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IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Apr 05 2022 10:41 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

ROCHELLE MEZZANO,

Petitioner, No. 84235-COA

vs.

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF District Court Case No. DV19-01564
NEVADA, In and For the County
Of Washoe, and the Honorable BRIDGET
ROBB and HONORABLE CYNTHIA LU,

Respondent.

And

JOHN TOWNLEY,

Real Party in Interest.

_____ /

**OPPOSITION TO MOTION TO PETITIONER’S REQUEST TO STAY
PROCEEDINGS PENDING DECISION ON PETITION FOR WRIT
RELIEF IN THE COURT OF APPEALS**

Respondent, John Townley, through counsel, Silverman Kattelman
Springgate, Chtd., files his opposition to Motion to Petitioner’s Request to Stay
Proceedings Pending Decision on Petition for Writ Relief in the Court of Appeals.

POINTS AND AUTHORITIES

I. FACTS

Mr. Townley began his attempt to divorce Ms. Mezzano in September 2019 in case DV19-01564 assigned to Department 13 of the Second Judicial District Court of the State of Nevada, the Honorable Bridget Robb. Ms. Mezzano never appeared in that action, and the case proceeded to a default judgment. In March 2020, Mr. Townley filed four motions seeking to enforce the default decree. (Exhibits “1” through “4”.) Ms. Mezzano then filed a motion under NRCP 60 requesting the trial court set aside the default decree. (Exhibit “5”.) Ms. Mezzano also opposed Mr. Townley’s motions. (Exhibit “6”.) Mr. Townley opposed the motion to set aside, (Exhibit “7”), and replied in support of his motions. (Exhibit “8”.) Ms. Mezzano submitted her motion for decision on May 12, 2020. (Exhibit “9”.) Mr. Townley submitted his motions for decision on March 30, 2020. (Exhibit “10”.) Judge Robb issued orders on the motions in May, 2020, (Exhibit 11”). Ms. Mezzano then appealed.

After briefing, on October 27, 2021, the Nevada Supreme Court, in case 81379, Mezzano v. Townley, reversed and remanded to the trial court. On December 22, 2021, Mr. David O’Mara, Esq., filed a Notice of Appearance stating he represented Ms. Mezzano. (Exhibit “12”.) On December 28, 2021, Mr. Townley filed an Ex Parte Request for Status Hearing, (Exhibit “1” to Petitioner’s Request

1 to Stay Proceedings Pending Decision of Petition For Writ Relief in the Court of
2 Appeals), to move the case forward. On December 28, 2021, Mr. O'Mara filed a
3 preemptory challenge to Judge Robb. (Exhibit "13".) Mr. Townley filed an
4 objection to the preemptory challenge explaining the challenge was untimely on
5 that same date. (Exhibit "14".)

6 On January 3, 2022, the case was assigned to Department 5 of the Second
7 Judicial District Court of the State of Nevada, the Honorable Cynthia Liu. (Exhibit
8 "15".) Judge Liu issued an Order Striking Peremptory Challenge on January 5,
9 2022, (Exhibit "16"), returning the case to Judge Robb.

10 On January 18, 2022, two years and several months after Mr. Townley
11 began divorce proceedings, Judge Robb issued an Order Granting Ex Parte
12 Request for Status Hearing.

13 On January 21, 2022, counsel for Ms. Mezzano and counsel for Mr.
14 Townley set the status hearing. (Exhibit "17".) The status hearing is set for April 6,
15 2022. (Id.)

16 On February 14, 2022, Ms. Mezzano began these original writ proceedings.

17 **II. ARGUMENT**

18 A party is required to first seek a stay or injunction pending appeal from the
19 trial court. NRAP 8(a)(2). "This requirement is grounded in the district court's
20 vastly greater familiarity with the facts and circumstances of the particular case.

1 Additionally, the district court is better positioned to resolve any factual disputes
2 concerning the adequacy of any proposed security, while this court is ill suited to
3 such a task.” *Nelson v. Heer*, 121 Nev. 832, 836, 122 P.3d 1252, 1254 (2005). A
4 limited exception exists if the moving party proves “that moving first in the district
5 court would be impracticable.” NRAP 8(a)(2)(A)(i). This Court has made it clear
6 the exception is contrary to the usual practice and sound policy. *See State ex rel.*
7 *Pub. Serv. Comm’n v. First Judicial Dist. Court*, 94 Nev. 42, 44 n.1, 574 P.2d 272,
8 273 (1978) (“We believe it is sound policy for the district court to first consider
9 applications for stays, particularly given the time restraints typically associated
10 with such applications.”) That a movant did not prevail in the trial court does not
11 render seeking relief in the trial court impracticable. *See EMW Women's Surgical*
12 *Ctr. P.S.C. v. Beshear*, No. 17-6151, 2017 U.S. App. LEXIS 24931, at *5-6 (6th
13 Cir. Dec. 8, 2017) (“To excuse a party from the strictures of Federal Rule of
14 Appellate Procedure 8(a)(1) merely because the district court ruled against the
15 party would nullify the requirement.”)

16 Only after a moving party establishes this Court should consider the merits
17 of a motion for a stay, this Court considers: (1) whether the object of the appeal
18 will be defeated if the stay or injunction is denied; (2) whether the appellant will
19 suffer irreparable or serious injury if the stay or injunction is denied; (3) whether
20 the respondent will suffer irreparable or serious injury if the stay or injunction is

1 granted; and (4) whether the appellant is likely to prevail on the merits in the
2 appeal or writ petition. NRAP 8(c).

3 **A. Ms. Mezzano has no excuse for failing to seek a stay in the trial
4 court in the first instance.**

5 Had Ms. Mezzano sought a stay in the trial court, the trial court, which has
6 been involved in this matter for over two years and which has a status hearing on
7 calendar for April 6, 2022, would have either granted the stay—achieving the relief
8 she seeks from this court—or denied the stay opening the door for Ms. Mezzano to
9 seek a stay in this Court. That Ms. Mezzano claims the trial court has no
10 jurisdiction is immaterial. Orders entered by the trial court are enforceable until
11 overturned. *See Rish v. Simao*, 132 Nev. 189, 198, 368 P.3d 1203, 1210 (2016).
12 Therefore, if the trial court granted a stay, that order would be enforceable during
13 this Court’s deliberations and would achieve the relief Ms. Mezzano seeks. That
14 Ms. Mezzano apparently did not wish to seek a stay in the trial court is not a
15 justification to ignore the procedural steps set out in the Nevada Rules of Appellate
16 Procedure.

16 **B. The Court Should Deny the Stay on the Merits because Ms.
17 Mezzano is not likely to prevail in her writ petition; so, a stay serves no
18 purpose other than to delay and continue to obstruct Mr. Townley from
19 divorcing Ms. Mezzano.**

20 Supreme Court Rule 48.1 sets forth the timing requirements for a
preemptory challenge. The rule must be strictly construed. *Nev. Pay TV v. Eighth
Judicial Dist. Court*, 102 Nev. 203, 206, 719 P.2d 797, 798 (1986) (“The operation

1 of the Rule will be hindered, we believe, unless its provisions are strictly
2 construed.") SCR 48.1(5) provides that a "notice of preemptory challenge may not
3 be filed against any judge who has made any ruling on a contested matter or
4 commenced hearing any contested matter in the action." In this case, Judge Robb
5 had ruled on multiple contested motions, including Ms. Mezzano's motion to set
6 aside the decree of divorce and Mr. Townley's motions to enforce the decree of
7 divorce, before Ms. Mezzano filed her preemptory challenge. The plain wording of
8 SCR 48.1 rendered Ms. Mezzano's preemptory challenge untimely.

9 Moreover, Ms. Mezzano's attempt to preempt Judge Robb after Judge Robb
10 had reviewed multiple contested motions and made orders on those motions is
11 contrary to the purpose of the preemption rules:

12 A corollary policy behind the requirement is "that such challenges be
13 presented *before* contested proceedings have commenced." *Jeaness v.*
14 *District Court*, 97 Nev. 218, 219, 626 P.2d 272, 274 (1981) (emphasis
15 in original text). Failure to file within the time strictures of the rule
16 results in waiver of the right to make a preemptory challenge. *Id.* at
17 220, 626 P.2d at 274. In other words, a party should not be permitted
to disqualify a judge through a preemptory challenge "simply because
he has made previous unfavorable rulings." *Carr-Bricken v. First*
Interstate Bank, 105 Nev. 570, 573, 779 P.2d 967, 969 (1989) (ruling
that a counterclaim does not revive the opportunity for a preemptory
challenge under SCR 48.1).

18 *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 678, 818 P.2d 849, 852 (1991).

19 Because Judge Liu properly struck the untimely preemptory challenge, Ms.
20 Mezzano will not prevail on her petition, and a stay serves no purpose but to delay

1 substantive resolution and frustrate Mr. Townley's now 33-month long quest to
2 divorce Ms. Mezzano. The continued unjustified delay irreparably harms Mr.
3 Townley. He cannot proceed with his life while held hostage by Ms. Mezzano's
4 procedural machinations.

5 Nor will a denial of the stay irreparably harm Ms. Mezzano. Even were she
6 to prevail, the consequence to her would be having attended a status hearing and,
7 perhaps, receiving orders on fully briefed and submitted motions that would need
8 to be resubmitted to another judge. There will be no change in her position from
9 the present. The work has been done on the motions; she will suffer no harm by
10 Judge Robb considering them. The trial court's work on this matter places no
11 burdens on Ms. Mezzano. Nor will she suffer irreparable harm by participating in a
12 status hearing to address the procedural posture of this case and what can or cannot
13 be done to substantively move the matter forward. At worst, that hearing will give
14 the parties direction on whether Ms. Mezzano agrees the trial court has personal
15 jurisdiction over her and whether and how she and Mr. Townley will resolve their
16 substantive disputes.

17 CONCLUSION

18 Because Ms. Mezzano did not proceed first in the trial court, because further
19 delay of this matter is unjustified and unhelpful to substantive resolution, because
20 the trial court properly denied Ms. Mezzano's untimely preemptory challenge, and

1 for the other reasons discussed above, this Court should deny Ms. Mezzano's
2 request for stay.

3 **AFFIRMATION**

4 The undersigned affirms the preceding contains no personal information as
5 defined in NRS 239B.030.

6 Dated this 4th day of April 2022.

7
8 
ALEXANDER MOREY

Silverman Kattelman Springgate, Chtd.

9 Nevada State Bar No. 11216

10 500 Damonte Ranch Pkwy. #675

Reno, NV 89521

(775) 322-3223

11 amorey@sk-s-reno.com

12 Attorney for John Townley
13
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1
2 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

3
4 ROCHELLE MEZZANO,

5 Petitioner,

No. 84235-COA

6 vs.

7
8 THE SECOND JUDICIAL DISTRICT
9 COURT OF THE STATE OF
10 NEVADA, In and For the County
11 Of Washoe, and the Honorable BRIDGET
ROBB and HONORABLE CYNTHIA LU

District Court Case No. DV19-01564

12 Respondent.

13 And

14 JOHN TOWNLEY,

15 Real Party in Interest.
16 _____/

17 **NRAP 26.1 Disclosure**

18 The undersigned counsel of record certifies that the following are persons and
19 entities as described in NRAP 26.1(a), and must be disclosed. These representations
20 are made in order that the judges of this court may evaluate possible disqualification
21 or recusal.
22

23
24 Real Party In Interest, John Townley, is a resident of the state of Nevada.

25 The following law firm has appeared as counsel of record for John Townley:

26 Silverman Kattelman Springgate, Chtd.
27

28 ///

1 Under NRS 239B.030 the undersigned affirms the preceding contains no
2
3 social security number.

4 Dated this 4th day of April 2022.

5
6 
7 ALEXANDER MOREY
8 SILVERMAN KATTELMAN SPRINGGATE,
9 CHTD.

