's fees either.

The Court was surprised when Defendant rested but counsel did and did not get to the heart of the Vaile case. It is not a criticism of counsel. The Court believes Defendant was honest and candid with the Court and counsel was left with the case he had. She (Defendant) knew what her husband wanted her to do and she went ahead and did it. There is no evidence that she refused or that he demanded or that he threatened her or anything else just like the parties did in the Vaile case and because of that the Court is compelled to deny the motion to set aside.

There is an appealable issue there. The Court does not know what the Supreme Court will do. It is a question that has been answered in a way that most of us might not appreciate, but it is the question that has been answered and Defendant's testimony does not rise to the level for the Court to set aside the Decree Of Divorce. Counsel need to decide what they wish to do. This Court does not have the ability to "jump over" the Supreme Court and decide.

#### COURT ORDERED:

1. The MOTION for judgment on the EVIDENCE is GRANTED.
2. Defendant's MOTION TO SET ASIDE the Decree Of Divorce is DENIED.
3. As neither party is the prevailing party there shall be NO AWARDS of ATTORNEY'S FEES to either party.

Mr. James shall PREPARE the FINDINGS OF FACT, CONCLUSIONS OF LAW. Mr. Kynaston shall

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04D323977

REVIEW the FINDINGS OF FACT, CONCLUSIONS OF LAW then COUNTERSIGN.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Divorce - Joint Petition****COURT MINUTES**

May 10, 2021

04D323977

In the Matter of the Joint Petition for Divorce of:  
Jaswinder Singh and Rajwant Kaur

**May 10, 2021****9:00 AM****Status Check****HEARD BY:** Almase, Heidi**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Maureen Torkelson**PARTIES:**

Jaswinder Singh, Petitioner, present  
Rajwant Kaur, Petitioner, present

F James, Attorney, present  
Andrew Kynaston, Attorney, present

<b>JOURNAL ENTRIES</b>
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- RE: SUPREME COURT REMAND

For the purpose of this minute order, the Plaintiff is Jaswinder Singh and the Defendant is Rajwant Kaur.

Plaintiff and Counsel participated via BLUEJEANS

Defendant participated TELEPHONICALLY. Attorney Kynaston participated via BLUEJEANS

Upon the matter being called, the COURT NOTED papers and pleadings on file. Court advised because the parties are coming back from the Nevada Supreme Court an evidentiary hearing is needed. Attorney James stated there has already been testimony for many of the issues but he agreed there needs to be some evidence taken. Attorney Kynaston agreed with Attorney James that there should be some additional evidence and testimony to determine whether the Decree should be declared void. Counsel agreed half day trial would be more than enough time.

Attorney Kynaston advised each party will need a Punjabi interpreter. A Hindi interpreter can be used as a backup.

COURT stated its FINDINGS and ORDERED the following:

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EVIDENTIARY HEARING set for August 13, 2021 at 9:00 a.m. regarding a continuation to set aside Decree. Trial shall take place IN PERSON.

The Court's Judicial Executive Assistant (JEA) shall prepare and send out a Scheduling Order, to include the deadlines for discovery, the exchange of Witness List, Exhibits List and Documents, and the submission of the Pre-Trial Memorandums.

Minutes shall suffice as the Order from today's hearing.

Clerk's Note: The Evidentiary Hearing has been reset to August 16, 2021, at 1:30 p.m. (Half day). Chambers notified both attorneys. (mt\_06.03.21)

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Divorce - Joint Petition****COURT MINUTES****August 16, 2021**

04D323977

In the Matter of the Joint Petition for Divorce of:  
Jaswinder Singh and Rajwant Kaur

**August 16, 2021****1:30 PM****Evidentiary Hearing****HEARD BY:** Almase, Heidi**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Quintin Mansfield**PARTIES:**

Jaswinder Singh, Petitioner, present  
Rajwant Kaur, Petitioner, present

F James, Attorney, present  
Andrew Kynaston, Attorney, present

<b>JOURNAL ENTRIES</b>
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**- EVIDENTIARY HEARING: (IN PERSON)**

Attorney Peter James, Bar No. 10091, present with Plaintiff, Jaswinder Singh. Attorney Andrew Kynaston, Bar No. 8147, present with Defendant, Rajwant Kaur.

For the purpose of this minute order, the Plaintiff is Jaswinder Singh and the Defendant is Rajwant Kaur.

The Court reviewed the history of the case and noted the underlying pleadings. Discussion regarding: Nevada Supreme Court's Findings.