10 Nevada State Bar No. 11216
11 500 Damonte Ranch Pkwy. #675
12 Reno, NV 89521
13 (775) 322-3223
14 Attorney for John Townley
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1 **CERTIFICATE OF SERVICE**

2
3 Pursuant to NRCP 5 (b), I hereby certify that I am an employee of Silverman,
4 Kattelman Springgate, Chtd, and on the date set forth below, I served a true copy of the
5 foregoing Opposition to Motion to Petitioner's Request to Stay Proceedings Pending
6 Decision of Petition For Writ Relief in the Court of Appeals the party(ies) identified below
7
8 by:

- 9 ☒ Placing an original or true copy thereof in a sealed envelope, postage
10 prepaid for collection and mailing in the United States Mail at Reno,
11 Nevada to
12
13 ☐ Electronically, through the Court's ECF system.
14
15 ☐ Email:

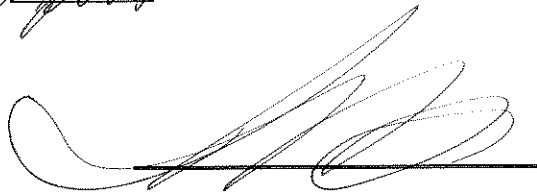
15 addressed to:

16 David O'Mara
17 O'Mara Law Firm PC
18 311 E. Liberty St.
19 Reno, NV 89501

20 *Counsel for Petitioner*

21 Dated this 5 day of April 2022.

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INDEX OF EXHIBITS

Exhibit Number	Description	Number of Pages
1	Motion for Order requiring Defendant to Remove Plaintiff's Liability on Mortgage Assigned to Her in Decree of Divorce and Motion Requiring Sale of Real Property to Protect Plaintiff From Liability if Defendant Defaults in Payment of the Mortgage	5
2	Motion to Join Irrevocable Trust to Facilitate Distribution of Community Property Post-Divorce and Motion for Order Directing Distribution of Assets from Trusts	6
3	Motion for Order Directing Delivery of Funds Due Defendant Pursuant to Divorce and Papers and Things Relating to Defendant's Property to Last Known Residence	14
4	Motion Vesting Title to Real Property in Plaintiff; In the Alternative, Motion for Clerk of the Court to Execute Deed as Attorney in Fact	30
5	Motion to Set Aside Decree of Divorce and For Related Relief	19
6	Consolidated Oppositions to Motions filed March 3, 2020	9
7	Opposition to Motion to Set Aside Decree of Divorce and For Related Relief	30
8	Reply to Consolidated Oppositions to Motions File March 3, 2020	20
9	Request for Submission	3
10	Request for Submissions	12

11	<p>Order Granting Motion for Order Requiring Defendant to Remove Plaintiff's Liability on Mortgage Assigned to Her in Decree of Divorce and Motion Requiring Sale of Real Property to Protect Plaintiff From Liability if Defendant Defaults In Payment of the Mortgage</p> <p>Order Regarding Motion for Order Directing Delivery of Funds Due Defendant Pursuant to Divorce and Papers and Things Relating to Defendant's Property to Last Known Residence</p> <p>Order Regarding Motion to Join Irrevocable Trust to Facilitate Distribution of Community Property Post-Divorce and Order Directing Distribution of Assets From Trusts</p> <p>Order Regarding Motion Vesting Title to Real Property in Plaintiff; In the Alternative, Motion for Clerk of Court to Execute Deed as Attorney in Fact</p>	19
12	Notice of Appearance	2
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15	Case Assignment Notification	2
16	Order Striking Peremptory Challenge	3
17	Application for Setting	2

EXHIBIT 1

Code:

Gary R. Silverman (NSB# 409) Michael V. Kattelman (NSB#6703)
John P. Springgate (NSB# 1350) Alexander C. Morey (NSB#11216)
Kenton Karrasch (NSB#13515) Benjamin Albers (NSB#11895)
Silverman Kattelman Springgate, Chtd.
500 Damonte Ranch Parkway, Suite 675
Reno, Nevada 89521
Telephone: 775/322-3223
Facsimile: 775/322-3649
Attorney for John Townley

**IN THE FAMILY DIVISION
OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
JOHN TOWNLEY,**

Plaintiff

Case No. DV19-01564

vs.

Dept. 13

**ROCHELLE MEZZANO and
DOES I through XX,
to include Doe individuals,
corporations, limited liability companies,
partnerships, trusts, limited partnerships,
and such other individuals or entities
as may exist or be formed
Defendants.**

**MOTION FOR ORDER REQUIRING DEFENDANT TO REMOVE
PLAINTIFF'S LIABILITY ON MORTGAGE ASSIGNED TO HER IN DECREE
OF DIVORCE AND MOTION REQUIRING SALE OF REAL PROPERTY TO
PROTECT PLAINTIFF FROM LIABILITY IF DEFENDANT DEFAULTS IN
PAYMENT OF THE MORTGAGE**

John Townley moves the Court for an order requiring Defendant, Rochelle Mezzano, to remove his liability on the mortgage associated with the real property at 735 Aesop Court, Reno, Nevada—Century 21 Mortgage as the lender—within 180 days of the Court's order because Defendant has neglected to pay the mortgage and is exposing John to liability. John further moves the Court for additional relief deemed necessary and just.

I. POINTS AND AUTHORITIES

1 **A. Facts**

2 Ms. Mezzano lives at 735 Aesop Court, Reno, Nevada. She has been remodeling
3 the property. The Court's decree of divorce assigns the property to Ms. Mezzano.
4 (Findings of Fact, Conclusions of Law, and Decree of Divorce ¶ 4 and Ex. "B".) The
5 decree transfers the property subject to and with all existing debts. (Id. ¶ 6.) The decree
6 requires Ms. Mezzano to indemnify, defend, and hold John harmless from the liability.
7 (Id. ¶ 8.) Since divorce, Ms. Mezzano has demanded John pay the mortgage on her
8 property and has given no indication she will maintain the mortgage. (John has had to
9 pay the mortgage to protect his credit.) John is not Ms. Mezzano's bookkeeper or
10 personal assistant and is not responsible for paying the mortgage. He had hoped Ms.
11 Mezzano would maintain the liability and refinance within a reasonable time. That is
12 apparently unlikely. John believes the only means to secure Ms. Mezzano's obligation to
13 hold him harmless from the debt is entry of an order requiring her to do so by a hard
14 deadline.

15 **B. Analysis**

16 Every court has the power to compel obedience to the Court's lawful judgments
17 and orders. NRS 1.210(3). Further, this Court has the power to issue continuing orders
18 in aid of enforcement of its decrees. *McCormick v. Sixth Judicial Dist. Court*, 69 Nev.
19 214, 228-29, 246 P.2d 805, 812 (1952). Here, Ms. Mezzano has stated an intention not
20 to service the mortgage associated with the real property assigned to her and has failed
21 to service the mortgage. To protect John from further liability on the debt associated
22 with and transferred with Ms. Mezzano's property, the Court should provide Ms.
23 Mezzano a hard deadline by which to remove John's liability. John submits 180 days
24 from this Court's order granting the relief is reasonable.

25 **II. CONCLUSION**

26 For the foregoing reasons, it is necessary and appropriate for the Court to enter
27 an order requiring Ms. Mezzano to remove John Townley's liability on the mortgage
28

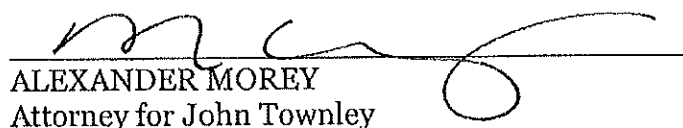
1 associated with the real property at 735 Aesop Court, Reno, Nevada, within 180 days of
2 this Court's order.

3 **III. AFFIRMATION**

4 The undersigned affirms this Motion contains no personal information as defined
5 in NRS 239B.030.

6 Dated this 3rd day of March 2020.

7 SILVERMAN KATTELMAN SPRINGGATE, CHTD.

8
9 
10 ALEXANDER MOREY
11 Attorney for John Townley
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DECLARATION OF JOHN TOWNLEY

COMES NOW, JOHN TOWNLEY, who executes this within the State of Nevada: I
declare under penalty of perjury that the following is true and correct:

1. I am the Plaintiff herein.
2. I make this declaration of my own personal knowledge, information and
belief.
3. The statement of facts in MOTION FOR ORDER REQUIRING
DEFENDANT TO REMOVE PLAINTIFF'S LIABILITY ON MORTGAGE
ASSIGNED TO HER IN DECREE OF DIVORCE AND MOTION REQUIRING
SALE OF REAL PROPERTY TO PROTECT PLAINTIFF FROM LIABILITY IF
DEFENDANT DEFAULTS IN PAYMENT OF MORTGAGE are hereby merged
and incorporated into this declaration. I know the facts are true of my own knowledge,
except those matters stated upon information and belief. As to those matters, I believe
them to be true.

EXECUTED this 3rd day of March 2020.



John Townley

IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

John Tonnley

Rochelle vs. Mezzano

FAMILY DIVISION MOTION/OPPOSITION NOTICE (REQUIRED)	
CASE NO.	<u>SV11-01564</u>
DEPT. NO.	<u>13</u>

NOTICE: THIS MOTION/OPPOSITION NOTICE MUST BE ATTACHED AS THE LAST PAGE to every motion or other paper filed to modify or adjust a final order that was issued pursuant to chapter 125, 125B or 125C of NRS and to any answer or response to such a motion or other paper.

A. Mark the CORRECT ANSWER with an X.		YES	NO
1. Has a final decree or custody order been entered in this case? If <u>yes</u> , then continue to Question 2. If <u>no</u> , you do not need to answer any other questions.		<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Is this a motion or an opposition to a motion filed to change a final order? If <u>yes</u> , then continue to Question 3. If <u>no</u> , you do not need to answer any other questions.		<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Is this a motion or an opposition to a motion filed only to change the amount of child support?		<input type="checkbox"/>	<input type="checkbox"/>
4. Is this a motion or an opposition to a motion for reconsideration or a new trial <u>and</u> the motion was filed within 10 days of the Judge's Order?		<input type="checkbox"/>	<input type="checkbox"/>
IF the answer to Question 4 is YES, write in the <u>filing date</u> found on the front page of the Judge's Order.		Date	
B. If you answered NO to either Question 1 or 2 or YES to Question 3 or 4, you are <u>exempt</u> from the filing fee. However, if the Court later determines you should have paid the filing fee, your motion will <u>not</u> be decided until the fee is paid.			

I affirm that the answers provided on this Notice are true.

Date: March 3, 2020

Signature: _____

Print Name: _____

Print Address: _____

Telephone Number: _____

Alexander Morrey
Silverman • Kattelman • Springgate, Chtd.
500 Damonte Ranch Parkway, Suite 075
Reno, Nevada 89521
775-322-3223

EXHIBIT 2

Code:
1 Gary R. Silverman (NSB# 409) Michael V. Kattelman (NSB#6703)
John P. Springgate (NSB# 1350) Alexander C. Morey (NSB#11216)
2 Kenton Karrasch (NSB#13515) Benjamin Albers (NSB#11895)
Silverman Kattelman Springgate, Chtd.
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3 Reno, Nevada 89521
Telephone: 775/322-3223
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Attorney for John Townley

5 **IN THE FAMILY DIVISION**
6 **OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**

8 JOHN TOWNLEY,

9 Plaintiff

Case No. DV19-01564

10 vs.

Dept. 13

11
12 ROCHELLE MEZZANO and
13 DOES I through XX,
14 to include Doe individuals,
15 corporations, limited liability companies,
16 partnerships, trusts, limited partnerships,
17 and such other individuals or entities
18 as may exist or be formed

Defendants.

19 **MOTION TO JOIN IRREVOCABLE TRUST TO FACILITATE DISTRIBUTION**
20 **OF COMMUNITY PROPERTY POST-DIVORCE AND MOTION FOR ORDER**
21 **DIRECTING DISTRIBUTION OF ASSETS FROM TRUSTS**

22 John Townley moves the Court for an order joining the Southern Illinois
23 Wetlands Preservation Trust, dated June 16, 2010 (the "Trust") as a party to this action
24 so the Court may issue an order directing the distribution of assets from the trust, an
25 order directing the distribution of the vehicles from the trust to each party according to
26 the division in their divorce decree, and an order for additional relief deemed necessary
27 and just.
28

1 This Motion is made and based on the points and authorities herein, the
2 attachments hereto, the file in this case, and any evidence or argument presented at a
3 hearing on this Motion required by the Court.

4 I. POINTS AND AUTHORITIES

5 A. Facts

6 John Townley and Rochelle Mezzano are the grantors and the primary
7 beneficiaries of the Southern Illinois Wetlands Preservation Trust. John and a Ms. Silva
8 Moya are the current trustees. The Trust is irrevocable. At the time of divorce, the Trust
9 held title to vehicles used and operated by the parties, including the following: (a) 2001
10 Chevy Corvette Z VIN 1G1YY12S915113880, (b) 1986 Chevy 1520 4x4 PU VIN
11 1GCGK24M9GF347349, (c) 2006 Toy Hauler VIN 5LZBE19236S003527, and (d) a 2001
12 Chevy Corvette used by Ms. Mezzano. The parties acquired all of these vehicles during
13 the marriage. Because Ms. Mezzano has refused to participate in the parties' divorce,
14 John sought, and the Court confirmed a division of the vehicles and, recognizing the
15 Trust was not joined as a party, confirmed division by awarding the parties' beneficial
16 interests in the Trust assets and Trust. (See Findings of Fact, Conclusions of Law, and
17 Decree of Divorce.)

18 Since divorce, Ms. Mezzano has made demands on John that he pay certain
19 expenses for her benefit from the Trust. (Ms. Mezzano's demands are inappropriate not
20 only because the divorce assigned John the entire beneficial interest in the Trust,
21 excluding Ms. Mezzano's vehicles, but also because the Trust is a discretionary trust.)
22 Ms. Mezzano's behavior makes John concerned she will threaten the co-trustee of the
23 Trust, continue to make demands he pay her expenses from the Trust, and make it
24 difficult for the Trust to transfer the vehicles out of trust to each party. To protect the co-
25 trustee and eliminate the connection between the parties' post-divorce, John requires an
26 order directing distribution of the assets from the Trust. Joining the Trust as a party is
27 the necessary first step.

28 B. Analysis

1 An irrevocable trust holding property of the parties may be joined to a divorce
2 action under NRCP 19. *See Guerin v. Guerin*, 114 Nev. 127, 953 P.2d 716 (1998). Here,
3 because the Court distributed the beneficial interests of the parties (property of the
4 parties) and not the assets owned by the Trust, the Trust was not a necessary party to
5 the action. Now, however, because of Ms. Mezzano's intransigence, John requires orders
6 directly affecting the assets. To enter such an order enforceable against the Trust, the
7 Trust must be joined under NRCP 19(a). Because such an order will affect the interests
8 of the Trust and joining the Trust will not deprive the Court of jurisdiction, the Trust
9 should be joined.

10 Once the Trust is joined, the Court may direct the distribution of the vehicles
11 from the Trust. *See Klabacka v. Nelson*, 394 P.3d 940, 948 (Nev. 2017) (requiring trial
12 courts to trace assets in a spendthrift trust to determine whether community property
13 exists and implying, by necessity, such assets are subject to distribution); *see also*
14 *Lauricella v. Lauricella*, 565 N.E.2d 436, 437-39 (Mass. 1991) (discussing the divisibility
15 upon divorce of interests in property held in a spendthrift trust). Because John owns the
16 parties' beneficial interests in his vehicles held by the Trust and Ms. Mezzano the
17 interest in her 2001 Corvette, the Trust may and should distribute those assets. The
18 Court should direct the Trust to distribute the vehicles.¹

19 II. CONCLUSION

20 For the foregoing reasons, it is necessary and appropriate for the Court to enter
21 an order (1) joining the Southern Illinois Wetlands Preservation Trust, dated June 16,
22 2010, as a party to this action, and (2) directing the distribution of the vehicles to the
23 parties according to the decree of divorce.

24 III. AFFIRMATION

25 The undersigned affirms this Motion contains no personal information as defined
26 in NRS 239B.030.

27
28 ¹ John and the co-trustee will likely resign as trustees of the trust after distribution of the assets.
At that point, Ms. Mezzano and the remainder beneficiaries may appoint a replacement.

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Dated this 3rd day of March 2019.

SILVERMAN KATTELMAN SPRINGGATE, CHTD.


ALEXANDER MOREY
Attorney for John Townley

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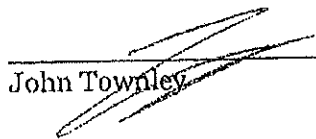
DECLARATION OF JOHN TOWNLEY

COMES NOW, JOHN TOWNLEY, who executes this within the State of Nevada: I
declare under penalty of perjury that the following is true and correct:

1. I am the Plaintiff herein.
2. I make this declaration of my own personal knowledge, information and
belief.

3. The statement of facts in **MOTION TO JOIN IRREVOCABLE TRUST
TO FACILITATE DISTRIBUTION OF COMMUNITY PROPERTY POST-
DIVORCE AND MOTION FOR ORDER DIRECTING DISTRIBUTION OF
ASSETS FROM TRUSTS** are hereby merged and incorporated into this declaration. I
know the facts are true of my own knowledge, except those matters stated upon
information and belief. As to those matters, I believe them to be true.

EXECUTED this 22nd day of March 2020.



John Townley

IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

John Tonnley
vs.
Rochelle Mezzano

FAMILY DIVISION MOTION/OPPOSITION NOTICE (REQUIRED)	
CASE NO.	DA-01564
DEPT. NO.	13

NOTICE: THIS MOTION/OPPOSITION NOTICE MUST BE ATTACHED AS THE LAST PAGE to every motion or other paper filed to modify or adjust a final order that was issued pursuant to chapter 125, 125B or 125C of NRS and to any answer or response to such a motion or other paper.

A.	Mark the CORRECT ANSWER with an X.	YES	NO
	1. Has a final decree or custody order been entered in this case? If <u>yes</u> , then continue to Question 2. If <u>no</u> , you do not need to answer any other questions.	X	
	2. Is this a motion or an opposition to a motion filed to change a final order? If <u>yes</u> , then continue to Question 3. If <u>no</u> , you do not need to answer any other questions.		X
	3. Is this a motion or an opposition to a motion filed only to change the amount of child support?		
	4. Is this a motion or an opposition to a motion for reconsideration or a new trial <u>and</u> the motion was filed within 10 days of the Judge's Order?		
	IF the answer to Question 4 is YES, write in the <u>filing date</u> found on the front page of the Judge's Order.	Date	
B.	If you answered NO to either Question 1 or 2 or YES to Question 3 or 4, you are <u>exempt</u> from the filing fee. However, if the Court later determines you should have paid the filing fee, your motion will <u>not</u> be decided until the fee is paid.		

I affirm that the answers provided on this Notice are true.

Date: March 3, 2020

Signature:

Print Name:

Print Address:

Telephone Number:

Alexander Morera
Silverman • Kattelman • Springgate, Chtd.
500 Damonte Ranch Parkway, Suite 875
Reno, Nevada 89521
275-322-3223

EXHIBIT 3

Code:
1 Gary R. Silverman (NSB# 409) Michael V. Kattelman (NSB#6703)
2 John P. Springgate (NSB# 1350) Alexander C. Morey (NSB#11216)
3 Kenton Karrasch (NSB#13515) Benjamin Albers (NSB#11895)
4 Silverman Kattelman Springgate, Chtd.
5 500 Damonte Ranch Parkway, Suite 675
6 Reno, Nevada 89521
7 Telephone: 775/322-3223
8 Facsimile: 775/322-3649
9 Attorney for John Townley

10
11
12 **IN THE FAMILY DIVISION**
13
14 **OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
15
16 **IN AND FOR THE COUNTY OF WASHOE**

17 **JOHN TOWNLEY,**

18 **Plaintiff**

Case No. DV19-01564

19 **vs.**

Dept. 13

20 **ROCHELLE MEZZANO and**
21 **DOES I through XX,**
22 **to include Doe individuals,**
23 **corporations, limited liability companies,**
24 **partnerships, trusts, limited partnerships,**
25 **and such other individuals or entities**
26 **as may exist or be formed**

27 **Defendants.**

28
29 **MOTION FOR ORDER DIRECTING DELIVERY OF FUNDS DUE**
30 **DEFENDANT PURSUANT TO DIVORCE AND PAPERS AND THINGS**
31 **RELATING TO DEFENDANT'S PROPERTY TO LAST KNOWN RESIDENCE**

32 John Townley moves the Court for an order directing the delivery of the funds
33 due Defendant, Rochelle Mezzano, pursuant to their divorce and papers and things
34 relating to Ms. Mezzano's property to her last known residence by postal carrier. John
35 requires an order from the Court because Ms. Mezzano will not retrieve the funds or
36 items. John further requests the Court grant him additional relief deemed necessary and
37 just.
38

1 This Motion is made and based on the points and authorities herein, the
2 attachments hereto, the file in this case, and any evidence or argument presented at a
3 hearing on this Motion required by the Court.

4 I. POINTS AND AUTHORITIES

5 A. Facts

6 John is holding the money due Ms. Mezzano as part of her share of the parties'
7 estate. John initially had a cashier's check prepared and left the check and a box of
8 documents and things related to Ms. Mezzano's property at undersigned counsel's
9 office. (See Exhibit "1" for a list of the items). Despite notice she should retrieve the
10 items immediately, (Exhibit "2" – letter to Ms. Mezzano), Ms. Mezzano did not pick up
11 the check or the items.

12 When it later became apparent Ms. Mezzano would not retrieve the check and did
13 not intend to pay the mortgage associated with her residence, on which John remains
14 liable, John redeposited the funds and paid the mortgage.¹

15 As of the date of this Motion, Ms. Mezzano has not proposed a means to transfer
16 the money or the documents and things.

17 B. Analysis

18 Every court has the power to compel obedience to the Court's lawful judgments
19 and orders. NRS 1.210(3). Further, this Court has the power to issue continuing orders
20 in aid of enforcement of its decrees. *McCormick v. Sixth Judicial Dist. Court*, 69 Nev.
21 214, 228-29, 246 P.2d 805, 812 (1952).

22 Here, Mr. Townley is not a depository, neither is undersigned counsel. Mr.
23 Townley does not wish to be and should be responsible for maintaining the funds due
24 Ms. Mezzano nor her papers and things related to her property. Because Ms. Mezzano
25 will not retrieve the items, John requires the Court's direction on how to deliver them to
26

27 ¹ John deducted \$4580.80 from the original amount due because he has paid the mortgage on Ms.
28 Mezzano's property twice. Paragraph 7 of the parties' decree of divorce permits John to pay the
debt and deduct the payments from amounts due to Ms. Mezzano.

1 Ms. Mezzano to effect the distribution of property and debt in this Court's divorce
2 decree. John submits delivery of the items to Ms. Mezzano's last known residence is the
3 best avenue to deliver items by a recognized means to reasonably assure delivery
4 without John having to force the items into Ms. Mezzano's hands. Issuing such an order
5 is a necessary and proper exercise of this Court's power to enforce and effect its decree
6 of divorce.

7 II. CONCLUSION

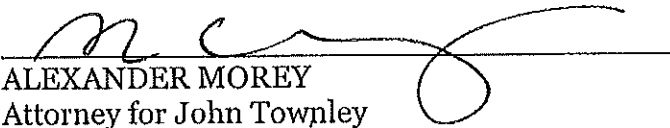
8 For the foregoing reasons, it is necessary and appropriate for the Court to enter
9 an order directing John to deliver the remaining funds due Ms. Mezzano and the papers
10 and things relating to her property by postal carrier.

11 III. AFFIRMATION

12 The undersigned affirms this Motion contains no personal information as defined
13 in NRS 239B.030.

14 Dated this 3rd day of March 2020.

15
16 SILVERMAN KATTELMAN SPRINGGATE, CHTD.

17
18 
19 ALEXANDER MOREY
20 Attorney for John Towpley
21
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DECLARATION OF JOHN TOWNLEY

COMES NOW, JOHN TOWNLEY, who executes this within the State of Nevada: I
declare under penalty of perjury that the following is true and correct:

1. I am the Plaintiff herein.
2. I make this declaration of my own personal knowledge, information and
belief.

3. The statement of facts in **MOTION FOR ORDER DIRECTING
DELIVERY OF FUNDS DUE DEFENDANT PURSUANT TO DIVORCE AND
PAPERS AND THINGS RELATING TO DEFENDANT'S PROPERTY TO LAST
KNOWN RESIDENCE** are hereby merged and incorporated into this declaration. I
know the facts are true of my own knowledge, except those matters stated upon
information and belief. As to those matters, I believe them to be true.

EXECUTED this 3RD day of March 2020.



John Townley

IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

John Tonnley)
)
Rochelle vs. Mezzano)
)
)
)

FAMILY DIVISION MOTION/OPPOSITION NOTICE (REQUIRED)	
CASE NO.	DVA-01564
DEPT. NO.	13

NOTICE: THIS MOTION/OPPOSITION NOTICE **MUST BE ATTACHED AS THE LAST PAGE** to every motion or other paper filed to modify or adjust a final order that was issued pursuant to chapter 125, 125B or 125C of NRS and to any answer or response to such a motion or other paper.

A.	Mark the CORRECT ANSWER with an X.	YES	NO
	1. Has a final decree or custody order been entered in this case? If <u>yes</u> , then continue to Question 2. If <u>no</u> , you do not need to answer any other questions.	X	
	2. Is this a motion or an opposition to a motion filed to change a final order? If <u>yes</u> , then continue to Question 3. If <u>no</u> , you do not need to answer any other questions.		X
	3. Is this a motion or an opposition to a motion filed only to change the amount of child support?		
	4. Is this a motion or an opposition to a motion for reconsideration or a new trial <u>and</u> the motion was filed within 10 days of the Judge's Order?		
	IF the answer to Question 4 is YES, write in the <u>filing date</u> found on the front page of the Judge's Order.	Date	
B.	If you answered NO to either Question 1 or 2 or YES to Question 3 or 4, you are <u>exempt</u> from the filing fee. However, if the Court later determines you should have paid the filing fee, your motion will <u>not</u> be decided until the fee is paid.		

I affirm that the answers provided on this Notice are true.