Mr. Kynaston noted exhibits that were previously admitted in the case on 09/12/2019 and 09/13/2019 and Mr. James agreed that the exhibits had been previously admitted and were available for reference.

Mr. James stated the parties stipulated to publish the previously admitted Deposition of Rajwant Kaur and Mr. Kynaston agreed that was correct.

Parties SWORN and TESTIFIED.

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Testimony and exhibits presented (see worksheets).

COURT ORDERED the following:

1. Per STIPULATION, Defendant's, Rajwant Kaur's, Deposition previously stipulated to and admitted on 09/12/2019 will be PUBLISHED to the Court.
2. CLOSING BRIEFS shall be filed by both counsel by no later than close of business on 09/13/2021 with service upon the opposing party. Closing briefs shall be no longer than twenty-five (25) pages.
3. The Court shall issue its written DECISION upon receipt and review of the Closing Briefs.

CLERK'S NOTE: On 09/03/2021 a copy of the Court's Minute Order was provided to each Attorney via email, if an email address is on record with the Court; if no email address is available then the Minute Order was mailed to the physical address of record. (qm)

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.**



04D323977

**Jaswinder Singh vs. Rajwant Kaur 04323977**

**PLAINTIFF'S TRIAL EXHIBITS**

**TRIAL DATE: 9/12 & 9/13**

Exhibit	Description	Objected	Offered	Accepted
✓1	Executed release for employment records	NO	Stipulated 9-12-19 ✓	admitted 9-12-19 ✓
✓2	Letter from Bank of America regarding records being unavailable	NO	Stipulated 9-12-19 ✓	9-12-19 ✓
✗	Grant Bargain Sale Deed in the name of Balbinder Singh Pabla for Nevada property			
✓4	Payment receipts for the Law Office of F. Peter James, Esq. dated 1/16/19 and 2/26/19	NO	Stipulated 9-12-19 ✓	9-12-19 ✓
✓5	Invoice # 2621, 2588, and 2606 from the Law Office of F. Peter James, Esq. (redacted)	NO	Stipulated 9-12-19 ✓	9-12-19 ✓
✗	Invoices from Constance Bessada, Esq. dated 6/13/18, 8/21/18, and 1/3/19 (redacted)			
✓7	Retainer Agreement for Law Offices of F. Peter James, Esq.	NO	Stipulated 9-12-19 ✓	9-12-19 ✓
✗	Retainer Agreement for Constance Bessada, Esq.			
✗	Passport of Jaswinder Singh			
✓10	Documents disclosed by Defendant's counsel at the August 19, 2019 deposition	NO	Stipulated 9-12-19 ✓	9-12-19 ✓
✓11	India Marriage Certificate Jasvir Singh Dhaliwal and Rajwant Kaur	yes	✓ 9-13-19	NO
✗	India Divorce Ruling			
✓13	Defendant's Deposition Transcript	NO	Stipulated 9-12-19 ✓	9-12-19 ✓
✓14	Plaintiff's Interrogatories to Defendant	↑		
✓15	Defendant's responses to the Interrogatories	NO	Stipulated 9-12-19 ✓	9-12-19 ✓
✗	Plaintiff's Requests for Production of Documents to Defendant			
✗	Defendant's responses to Requests for Production of Documents			

Jaswinder Singh v. Rajwant Kaur  
CASE NO. 04D323977

DEFENDANT'S EXHIBITS

		<u>OFFERED</u>	<u>ADMITTED</u>	<u>Objected</u>
✓A	Decree of Divorce, filed September 8, 2004 in Clark County [DEF018 - DEF020]	Stipulated ✓9-12-19	Stipulated 9-12-19 ✓	NO
✓B	Joint Petition for Summary Decree of Divorce, filed August 27, 2004 in Clark County [DEF013 - DEF017]	↑	↑	
✓C	Affidavit of Resident Witness, filed August 27, 2004 in Clark County [DEF021 - DEF022]	↑	↑	
✓D	Petition for Dissolution of Marriage, filed May 7, 2018 in Los Angeles County [DEF001 - DEF003]	↑	↑	
✓E	Plaintiff's Response and Request for Dissolution of Marriage [DEF004 - DEF006]	↑	↑	
✓F	Plaintiff's Amended Response to Petition [DEF010 - DEF012]	↓	↓	
✓G	Order from Hearing Held February 13, 2019, filed March 14, 2019 in Clark County	Stipulated ✓9-12-19	Stipulated 9-12-19 ✓	NO
✗	Minutes from Hearing Held February 13, 2019			
✓I	Plaintiff's Response to Defendant's First Set of Interrogatories to Plaintiff, e-served May 13, 2019	Stipulated ✓9-12-19	Stipulated 9-12-19 ✓	NO
✓J	Plaintiff's Response to Defendant's First Request for Production of Documents to Plaintiff, e-served May 13, 2019]	↑	↑	
✓K	Copy of Plaintiff's Costco Membership Card [DEF0065]	↑	↑	
✓L	Copy of Defendant's Costco Membership Card [DEF0067]	↑	↑	
✓M	Costco Receipt showing that Store No. 48 is located in Van Nuys, CA [DEF0066]	↓	↓	
✓N	Copy of Costco Membership Activity for card ending in 50001, from January 3, 2004 through December 19, 2004 [DEF0371 - DEF0376_3]	Stipulated ✓9-12-19	Stipulated 9-12-19 ✓	NO