Date: March 3, 2020

Signature:

Print Name:

Print Address:

Telephone Number:

Alexander Morera
Silverman • Kattelman • Springgate, Chtd.
500 Damonte Ranch Parkway, Suite 875
Reno, Nevada 89521
775-322-3223

INDEX OF EXHIBITS

Exhibit Number	Description	Number of Pages
1	List	1
2	Letter dated December 31, 2019	5
3		
5		
6		
7		
8		
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FILED
Electronically
DV19-01564
2020-03-03 04:01:20 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7772427 : jbye

EXHIBIT 1

IN THE BOX

SS BUSS LIC. / E&O INS

SS PAYCHECKS COMMISSION CHECKS

RENTAL BILLS AND DUTIES OWED FOR ROBERT (UNIT B)

SS BANK STATEMENTS

SS CHECKS (OPEN ACCOUNT)

(1) CLOSED TRANSACTION WINDSTAR - MARTINIAN

RENT SPREADSHEET

BOFA CREDIT CARD / STATEMENT OPEN ACCT IN "R" NAME

SPECTRUM BILL AESOP DT DISCONNECT ON 12-23

" " VALLEY RD. ED / SS PHONE # ACTIVE

NV. ENERGY BILLS IN "R" NAME

TAXES FOR VALLEY ROAD (CURRENT)

TIMWA BILLS IN "R" NAME

AESOP MORTGAGE PAYMENT BOOK / STATEMENT PHH

CITY OF RENO SEWER BILLS

LOCKWOOD-MOORE PRINTER BILL NEW BILLING ADD. 755 AESOP

UNIVERSITY RIDGE HOA BILL " " " "

AMERICAN FAMILY PAID INVOICE SEVEN STAR

NORRIS ENVIRONMENTAL TREE MAINT. SS

WASTE MANAGEMENT BILLS (CURRENT)

CASHIERS CHECK FOR BAL OF NJWWT

CHECKS SS & ENVELOPES

DUPLEX KEYS

SEVEN STAR COMPUTER W/ QUICKBOOKS FOR QNEPES
AND JONAI MARTINIAN

FILED
Electronically
DV19-01564
2020-03-03 04:01:20 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7772427 : jbye

EXHIBIT 2

SILVERMAN
KATTELMAN
SPRINGGATE, Chtd.

Gary R. Silverman*
Michael V. Kattelman
John P. Springgate†
Alexander C. Morey†
Kenton Karrasch
Benjamin Albers

silverman@sks-reno.com
mvk@sks-reno.com
springgate@sks-reno.com
amorey@sks-reno.com
karrasch@sks-reno.com
ben@sks-reno.com

www.sks-reno.com

500 Damonte Ranch Parkway, Suite 675 – Reno, Nevada 89521
(775) 322-3223 Fax (775) 322-3649

December 31, 2019
Via email & U.S. Mail

Rochelle Mezzano
735 Aesop Court
Reno, NV 89512

RE: Marriage of Townley & Mezzano, DV19-01564
Action Items

Dear Ms. Mezzano:

You and Mr. Townley are divorced. The Court entered the decree of divorce on December 11, 2019. Mr. Townley immediately began disentangling his finances from yours. Steps taken included, but were not limited to, closing certain joint accounts, obtaining a \$76,000 cashier's check, notifying renters, segregating insurance policies, and transferring utility bills. John directed me to send you this letter as notice **YOU SHOULD TAKE IMMEDIATE ACTION** to organize and manage your assets and obligations. A detailed discussion of some of the action items is below. Second, you must execute documents, including deeds and, possibly, a release of John's real estate license. Please contact me to arrange to sign the documents. Third, I have a box of documents and other items (including a \$76,000 cashier's check) at my office for your retrieval. Please contact me to arrange a time for you to come to my office and retrieve the items.

Discussion of Action Items:

Valley Road Tenants. With the award of this property to you, you are also awarded the lease contracts associated with the property. You currently hold the physical lease documents. Mr. Townley informed the tenants payment should be made to you moving forward. Payments have been made by placing payment in a drop box at Seven Star Realty. If you wish a different payment method, you must reach out to the tenants. Because you are the lessor and responsible for the lessor's obligations under the rental contracts, you must provide the tenants your contact information.

Utility Bills. Mr. Townley has removed his liability on the utility bills associated with the properties awarded to you. **YOU SHOULD TAKE IMMEDIATE STEPS TO CONTINUE UTILITY SERVICE. IF YOU DO NOT, THERE IS A RISK OF SIGNIFICANT PROPERTY DAMAGE IF PIPES FREEZE AND BURST.** Mr. Townley directed the bills to be delivered to your home on Aesop Court. Bills associated with Seven Star Realty will continue to that address. If you wish delivery to a different address, you must reach out to the service providers.

*Fellow of the American Academy of Matrimonial Lawyers.
†Nevada Certified Family Law Specialist

Seven Star Spectrum Bill. As a courtesy to you, Mr. Townley did not modify the Spectrum bill for the Valley Road property because that bill includes the Seven Star Realty business phone number. Mr. Townley was informed failure to pay the bill will cause a forfeit of the Seven Star Realty phone number. Mr. Townley intends to pay the January bill. He will not pay after that. If you do not take action before the end of the January billing period, you will likely forfeit Seven Star Realty's business phone number. Home and Auto Insurance. Mr. Townley contacted your insurers and separated the home and auto policies for his property and vehicles from your property and vehicles.

You are responsible for paying for your insurance going forward. Mr. Townley is informed the next payment will be due on or about January 20, 2020. Mr. Townley directed the insurers to delivery your bill to your home on Aesop Court. You must reach out to the insurers if you wish a different billing address or to change your coverage. Health Insurance. Mr. Townley is working to separate your health insurance policy from his policy. Mr. Townley expects to complete that division as of the February 2020 billing cycle. You must immediately contact Hometown Health and arrange for payment of your insurance premiums.

Keller Williams Profit Sharing. You must contact Keller Williams and inform the company where your profit sharing funds, if any, should be sent in the future.

Seven Star Realty Business Accounts. Mr. Townley cannot remove himself as a signer on the Seven Star Realty accounts as he is not an officer of the company. You must remove Mr. Townley. Please provide a date by which you will remove Mr. Townley from the accounts.

Cellular Phone. Your cellular phone bill will come due in January 2020. John observed activity on your number. If you wish to retain your cellular phone number, John will release it. However, Sprint informed John it will only hold the number for 48 hours. So, if you wish to keep the number, you must inform John beforehand. The transfer must be completed online. You must create an account with Sprint. John will not continue paying for this plan.

Redstone Drive. John received this property. Since you and he are on title to this property outside of any trust, you must transfer your interest in the property to John. A quitclaim deed transferring your interest in the property is attached to this letter. Be advised if you do not execute the quitclaim deed within 10 business days of presentation, John has the right to obtain an order the Clerk of Court sign as your attorney in fact and awarding him a judgment against you for the fees and costs he incurs.

Achilles Drive. John, in his capacity as trustee of the Townley Mezzano trust, intends to execute a quitclaim deed transferring this property from the trust to him before the trust is revoked/dissolved.

F Street. John, in his capacity as trustee of the Townley Mezzano trust, intends to execute a quitclaim deed transferring this property from the trust to him before the trust is revoked/dissolved.

Aesop Court. John, in his capacity as trustee of the Townley Mezzano trust, intends to execute a quitclaim deed transferring this property from the trust to you before the trust is revoked/dissolved. He will direct the deed be delivered to the Aesop Ct. address once recorded as well as all future tax statements.

Valley Road. John, in his capacity as trustee of the Townley Mezzano trust, intends to execute a quitclaim deed transferring this property from the trust to you before the trust is revoked/dissolved. He will direct the deed be delivered to the Aesop Ct. address once recorded as well as all future tax statements.

Corvette. The 2001 Corvette awarded to you in the divorce was held in the name of the Southern Illinois Wetland Preservation Trust. John, as trustee, executed the necessary documents to transfer the vehicle to you. Those documents are available for pickup at my office.


Gold & Coins. The gold and coins were awarded to John as part of his property upon divorce. You kept these coins in the safe at the Aesop Ct. home. There were a few ounces of Placer gold in the safe and a number of gold and silver coins. The gold and coins must be delivered to my office, 500 Damonte Ranch Pkwy., Ste. 675, Reno, Nevada 89521, within 30 days of this letter.

Safe Deposit Box. John transferred the autopayment for this box to the Seven Star Realty account. You may keep or terminate the box and its contents as you feel best. Releasing Real Estate License / Windup of Commissions. One commission will come due and payable to John from Seven Star Realty on or about January 7, 2020. The commission is an 80/20 split. Seven Star will owe John \$5,200. Second, John understands that you, the broker for Seven Star Realty, must release his license. Please confirm you will pay the commission due on receipt and release John's license promptly upon his request.

Feel free to call me to discuss this letter and this case: 775-322-3223.

Respectfully,

SILVERMAN KATTELMAN SPRINGGATE


Alexander Morey

ACM:tm
cc: client

[illegible]

On this _____ day of _____, 2020 John M. Townley, personally appeared before me, a Notary Public, who acknowledged to me that he executed the within document and that he did so freely, voluntarily and for the uses and purposes therein described.

Notary Public

Rochelle Mezzano

STATE OF NEVADA)
 ; ss
COUNTY OF WASHOE)

On this _____ day of _____, 2020 Rochelle Mezzano, personally appeared before me, a Notary Public, who acknowledged to me that she executed the within document and that she did so freely, voluntarily and for the uses and purposes therein described.

Notary Public

EXHIBIT 4

Code;
1 Gary R. Silverman (NSB# 409) Michael V. Kattelman (NSB#6703)
John P. Springgate (NSB# 1350) Alexander C. Morey (NSB#11216)
2 Kenton Karrasch (NSB#13515) Benjamin Albers (NSB#11895)
Silverman Kattelman Springgate, Chtd.
500 Damonte Ranch Parkway, Suite 675
3 Reno, Nevada 89521
Telephone: 775/322-3223
4 Facsimile: 775/322-3649
Attorney for John Townley

5 **IN THE FAMILY DIVISION**
6 **OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**

8 JOHN TOWNLEY,

9 Plaintiff

Case No. DV19-01564

10 vs.

Dept. 13

11
12 ROCHELLE MEZZANO and
13 DOES I through XX,
14 to include Doe individuals,
15 corporations, limited liability companies,
16 partnerships, trusts, limited partnerships,
17 and such other individuals or entities
18 as may exist or be formed

Defendants.

19 **MOTION VESTING TITLE TO REAL PROPERTY IN PLAINTIFF; IN THE**
20 **ALTERNATIVE, MOTION FOR CLERK OF COURT TO EXECUTE DEED AS**
21 **ATTORNEY IN FACT**

22 John Townley moves the Court for an order vesting title to 145 Redstone Drive,
23 Reno, Nevada, APN 003-351-09, in him as his sole and separate property pursuant to
24 NRCP 70(b). In the alternative, John moves the Court for an order directing the Clerk of
25 Court to execute the necessary deed to vest title to 145 Redstone Drive, Reno, Nevada, in
26 him as his sole and separate property pursuant to NRCP 70(a) and this Court's Decree of
27 Divorce. John further moves the Court for an award of attorney's fees and costs against
28 Rochelle Mezzano for her failure to execute the deed upon demand and for additional
relief deemed necessary and just.

1 This Motion is made and based on the points and authorities herein, the
2 attachments hereto, the file in this case, and any evidence or argument presented at a
3 hearing on this Motion required by the Court.

4 I. POINTS AND AUTHORITIES

5 A. Facts

6 On September 11, 2019, undersigned counsel sent a letter to Rochelle Mezzano
7 advising her counsel represented John Townley, that John was proceeding with a
8 divorce, and that her immediate action was required, or John would proceed with
9 litigation. (Exhibit "1".) Ms. Mezzano did not respond, and John initiated this divorce
10 action. A complaint was filed, and a summons obtained.

11 On October 4, 2019, a process server arrived at Ms. Mezzano's home. The process
12 server determined Ms. Mezzano was in the house when she responded to an oral notice,
13 she should come to the door to get documents. Ms. Mezzano, who knew a divorce was
14 imminent, refused to come to the door. The process server, therefore, posted the
15 summons and complaint and left the property. It is certain Ms. Mezzano received the
16 documents; she sent an email to John at 6:54 p.m. on the day of service which read "I
17 got served papers today. I have twenty days including the weekend to respond. Which
18 means I need to retain an attorney. So, I need a retainer. How would you like to
19 proceed?" (Exhibit "2".) From that point forward, Ms. Mezzano refused to participate in
20 the case.

21 John and Ms. Mezzano then corresponded directly and agreed to hold a meeting
22 at counsel's office to discuss resolution. The meeting was to occur on the Morning of
23 October 22, 2019. Ms. Mezzano did not appear. Ms. Mezzano continued to avoid this
24 matter, and John proceeded with a default divorce.

25 The Court entered a default divorce on December 11, 2019.

26 Notice of entry of the divorce decree was sent to Ms. Mezzano by mail and email
27 on December 12, 2019.

28

1 On December 31, 2019, undersigned counsel sent a letter to Ms. Mezzano
2 concerning necessary tasks to complete the division of property and deliver money and
3 property to her post-divorce. (Exhibit "3".) That letter sought execution of a deed
4 transferring her interest in 145 Redstone Drive, Reno, Nevada, to John.

5 On January 4, 2020, undersigned counsel received a letter from an attorney in
6 Las Vegas, Nevada, alleging he represented Ms. Mezzano and claiming Ms. Mezzano
7 would shortly move to set aside the decree of divorce. (Exhibit "4".)

8 On January 7, 2020, undersigned counsel spoke to Ms. Mezzano's putative
9 counsel by phone. On January 10, 2020, undersigned counsel sent a letter to Ms.
10 Mezzano's putative counsel. (Exhibit "5".) There was no response.

11 On January 27, 2020, undersigned counsel sent a letter to Ms. Mezzano's
12 putative counsel. There was no response.

13 As of the date of this Motion, (more than two months after entry of the divorce
14 decree and two months after the January 4, 2020, letter alleging a motion to set aside)
15 there has been no communication from or action by Ms. Mezzano's putative counsel.
16 There has been substantial communication from Ms. Mezzano to John in which Ms.
17 Mezzano continues to pretend the divorce never occurred and that John is responsible
18 for her bills and maintenance of her assets. (Dec. of John Townley.)

19 **B. Analysis**

20 **1. Ms. Mezzano was properly served, a legal fact already determined**
21 **by this Court in issuing a divorce.**

22 If Ms. Mezzano finally engages in this action, John expects she will argue this
23 Court should not issue orders concerning the parties' assets because she was not
24 personally served and, therefore, the Court's divorce decree is void for lack of personal
25 jurisdiction. Ms. Mezzano has not articulated the bases—legal or factual—for her claim.
26 John is, therefore, left to surmise. Reasonably reviewing the facts, Ms. Mezzano's claim
27 must rely on a claim the process server did not place the summons and complaint in her
28

1 hands and, therefore, did not “personally” serve her. Any such assertion depends on an
2 unreasonable interpretation of the word “personally” in NRCP 4.2 and is wrong.

3 NRCP 4.2(a)(1) provides a plaintiff may accomplish service “by delivering a copy
4 of the summons and complaint to the individual personally.” Although there does not
5 appear to be a Nevada case directly addressing the issue, Federal case law holds the rule
6 does not require a face-to-face meeting or an attempt to force papers onto a defendant.
7 *Currie v. Wood*, 112 F.R.D. 408, 409 (E.D.N.C. 1986) (citing cases). Further, substantial
8 compliance with personal service requirements coupled with actual notice to the
9 defendant is sufficient. *See Brockbank v. Second Judicial Dist. Court*, 65 Nev. 781, 201
10 P.2d 299 (1948) (discussing the corollary that rules for substitute service of process
11 must be strictly followed); *see also, e.g., Wagner v. Truesdell*, 1998 S.D. 9, ¶ 9, 574
12 N.W.2d 627, 629, *In re Coleman*, 793 N.W.2d 296, 302 (Minn. 2011).

13 *Currie v. Wood* is instructive on service and is comparable to this case. In *Currie*
14 *v. Wood*, the defendant, who had previously rejected a certified mailing, was told the
15 person serving process “had an envelope for him,” which the defendant refused,
16 “without explanation” to take. The person serving process then placed the envelope in a
17 vehicle belonging to the defendant’s employee and received the documents only after the
18 employee gave them to the defendant’s wife. On those facts, the court held the
19 defendant had been served. *Id.* at 409–10.

20 Here, like the defendant in *Currie v. Wood*, Ms. Mezzano knew litigation was
21 coming, that a person arriving at her door to deliver documents was reasonably certain
22 to be there to serve process, and that she was attempting to avoid service. Plus, unlike
23 the facts in *Currie v. Wood*, Ms. Mezzano was not unaware of the contents of the
24 summons and complaint served on her. She acknowledged, less than eight hours after
25 service that “I got served papers today. I have twenty days including the weekend to
26 respond.”

27 Ms. Mezzano was personally served with the summons and complaint. She made
28 a decision—after acknowledging service—to ignore the papers, to not attend a scheduled

1 settlement meeting, to ignore the notice John intended to seek a default, to ignore the
2 notice John intended to seek a default judgment, to ignore the hearing on the default
3 judgment, and to ignore entry of the decree of divorce. To move this matter forward and
4 garner Ms. Mezzano's participation, the Court must expressly and unequivocally inform
5 Ms. Mezzano she was properly served and is divorced.

6 **2. The Court may enter an order directly transferring the property.**

7 If real property is located in Nevada, rather than enter an order requiring
8 conveyance of the property, the Court may enter an order vesting title to the property in
9 the appropriate owner. NRCP 70(b). Here, 145 Redstone Drive is located in Nevada.
10 John is entitled to sole title under the Court's decree of divorce. Therefore, the Court
11 may enter a judgment divesting Ms. Mezzano of title and vesting title in John Townley
12 as his sole and separate property.

13 **3. Mr. Townley is entitled to an order the Clerk of Court execute, as**
14 **Ms. Mezzano's attorney in fact, the deed transferring title to 145 Redstone**
15 **Drive, Reno, Nevada, to him.**

16 Paragraph 10 of this Court's decree of divorce requires each party to execute
17 documents necessary to effect the division of assets in the decree. (Findings of Fact,
18 Conclusions of Law, and Decree of Divorce.) If a party fails to execute a document,
19 absent objection in writing, the opposing party is entitled, upon a motion made with two
20 days' notice, to an order directing the Clerk of Court to sign as attorney in fact for the
21 non-cooperative party. Here, John sought execution of a deed transferring his home,
22 awarded to him in the decree, to him. Ms. Mezzano did not provide written objections to
23 the document.¹ Nor does Ms. Mezzano have a valid objection to execution of the
24 document. The Court's decree of divorce is valid and enforceable. Pursuant to the
25 decree, John receives the property at 145 Redstone Drive, Reno, Nevada. And the deed
26

27 ¹ Assuming, *arguendo*, Ms. Mezzano's baseless and unacted upon objection to the decree is an objection
28 to the deed, the Court may nevertheless enforce its decree and order the execution of all necessary
documents to effect the division of property in the decree. The only effect of an objection is to require
routine motion practice rather than permit entry of an order on two days' notice.

1 transfers the property to John by quitclaim. John is entitled to execution by the Clerk of
2 Court.

3 **4. Mr. Townley is entitled to attorney's fees and costs.**

4 Pursuant to the Decree of Divorce, paragraph 10, and NRCP 70, Mr. Townley is
5 entitled to an award of reasonable attorney's fees. Upon the Court's entry of an order
6 granting him the relief sought, Mr. Townley shall file the affidavit of counsel containing
7 the information required by law for evaluation of an award of attorney's fees. After Ms.
8 Mezzano has had a reasonable opportunity to review the submitted material and object,
9 the Court should enter an award of attorney's fees.

10 **II. CONCLUSION**

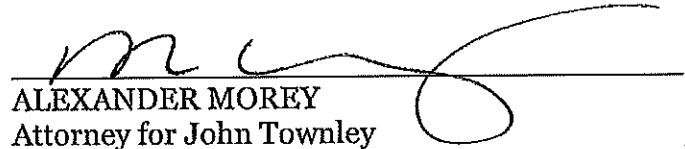
11 For the foregoing reasons, it is necessary and appropriate for the Court to enter a
12 judgment divesting Rochelle Mezzano of all title to the real property at 145 Redstone
13 Drive, Reno, Nevada, APN 003-351-09, and vesting title in John M. Townley as his sole
14 and separate property, or, alternatively, directing the Clerk of Court to execute a
15 quitclaim deed vesting title in Mr. Townley. Mr. Townley should be awarded his
16 reasonable attorney's fees and costs.

17 **III. AFFIRMATION**

18 The undersigned affirms this Motion contains no personal information as defined
19 in NRS 239B.030.

20 Dated this 3rd day of March 2020.

21 SILVERMAN KATTELMAN SPRINGGATE, CHTD.

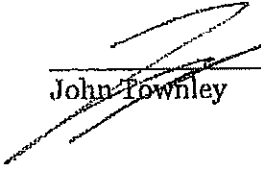
22
23 
24 ALEXANDER MOREY
25 Attorney for John Townley
26
27
28

DECLARATION OF JOHN TOWNLEY

COMES NOW, JOHN TOWNLEY, who executes this within the State of Nevada: I
declare under penalty of perjury that the following is true and correct:

1. I am the Plaintiff herein.
2. I make this declaration of my own personal knowledge, information and belief.
3. The statement of facts in **MOTION VESTING TITLE TO REAL PROPERTY IN PLAINTIFF; IN THE ALTERNATIVE, MOTION FOR CLERK OF THE COURT TO EXECUTE DEED AS ATTORNEY IN FACT** are hereby merged and incorporated into this declaration. I know the facts are true of my own knowledge, except those matters stated upon information and belief. As to those matters, I believe them to be true.

EXECUTED this 3rd day of March 2020.


John Townley

IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

John Connley

Rochelle vs. Mezzano

FAMILY DIVISION MOTION/OPPOSITION NOTICE (REQUIRED)	
CASE NO.	<u>DVM-01564</u>
DEPT. NO.	<u>13</u>

NOTICE: THIS MOTION/OPPOSITION NOTICE MUST BE ATTACHED AS THE LAST PAGE to every motion or other paper filed to modify or adjust a final order that was issued pursuant to chapter 125, 125B or 125C of NRS and to any answer or response to such a motion or other paper.

A.	Mark the CORRECT ANSWER with an X.	YES	NO
1.	Has a final decree or custody order been entered in this case? If <u>yes</u> , then continue to Question 2. If <u>no</u> , you do not need to answer any other questions.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.	Is this a motion or an opposition to a motion filed to change a final order? If <u>yes</u> , then continue to Question 3. If <u>no</u> , you do not need to answer any other questions.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.	Is this a motion or an opposition to a motion filed only to change the amount of child support?	<input type="checkbox"/>	<input type="checkbox"/>
4.	Is this a motion or an opposition to a motion for reconsideration or a new trial <u>and</u> the motion was filed within 10 days of the Judge's Order?	<input type="checkbox"/>	<input type="checkbox"/>
	IF the answer to Question 4 is YES, write in the <u>filing date</u> found on the front page of the Judge's Order.	Date	
B.	If you answered NO to either Question 1 or 2 or YES to Question 3 or 4, you are <u>exempt</u> from the filing fee. However, if the Court later determines you should have paid the filing fee, your motion will <u>not</u> be decided until the fee is paid.		

I affirm that the answers provided on this Notice are true.

Date: March 3, 2020

Signature:

Print Name:

Print Address:

Telephone Number:

Alexander Morrey
Silverman • Kattelman • Springgate, Chtd.
500 Damonte Ranch Parkway, Suite 675
Reno, Nevada 89521
775-322-3223

INDEX OF EXHIBITS

Exhibit Number	Description	Number of Pages
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2	Email from Rochelle to John	2
3	Letter dated December 31, 2019 to Rochelle	5
4	Letter from F. Peter James	1
5	Letter dated January 10, 2020 to F. Peter James	6
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13		
14		

FILED
Electronically
DV19-01564
2020-03-03 04:01:20 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7772427 : jbye

EXHIBIT 1

SILVERMAN
KATTELMAN
SPRINGGATE, Chtd.

Gary R. Silverman*
Michael V. Kattelman
John P. Springgate
Alexander C. Morey
Benjamin E. Albers
Kenton C. Karrasch

silverman@sk-s-reno.com
mvk@sk-s-reno.com
springgate@sk-s-reno.com
amorey@sk-s-reno.com
ben@sk-s-reno.com
karrasch@sk-s-reno.com

500 Damonte Ranch Parkway, Suite 675 – Reno, Nevada 89521
(775) 322-3223 Fax (775) 322-3649

www.sk-s-reno.com

September 11, 2019
Via U.S. Mail

Rochelle Mezzano
735 Aesop Ct.
Reno, NV 89512

RE: Marriage of Townley and Mezzano

Dear Ms. Mezzano:

Your husband, John Townley, hired us to help him through a divorce. After much deliberation, John has decided he cannot remain married. He has directed us to secure a divorce and a fair division of your and his property and debts as quickly and inexpensively as possible. John's hope is that you and he can avoid a protracted, contentious, messy, and expensive divorce. He would rather you and he keep your money than pay lawyers. Although John does not speak for you, he suspects you share his view. We find that early settlement negotiations are the best way to reduce the duration and expense of a divorce. We ask you meet with us to participate in negotiations within the next two weeks. Delay will not be tolerated.