Jaswinder Singh v. Rajwant Kaur  
CASE NO. 04D323977

DEFENDANT'S EXHIBITS

		OFFERED	ADMITTED	Objected
✓O	Contention Interrogatories Set No. One from California case no. 18STFL05676 [DEF0379 - DEF0386_3]	Stipulated 9-12-19 ✓	9-12-19 ✓	no
✓P	Plaintiff's Response to Contention Interrogatories Set No. One, from California case no. 18STFL05676 [DEF0387 - DEF0390_3]			
✓Q	Sales Deed showing listing property to Jaswinder Singh as a married man [DEF0024]			
✓R	Experian and TransUnion Credit Report in the name of Rajwant Kaur, showing Jaswinder as spouse or co-applicant [DEF0025 - DEF0043]			
✓S	Aftercare instruction from Gastroenterology Department for Jaswinder Singh, signed by "Accompanying Adult" Rajwant Kaur, Wife [DEF0044]	Stipulated 9-12-19 ✓	9-12-19 ✓	no
✗	Verification of employment letter from Defendant's employer dated August 21, 2019 [DEF0377_3]			
✗	Letter from SoCal Gas regarding service dates at the Sepulveda Apartment [DEF0064]			
✓V	Interinsurance Exchange of the Automobile Club Renewal Declarations from July 2004 [DEF0362 - DEF0364_2]	Stipulated 9-12-19 ✓	9-12-19 ✓	no
✓W	Interinsurance Exchange of the Automobile Club Truth in Lending Information Billing Statement for Automobile Policy from July 2004 [DEF0365 - DEF0366_2]			
✓X	Plaintiff's Deposition Transcript			
✓Y	Defendant's Deposition Transcript	Stipulated 9-12-19 ✓	9-12-19 ✓	no



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

**F. PETER JAMES, ESQ.**  
**3821 W. CHARLESTON BLVD., SUITE 250**  
**LAS VEGAS, NV 89102**

**DATE: October 5, 2021**  
**CASE: 04D323977**

**RE CASE:** In the Matter of the Joint Petition for Divorce of: JASWINDER SINGH and RAJWANT KAUR

**NOTICE OF APPEAL FILED:** October 1, 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**

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**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.***

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***\*\*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; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

In the Matter of the Joint Petition for Divorce of:

JASWINDER SINGH and RAJWANT KAUR,

Petitioner(s),

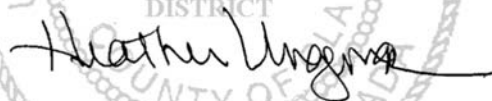
Case No: 04D323977

Dept No: X

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 5 day of October 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk



**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

October 5, 2021

Elizabeth A. Brown  
Clerk of the Court  
201 South Carson Street, Suite 201  
Carson City, Nevada 89701-4702

RE: In the Matter of the Joint Petition for Divorce of: JASWINDER SINGH and RAJWANT KAUR  
D.C. CASE: 04D323977

Dear Ms. Brown:

Please find enclosed a Notice of Appeal packet, filed October 5, 2021. Due to extenuating circumstances the exhibits list(s) from the August 16, 2021 hearing has not been included.

We do not currently have a time frame for when the list(s) will be available.

If you have any questions regarding this matter, please contact me at (702) 671-0512.

Sincerely,  
STEVEN D. GRIERSON, CLERK OF THE COURT

/s/HEATHER UNGERMANN  
Heather Ungermann, Deputy Clerk