John provided you a rough financial statement and three possible divisions of assets some time ago. We have included copies of those documents with this letter for your ease of reference. You did not respond to John. When we meet to discuss settlement, bring proposals for the division of your and John's assets and debts. We expect you will be willing to take either side of any proposal you make—you must be willing to take what you offer to John.

Before September 20, 2019, we must have a written response to this letter promising you will meet with us to discuss settlement within two weeks. John has honored your requests for delay for nearly a year. He is unwilling to delay longer. If you will not promptly engage in meaningful settlement negotiations that move you and John toward divorce, you force him to engage the court to create a timeline and force your marriage to an end. Therefore, if we do not receive your written response before September 20, 2019, John has directed us to file for divorce on September 20, 2019, which we will do.

Before that meeting, please provide us with a copy of any prenuptial agreement you claim is in effect between you and John and the location of the original document.

As a matter of recordkeeping, John has transferred the \$50,000 you requested to continue a remodel of your home. In exchange for that \$50,000 and the \$125,000 held in the safe in your home, John has transferred \$175,000 to himself. Moving forward, rather than fiddle with accountings, the \$175,000 in your control is your separate property and the \$175,000 in John's control is his separate property.

We look forward to hearing from your lawyer and scheduling a date to meet and discuss settlement. If you do not hire a lawyer—a choice we strongly advise against—we will work directly with you. In any discussions with us, you must keep in mind we are not your lawyers; we do not represent you; we represent John; and we advocate for John's interests.

You may reach us at 775-322-3223, by email at the addresses on the first page, and by mail to 500 Damonte Ranch Pkwy., Ste. 675, Reno, Nevada 89521. Contact us promptly. Delay will not be tolerated. We will file for divorce on September 20, 2019, if we do not have your promise to engage in meaningful settlement negotiations within two weeks.

Respectfully,

SILVERMAN KATTELMAN SPRINGGATE, CHTD.

A handwritten signature in black ink, appearing to read 'm c 6', written over the printed name Alexander Morey.

ALEXANDER MOREY

ACM:tm
cc: client

FILED
Electronically
DV19-01564
2020-03-03 04:01:20 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7772427 : jbye

EXHIBIT 2

Alexander Morey

From: John Townley <renorealtors@yahoo.com>
Sent: Friday, January 10, 2020 12:58 PM
To: Alexander Morey
Subject: Fw: Mediation

Sent from Yahoo Mail on Android

----- Forwarded Message -----

From: "Rochelle Mezzano" <RochelleMezzano@Yahoo.com>
To: "renorealtors" <renorealtors@yahoo.com>
Sent: Fri, Oct 4, 2019 at 10:28 PM
Subject: Re: Mediation
Ok thanks.

On Oct 4, 2019, at 6:49 PM, renorealtors <renorealtors@yahoo.com> wrote:

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Rochelle Mezzano <RochelleMezzano@Yahoo.com>
Date: 10/4/19 6:54 PM (GMT-06:00)
To: renorealtors <renorealtors@yahoo.com>
Subject: Re: Mediation

I got served papers today.
I have twenty days including the weekend to respond. Which means I need to retain an attorney.
So, I need a retainer.
How would you like to proceed?

On Oct 4, 2019, at 2:08 PM, renorealtors <renorealtors@yahoo.com> wrote:

I have no objection will let you know monday or Tues

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Rochelle Mezzano <RochelleMezzano@yahoo.com>

Date: 10/4/19 3:55 PM (GMT-06:00)

To: Info@SierraMediation.com, renorealtors@yahoo.com

Subject: Mediation

FILED
Electronically
DV19-01564
2020-03-03 04:01:20 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7772427 : jbye

EXHIBIT 3

SILVERMAN
KATTELMAN
SPRINGGATE, Chtd.

Gary R. Silverman*
Michael V. Kattelman
John P. Springgate†
Alexander C. Morey†
Kenton Karrasch
Benjamin Albers

silverman@sk-s-reno.com
myk@sk-s-reno.com
springgate@sk-s-reno.com
amorey@sk-s-reno.com
karrasch@sk-s-reno.com
ben@sk-s-reno.com

www.sk-s-reno.com

500 Damonte Ranch Parkway, Suite 675 – Reno, Nevada 89521
(775) 322-3223 Fax (775) 322-3649

December 31, 2019
Via email & U.S. Mail

Rochelle Mezzano
735 Aesop Court
Reno, NV 89512

RE: Marriage of Townley & Mezzano, DV19-01564
Action Items

Dear Ms. Mezzano:

You and Mr. Townley are divorced. The Court entered the decree of divorce on December 11, 2019. Mr. Townley immediately began disentangling his finances from yours. Steps taken included, but were not limited to, closing certain joint accounts, obtaining a \$76,000 cashier's check, notifying renters, segregating insurance policies, and transferring utility bills. John directed me to send you this letter as notice **YOU SHOULD TAKE IMMEDIATE ACTION** to organize and manage your assets and obligations. A detailed discussion of some of the action items is below. Second, you must execute documents, including deeds and, possibly, a release of John's real estate license. Please contact me to arrange to sign the documents. Third, I have a box of documents and other items (including a \$76,000 cashier's check) at my office for your retrieval. Please contact me to arrange a time for you to come to my office and retrieve the items.

Discussion of Action Items:

Valley Road Tenants. With the award of this property to you, you are also awarded the lease contracts associated with the property. You currently hold the physical lease documents. Mr. Townley informed the tenants payment should be made to you moving forward. Payments have been made by placing payment in a drop box at Seven Star Realty. If you wish a different payment method, you must reach out to the tenants. Because you are the lessor and responsible for the lessor's obligations under the rental contracts, you must provide the tenants your contact information.

Utility Bills. Mr. Townley has removed his liability on the utility bills associated with the properties awarded to you. **YOU SHOULD TAKE IMMEDIATE STEPS TO CONTINUE UTILITY SERVICE. IF YOU DO NOT, THERE IS A RISK OF SIGNIFICANT PROPERTY DAMAGE IF PIPES FREEZE AND BURST.** Mr. Townley directed the bills to be delivered to your home on Aesop Court. Bills associated with Seven Star Realty will continue to that address. If you wish delivery to a different address, you must reach out to the service providers.

*Fellow of the American Academy of Matrimonial Lawyers.

†Nevada Certified Family Law Specialist

Seven Star Spectrum Bill. As a courtesy to you, Mr. Townley did not modify the Spectrum bill for the Valley Road property because that bill includes the Seven Star Realty business phone number. Mr. Townley was informed failure to pay the bill will cause a forfeit of the Seven Star Realty phone number. Mr. Townley intends to pay the January bill. He will not pay after that. If you do not take action before the end of the January billing period, you will likely forfeit Seven Star Realty's business phone number. Home and Auto Insurance. Mr. Townley contacted your insurers and separated the home and auto policies for his property and vehicles from your property and vehicles.

You are responsible for paying for your insurance going forward. Mr. Townley is informed the next payment will be due on or about January 20, 2020. Mr. Townley directed the insurers to delivery your bill to your home on Aesop Court. You must reach out to the insurers if you wish a different billing address or to change your coverage. Health Insurance. Mr. Townley is working to separate your health insurance policy from his policy. Mr. Townley expects to complete that division as of the February 2020 billing cycle. You must immediately contact Hometown Health and arrange for payment of your insurance premiums.

Keller Williams Profit Sharing. You must contact Keller Williams and inform the company where your profit sharing funds, if any, should be sent in the future.

Seven Star Realty Business Accounts. Mr. Townley cannot remove himself as a signer on the Seven Star Realty accounts as he is not an officer of the company. You must remove Mr. Townley. Please provide a date by which you will remove Mr. Townley from the accounts.

Cellular Phone. Your cellular phone bill will come due in January 2020. John observed activity on your number. If you wish to retain your cellular phone number, John will release it. However, Sprint informed John it will only hold the number for 48 hours. So, if you wish to keep the number, you must inform John beforehand. The transfer must be completed online. You must create an account with Sprint. John will not continue paying for this plan.

Redstone Drive. John received this property. Since you and he are on title to this property outside of any trust, you must transfer your interest in the property to John. A quitclaim deed transferring your interest in the property is attached to this letter. Be advised if you do not execute the quitclaim deed within 10 business days of presentation, John has the right to obtain an order the Clerk of Court sign as your attorney in fact and awarding him a judgment against you for the fees and costs he incurs.

Achilles Drive. John, in his capacity as trustee of the Townley Mezzano trust, intends to execute a quitclaim deed transferring this property from the trust to him before the trust is revoked/dissolved.

F Street. John, in his capacity as trustee of the Townley Mezzano trust, intends to execute a quitclaim deed transferring this property from the trust to him before the trust is revoked/dissolved.

Aesop Court. John, in his capacity as trustee of the Townley Mezzano trust, intends to execute a quitclaim deed transferring this property from the trust to you before the trust is revoked/dissolved. He will direct the deed be delivered to the Aesop Ct. address once recorded as well as all future tax statements.

Valley Road. John, in his capacity as trustee of the Townley Mezzano trust, intends to execute a quitclaim deed transferring this property from the trust to you before the trust is revoked/dissolved. He will direct the deed be delivered to the Aesop Ct. address once recorded as well as all future tax statements.

Corvette. The 2001 Corvette awarded to you in the divorce was held in the name of the Southern Illinois Wetland Preservation Trust. John, as trustee, executed the necessary documents to transfer the vehicle to you. Those documents are available for pickup at my office.

Gold & Coins. The gold and coins were awarded to John as part of his property upon divorce. You kept these coins in the safe at the Aesop Ct. home. There were a few ounces of Placer gold in the safe and a number of gold and silver coins. The gold and coins must be delivered to my office, 500 Damonte Ranch Pkwy., Ste. 675, Reno, Nevada 89521, within 30 days of this letter.

Safe Deposit Box. John transferred the antopayment for this box to the Seven Star Realty account. You may keep or terminate the box and its contents as you feel best. Releasing Real Estate License / Windup of Commissions. One commission will come due and payable to John from Seven Star Realty on or about January 7, 2020. The commission is an 80/20 split. Seven Star will owe John \$5,200. Second, John understands that you, the broker for Seven Star Realty, must release his license. Please confirm you will pay the commission due on receipt and release John's license promptly upon his request.

Feel free to call me to discuss this letter and this case: 775-322-3223.

Respectfully,

SILVERMAN KATTELMAN SPRINGGATE


Alexander Morey

ACM:tm
cc: client

When recorded please return to:

MAIL FUTURE TAX STATEMENTS TO:

Name: John Townley
Address: 145 Redstone Dr.
Reno, NV 89512

QUITCLAIM DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
John M. Townley, an unmarried man and Rochelle Mezzano, an unmarried woman, do
hereby remise, release and forever quitclaim and transfer all right, title and interest to
John M. Townley, an unmarried man as his sole and separate property the real property
situate in the State of Nevada, County of Washoe, described as follows:

Commencing at the Northwest corner of Lot 18 in Block A of Prospect Hill Subdivision No 1, Washoe County, Nevada, according to the map thereof, filed in the office of the County Recorder of Washoe County, State of Nevada, on October 24, 1952; thence North 206.2 feet; thence North 62°50' East 305.75 feet to the point of beginning; thence North 27°10' West 194.97 feet; thence North 73°50' East 122.25 feet; thence South 27°10' East 171.64 feet; thence South 62°50' West 120.0 feet to the point of beginning. Situate in the SE ¼ of the NW ¼ of Section 35, Township 20 North, Range 19 East, M.D.B.&M.

TOGETHER with all tenements, hereditaments and appurtenances thereunto belonging or appertaining, and any reversions remainders, rents, issues and profits thereof.

John M. Townley

[illegible]

On this _____ day of _____, 2020 John M. Townley, personally appeared before me, a Notary Public, who acknowledged to me that he executed the within document and that he did so freely, voluntarily and for the uses and purposes therein described.

Notary Public

Rochelle Mezzano

STATE OF NEVADA)
 : ss
COUNTY OF WASHOE)

On this _____ day of _____, 2020 Rochelle Mezzano, personally appeared before me, a Notary Public, who acknowledged to me that she executed the within document and that she did so freely, voluntarily and for the uses and purposes therein described.

Notary Public

FILED
Electronically
DV19-01664
2020-03-03 04:01:20 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7772427 : jbye

EXHIBIT 4



**LAW OFFICES OF
F. PETER JAMES, ESQ.**

VIA FACSIMILE
January 4, 2020

Alexander Morey, Esq.
Silverman Kattelman Springgate, Chtd.
500 Damonte Ranch Parkway, Suite 675
Reno, Nevada 89521
775-322-3649 (fax)

Re: *Townley v. Mezzano, et al.*
DV19-01564

Dear Mr. Morey:

Please take notice that I represent Rochello Mezzano in the above-referenced matter.

I am informed that you have a default Decree of Divorce in place. It is my intention to file to set aside the same. Please advise your client not to remarry or otherwise dispose of marital assets as I will be requesting that the entire Decree be set aside, including the dissolution of the marriage. A basis for the set aside is that my client was not properly served.

Please advise if you are willing to stipulate to set aside the Decree. If so, I will draft up the paperwork. My client is also willing to entertain a fair settlement of this matter. Once I am familiar with the underlying facts, I can discuss the same with you.

For expediency, I am presently preparing the Motion to Set Aside. Even once filed, we can negotiate a fair resolution to the case. It is my understanding that the Decree did not equally divide the community assets. As stated, at present I am concentrating on the set aside. I will familiarize myself with the underlying facts of the case so I can speak about the matter properly.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

F. Peter James, Esq.

3821 WEST CHARLESTON BOULEVARD, SUITE 250
LAS VEGAS, NEVADA 89102
702-256-0087
702-256-0145(FAX)

FILED
Electronically
DV19-01564
2020-03-03 04:01:20 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7772427 : jbye

EXHIBIT 5

SILVERMAN
KATTELMAN
SPRINGGATE, Chtd.

Gary R. Silverman*
Michael V. Kattelman
John P. Springgate†
Alexander C. Morey†
Kenton Karrasch
Benjamin Albers

silverman@sks-reno.com
mvk@sks-reno.com
springgate@sks-reno.com
amorey@sks-reno.com
karrasch@sks-reno.com
ben@sks-reno.com

500 Damonte Ranch Parkway, Suite 675 – Reno, Nevada 89521
(775) 322-3223 Fax (775) 322-3649

www.sks-reno.com

January 10, 2020
Via email and facsimile

F. Peter James
Law Offices of F. Peter James, Esq.
3821 West Charleston Blvd. St., 250
Las Vegas, NV 89102
Fax: 702-256-0145

RE: Marriage of Townley & Mezzano, DV19-01564

Dear Mr. James:

Ms. Mezzano is directing caustic communications to my client. Have her stop immediately. All communication about this case must proceed through counsel. Second, when you and I spoke on the phone earlier this week, I requested a statement from Ms. Mezzano about what she wanted out of this divorce. You indicated you were seeking that information from her. I do not know whether Mr. Townley will have any appetite to settle this matter without the Court relieving Ms. Mezzano of the decree, but before Ms. Mezzano proceeds with litigation, she has an obligation to explain her desired resolution. Third, Ms. Mezzano owns Seven Star Realty. She is responsible for managing the business and ensuring bills are paid. Ms. Mezzano is demanding my client make payments. In particular, Ms. Mezzano demands my client make a payment to an agent to whom Seven Star owes money. (See attached email.) Mr. Townley understands the payment to Seven Star from which the agent is due a commission is sitting—in check form—on Ms. Mezzano's desk at Seven Star. He does not believe there are sufficient funds in the Seven Star account to make the payment without depositing that check. Ms. Mezzano must return to Reno, deposit the check, and make the payment to the agent.

Last, I suggest you review Ms. Mezzano's communication with Mr. Townley, especially the attached message in which she admits she was served. Ms. Mezzano knew a divorce case was coming. Ms. Mezzano knew the process server was at her house and had documents to give her. The process server confirmed Ms. Mezzano was present inside the home. When Ms. Mezzano refused to come to the door to receive documents,

///

*Fellow of the American Academy of Matrimonial Lawyers.

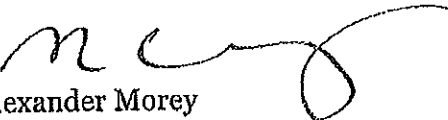
†Nevada Certified Family Law Specialist

F, Peter James
January 10, 2020
Page 2 of 2

the process server posted the documents on the door. Ms. Mezzano received the documents. Ms. Mezzano was served. If she forces this issue, she should be prepared to pay Mr. Townley's attorney's fees and costs.

Respectfully,

SILVERMAN KATTELMAN SPRINGGATE


Alexander Morey

ACM:tm
enc.
cc: client

Alexander Morey

From: sevenstarrealty <sevenstarrealty@yahoo.com>
Sent: Thursday, January 9, 2020 4:03 PM
To: Alexander Morey
Subject: Fwd: 36-40 Park St check

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Rochelle Mezzano <RochelleMezzano@Yahoo.com>
Date: 1/9/20 1:44 PM (GMT-07:00)
To: renorealtors@yahoo.com, Boy Townley Townley <SevenStarRealty@yahoo.com>
Subject: Fwd: 36-40 Park St check

Dear John,

Are you in the process of finding someone to sue your present attorney for malpractice and damages? No offense, you might consider it very seriously.

Below Victor is needing a check. Figure it out, please, for his sake and ours.

Thank you.

Rochelle Mezzano.

Begin forwarded message:

From: VICTOR MCDONALD <esqular00@aol.com>
Date: January 9, 2020 at 12:36:44 PM MST
To: Rochelle Mezzano <rochellemezzano@yahoo.com>
Subject: 36-40 Park St check

John texted me to say he is no
longer cutting commission checks
for 7 Star Realty

I need that check this week to pay bills

First Centennial check
\$19,000

My commission check
\$15,200

Thanks
Victor

Sent from my iPhone

Alexander Morey

From: John Townley <renorealtors@yahoo.com>
Sent: Friday, January 10, 2020 12:58 PM
To: Alexander Morey
Subject: Fw: Mediation

Sent from Yahoo Mail on Android

----- Forwarded Message -----

From: "Rochelle Mezzano" <RochelleMezzano@Yahoo.com>
To: "renorealtors" <renorealtors@yahoo.com>
Sent: Fri, Oct 4, 2019 at 10:28 PM
Subject: Re: Mediation
Ok thanks.

On Oct 4, 2019, at 6:49 PM, renorealtors <renorealtors@yahoo.com> wrote:

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Rochelle Mezzano <RochelleMezzano@Yahoo.com>
Date: 10/4/19 6:54 PM (GMT-06:00)
To: renorealtors <renorealtors@yahoo.com>
Subject: Re: Mediation

I got served papers today.
I have twenty days including the weekend to respond. Which means I need to retain an attorney.
So, I need a retainer.
How would you like to proceed?

On Oct 4, 2019, at 2:08 PM, renorealtors <renorealtors@yahoo.com> wrote:

I have no objection will let you know monday or Tues

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Rochelle Mezzano <RochelleMezzano@Yahoo.com>

Date: 10/4/19 3:55 PM (GMT-06:00)

To: Info@SierraMediation.com, renorealtors@yahoo.com

Subject: Mediation

EXHIBIT 5

1 Code: 2450
2 LAW OFFICES OF F. PETER JAMES, ESQ.
3 F. Peter James, Esq.
4 Nevada Bar No. 10091
5 Peter@PeterJamesLaw.com
6 3821 West Charleston Boulevard, Suite 250
7 Las Vegas, Nevada 89102
8 702-256-0087
9 702-256-0145 (fax)
10 Counsel for Defendant

11
12 **IN THE FAMILY DIVISION**
13 **OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,**
14 **IN AND FOR THE COUNTY OF WASHOE**

15 JOHN TOWNLEY,

16 Plaintiff,

17 vs.

18 ROCHELLE MEZZANO, DOES I through XX,
19 to include Doe individuals, corporations,
20 limited liability companies, partnerships, trusts,
21 limited partnerships, and such other individuals
22 or entities as may exist or be found.

23 Defendant.

CASE NO.: DV19-01564
DEPT.: 13

24 **MOTION TO SET ASIDE DECREE OF DIVORCE AND FOR RELATED RELIEF**

25 COMES NOW Defendant, Rochelle Mezzano, by and through her counsel, F. Peter
26 James, Esq., who hereby moves this Honorable Court for the following relief:

- 27 • Setting aside of the Default Decree of Divorce and of the Default;
- 28 • Staying the case until the present Motion is decided; and
- 29 • For attorney's fees and costs.

1 This Motion is made and based on the papers and pleadings on file herein, the attached
2 points and authorities, the attached affidavit(s) / declaration(s), the filed exhibit(s), and upon
3 any oral argument the Court will entertain.

4 **POINTS AND AUTHORITIES**

5 **I.**

6 **BACKGROUND**

7 Defendant, Rochelle Mezzano, and Plaintiff, John Townley, were married on or about
8 September 12, 1999 in Reno, Nevada. Plaintiff filed for divorce on September 24, 2019. (*See*
9 *Complaint* filed September 24, 2019). Plaintiff served a contractor at Defendant's home with
10 the Summons, Complaint, and other filed documents. (*See Summons* filed October 28, 2019
11 at the Affidavit of Service attached thereto). This contractor never resided at the Defendant's
12 home and was never authorized to accept service of process. The contractor never informed
13 Defendant that a process server came by and left documents. Defendant later found the
14 documents on a cabinet inside the house.

15 Plaintiff obtained a Default and later a Default Decree of Divorce. (*See Default* filed
16 *November 1, 2019; see also Decree of Divorce* filed December 11, 2019). Defendant now
17 moves this Honorable Court to set aside the Decree of Divorce, the Default, to stay proceedings
18 until this matter is resolved, and for attorney's fees and costs.

19 **II.**

20 **DISCUSSION**

21 The Court should set aside the Decree of Divorce and the Default due to improper
22 service of process. The Court should also stay the present matter until this motion is decided.
23 Further, the Court should award Defendant attorney's fees and costs.

1 **A. THE COURT SHOULD SET ASIDE THE DECREE OF DIVORCE**

2 The Court should set aside the Decree of Divorce. NRCP 60 provides in relevant part:

3 **(b) Grounds for Relief From a Final Judgment, Order, or Proceeding.** On
4 motion and just terms, the court may relieve a party or its legal representative
from a final judgment, order, or proceeding for the following reasons:

- 5 (1) mistake, inadvertence, surprise, or excusable neglect;
- 6 (2) newly discovered evidence that, with reasonable diligence, could not
7 have been discovered in time to move for a new trial under Rule 59(b);
- 8 (3) fraud (whether previously called intrinsic or extrinsic),
misrepresentation, or misconduct by an opposing party;
- 9 (4) the judgment is void;
- 10 (5) the judgment has been satisfied, released, or discharged; it is based on
11 an earlier judgment that has been reversed or vacated; or applying it
prospectively is no longer equitable; or
- 12 (6) any other reason that justifies relief.

13 **(c) Timing and Effect of the Motion.**

- 14 (1) *Timing.* A motion under Rule 60(b) must be made within a reasonable
15 time--and for reasons (1), (2), and (3) no more than 6 months after the
16 date of the proceeding or the date of service of written notice of entry of
the judgment or order, whichever date is later. The time for filing the
motion cannot be extended under Rule 6(b).
- 17 (2) *Effect on Finality.* The motion does not affect the judgment's finality or
18 suspend its operation.

19 **(d) Other Powers to Grant Relief.** This rule does not limit a court's power to:

- 20 (1) entertain an independent action to relieve a party from a judgment,
order, or proceeding;
- 21 (2) upon motion filed within 6 months after written notice of entry of a
22 default judgment is served, set aside the default judgment against a
defendant who was not personally served with a summons and
23 complaint and who has not appeared in the action, admitted service,
signed a waiver of service, or otherwise waived service; or

1 (3) set aside a judgment for fraud upon the court.

2 (e) **Bills and Writs Abolished.** The following are abolished: bills of review, bills
3 in the nature of bills of review, and writs of coram nobis, coram vobis, and
audita querela.

4 Defendant requests that the Court set aside the Decree of Divorce as it is a void
5 judgment. "A judgment that is entered prior to the time when the defendant is validly served
6 with process is void, unless the defendant has entered his appearance." *Thorne v. Com. of Pa.*,
7 77 F.R.D. 396, 398 (E.D. Penn. 1977).¹ "A default judgment entered when there has been no
8 proper service of the complaint is, *a fortiori*, void, and should be set aside." *Gold Kist, Inc. v.*
9 *Laurinburg Oil Co., Inc.*, 756 F.2d 14, 19 (3rd Cir. 1985). Improper service of process (even
10 if the person to be served actually receives the document served) is ineffectual and is not
11 service of process; thus, the document served improperly is deemed not served at all. *See*
12 *Quinlan v. Camden USA, Inc.*, 126 Nev. 311, 236 P.3d 613 (2010) (citing many federal rules
13 and cases).

14 NRCP 4.2 provides that serving an individual must be made as follows:

15 (a) **Serving an Individual.** Unless otherwise provided by these rules, service may
16 be made on an individual:

- 17 (1) by delivering a copy of the summons and complaint to the individual
personally;
- 18 (2) by leaving a copy of the summons and complaint at the individual's
19 dwelling or usual place of abode with a person of suitable age and
discretion who currently resides therein and is not an adverse party to
20 the individual being served; or

21 ¹ "Federal cases interpreting the Federal Rules of Civil Procedure are **strong persuasive**
22 **authority**, because the Nevada Rules of Civil Procedure are based in large part upon their
23 federal counterparts." *Executive Management, Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38
P.3d 872, 876 (2002) (internal quotations and citation omitted) (emphasis added).

1 (3) by delivering a copy of the summons and complaint to an agent
2 authorized by appointment or by law to receive service of process.

3 So, if a defendant is not personally served, substitute service may be made upon a
4 “person of suitable age and discretion who currently resides therein”. NRCP 4.2(a)(2)
5 (emphasis added). “Where the evidence that the person served was not authorized by the
6 defendant to receive service of process is uncontradicted, as in this case, such denial of
7 authority must be taken by the court as true, for the purpose of applying NRCP 4(d)(6).”²
8 *Foster v. Lewis*, 78 Nev. 330, 333, 372 P.2d 679, 680 (1962) (citations omitted). “In the
9 absence of actual specific appointment or authorization, and in the absence of a statute
10 conferring authority, an agency to accept service of process will not be implied.” *Id.*, 78 Nev.
11 at 333, 372 P.2d at 680 (citation omitted) (emphasis added). With no valid personal service of
12 summons, the judgment can be sustained only if there has been proper substituted service. *Id.*,
13 78 Nev. at 333, 78 P.2d at 681. The “plaintiff has the burden of proof to demonstrate that the
14 procedure employed to deliver the papers satisfies the requirements of the relevant portions of
15 Rule 4.” *See Mann v. Castiel*, 681 F.3d 368, 372 (D.C. Cir. 2012) (internal quotations omitted),
16 citing 4A C. WRIGHT & A. MILLER, FEDERAL PRACTICE AND PROCEDURE § 1083 (3d. ed. 2002
17 & Supp. 2012).

18 A default may be set aside for good cause. *See* NRCP 55(c). When there is lack of
19 proper service, the entry of a default is void and must be set aside. *See Insituform*
20 *Technologies, Inc. v. Amerik Supplies, Inc.*, 588 F.Supp.2d 1349, 1352 (N.D. Georgia 2008);
21 *see also In Re Van Meter*, 175 B.R. 64 (9th Cir. 1994) (with no proper service, a default
22

23

² The then-existing NRCP 4(d)(6) is the present NRCP 4.2(a).

1 judgment should be set aside as void; defendant had no obligation to respond to an unserved
2 complaint).

3 Factors to consider in determining if “good cause” exists to set aside a default are:
4 whether the default was result of culpable conduct of the plaintiff, prejudice to the plaintiff,
5 and if there is a meritorious defense. *See Savin Corp. v. C.M.C. Corp.*, 98 F.R.D. 509 (N.D.
6 Ohio 1983). However, the United States Supreme Court has declared that requiring a
7 meritorious defense in a set aside matter is a violation of due process of law under the 14th
8 Amendment to the United States Constitution. *See Peralta v. Heights Medical Center, Inc.*,
9 485 U.S. 80, 108 S.Ct. 896 (1988). This case was adopted by Nevada twice. *See Price v.*
10 *Dunn*, 106 Nev. 100, 104, 787 P.2d 785, 788 (1990); *see also Epstein v. Epstein*, 113 Nev.
11 1401, 1405, 950 P.2d 771, 773 (1997).

12 Setting aside a default judgment is a more stringent standard than setting aside a default.
13 *Compare* NRCP 60(b) (stringent standard) *with* NRCP 55(c) (mere good cause). Couple that
14 with requiring a meritorious defense to be a violation of due process of law, then, *a fortiori*, it
15 is a violation of due process of law to require a meritorious defense to set aside a default.

16 A defendant’s obligation to respond to a complaint arises only upon service of the
17 summons and complaint. *See Judd v. F.C.C.*, 276 F.R.D. 1, 5 (D.C. 2011). Nevada only has
18 jurisdiction of a party when there is personal service or a legally-provided substitute—notice
19 is not a substitute for service of process. *See C.H.A Venture v. G.C. Wallace Consulting*
20 *Engineers, Inc.*, 106 Nev. 381, 384, 794 P.2d 707, 709 (1990).

21 Nevada has a strong policy of adjudication of cases on the merits. *See e.g. Hotel Last*
22 *Frontier v. Frontier Prop.*, 79 Nev. 150, 155, 380 P.2d 293, 295 (1963); *see also Marcuse v.*
23 *Del Webb Communities, Inc.*, 123 Nev. 278, 286, 163 P.3d 462, 468 (2007). Motions to set

1 aside defaults are considered liberally with any doubt being resolved in favor of setting aside.
2 *See Baumann v. Nev. Colony Corp.*, 44 Nev. 10, 12, 189 P. 245, 247 (1920); *see also Singer*
3 *Co. v. Greever and Wlash Wholesale Textile, Inc.*, 82 F.R.D. 1, 2 (E.D. Tenn. 1977); *see also*
4 *Johnson v. Harper*, 66 F.R.D. 103 (E.D. Tenn. 1975)

5 As such, the Court should set aside the Default Decree of Divorce and the Default.

6 **Default Decree of Divorce**

7 The Court should set aside the Default Decree of Divorce entered on December 11,
8 2019. The cause is failure of service of process. It is incontrovertible that service of process
9 was made not upon Plaintiff, but upon a contractor working at her house. (*See* Summons filed
10 October 28, 2019 at line 24 of the Affidavit of Service attached thereto). Nevada law mandates
11 that, when substituted service is performed, the person must be of suitable age and discretion
12 and the person **must reside at the residence**. *See* NRCP 4.2(a)(2). Clearly, a contractor does
13 not live at a residence where he is working, and this contractor did not. The Affidavit of Service
14 stated that the contractor was hired to do work at the house. (*See* Summons filed October 28,
15 2019 at line 19 of the Affidavit of Service attached thereto).

16 Defendant has cited Nevada law and strong persuasive authority from federal cases on
17 service of process in support of stating that a default judgment is void when there is no valid
18 service of process. A void judgment must be set aside pursuant to the same authority. As such,
19 the Court should declare the service ineffectual and void. As such, the Court should then set
20 aside the Default Decree of Divorce.

21 Plaintiff will undoubtedly provide an email from Defendant stating she received the
22 divorce papers (which were left on a cabinet inside the house by the contractor). This email
23

1 does not establish valid service of process under Nevada law. *See Quinlan*, 126 Nev. at 311,
2 236 P.3d at 613.

3 In *Quinlan*, the issue at bar was an offer of judgment that was served from the
4 Camden's attorney to the Quinlan's attorney via facsimile. Back then, for an attorney to be
5 validly served by facsimile, that attorney had to affirmatively file an Acceptance of Service by
6 Facsimile, which did not happen in that case. Quinlan's attorney did not accept the Offer of
7 Judgment. Camden brought an attorney's fees motion under the Offer of Judgment. Quinlan
8 admitted that she received the Offer of Judgment that was served by facsimile. Quinlan's
9 challenge was technical—that the Offer of Judgment was not served properly according the
10 Nevada law and that the improper service was ineffectual.

11 The Nevada Supreme Court agreed with Quinlan that service made improperly (not in
12 accordance with Nevada law) is ineffectual—even though Quinlan readily admitted she
13 actually received it. With this holding, even though Defendant received the divorce documents
14 from the contractor, because service upon the contractor was invalid, there is no service of
15 process. There is no argument that the contractor was never an authorized agent of Defendant
16 who could accept service of process. Nevada law provides that there shall be no implied
17 agency to accept service of process. *See Foster*, 78 Nev. at 333, 372 P.2d at 680 (citation
18 omitted).

19 There was no proper service of process upon Defendant. Nevada law mandates that
20 the service of process rules must be strictly adhered to, else the service is ineffectual. Plaintiff
21 served a contractor working at the residence, not a resident of the residence. This expressly
22 violates black-letter Nevada law on service of process. Nevada case law, as well as federal,
23 also provides that the service upon a non-resident of the residence is ineffective service.

1 Nevada law provides that improper service of process is no service of process—even if the
2 defendant actually receives the documents.

3 Accordingly, the Court should set aside the Default Decree of Divorce.

4 **Default**

5 The Court should set aside the Default entered on November 1, 2019. Good cause
6 exists to set aside the Default. The good cause, as stated, is want of proper service of process.

7 Defendant cited plentiful law on improper service rendering void both defaults and
8 default judgments. Nevada law is scant on this issue; however, strong persuasive federal law
9 provides that when there is a lack of proper service of process, the default and default judgment
10 must be set aside—no discretion. As stated, Nevada has a strong policy, as do the federal
11 courts, of liberally setting aside defaults.

12 Defendant argues that the factors of fault of Plaintiff and prejudice to Plaintiff need not
13 be argued as a void default must be set aside, Defendant will provide some argument in favor
14 of these factors. The factor of meritorious defense has been declared unconstitutional.

15 Plaintiff, through his authorized agents (his counsel and the hired process server), are
16 at fault for this void default. They served the wrong person. This is black-letter law. They
17 must serve someone who resides in the residence. *See* NRCP 4.2(a)(2). A plain reading of the
18 Affidavit of Service completed by the process server and filed by Plaintiff establishes that the
19 process server served a contractor. As stated, Plaintiff has the burden to prove the service of
20 process was valid and complied with the rules. Plaintiff is at-fault for this situation, which
21 could have been easily rectified if any level of diligence were exercised.

22 As to prejudice to Plaintiff, there is none—save maybe the one-sided Decree will be
23 revised in favor of one under Nevada’s community property laws. There is no immediate dire

1 situation regarding the property—none that would not otherwise exist if the parties were in
2 litigation. As stated herein, status quo is not detrimental to Plaintiff.

3 Defendant has shown just cause to set aside the Default. Defendant has responded to
4 the fault and prejudice questions. The meritorious defense question is per se unconstitutional.
5 Still, a void default must be set aside—without addressing the questions. *See Insituform*
6 *Technologies, Inc.*, 588 F.Supp.2d at 1352.

7 As such, the Court should set aside the Default.

8 **B. THE COURT SHOULD STAY THE CASE UNTIL THE PRESENT MOTION**
9 **IS DECIDED**

10 The Court should stay the proceedings until this Motion is resolved. Nevada law is
11 scant on the factors to stay a district court proceeding. There is no NRCP, no SCR, no DCR,
12 no WDCR, and no statute on staying district court proceedings. NRCP 62(b)(4) permits a stay
13 of the execution of a judgment upon the filing of a motion under Rule 60, which is what is
14 currently being done; however, there is little law on the standard.

15 NRAP 8 provides some guidance as to a stay—albeit this standard is for a stay of
16 enforcement of a judgment pending an appeal. NRP 8(c) provides as to the standard to stay
17 proceedings as follows:

- 18 (1) whether the object of the appeal or writ petition will be defeated if the stay or
19 injunction is denied;
- 20 (2) whether appellant/petitioner will suffer irreparable or serious injury if the stay
21 or injunction is denied;
- 22 (3) whether respondent/real party in interest will suffer irreparable or serious injury
23 if the stay or injunction is granted; and
- (4) whether appellant/petitioner is likely to prevail on the merits in the appeal or
writ petition.

1 This standard can serve as a guideline as to the stay in the district court pending
2 resolution of the present Motion.

3 **The Object of Set Aside Will be Defeated / Substantially Impaired and Complicated**

4 Plaintiff violated Defendant's rights when he improperly served her, obtained a Default
5 improperly, and then obtained an improper Default Decree. Plaintiff is requesting that title to
6 real property be vested in his name. (*See Motion Vesting Title to Real Property* [] filed March
7 3, 2020). Loss of real property results in irreparable harm. *See Dixon v. Thatcher*, 103 Nev.
8 414, 415-16, 742 P.2d 1029, 1030 (1987). Plaintiff has also filed motions to disburse the
9 marital community. (*See generally* Motions filed March 3, 2020). These motions, if granted,
10 would defeat the object of this motion.

11 **Defendant Will Suffer Irreparable / Serious Injury if the Stay is Denied**

12 As stated, Plaintiff is attempting to divest Defendant of rights to real property. Such a
13 loss is under Nevada law irreparable. *See Dixon*, 103 Nev. at 415-16, 742 P.2d at 1030. Further
14 and as stated, Plaintiff is attempting to liquidate the marital community before it is properly
15 adjudicated. This will result in further serious and irreparable harm.

16 **Plaintiff Will Not Suffer Irreparable / Serious Injury if the Stay is Granted**

17 Waiting until this Motion is resolved will not result in harm to Plaintiff. The status quo
18 will remain, as it has been. There was no harm in this before, so there will be no harm in this
19 now. Moreover, Plaintiff created this mess, which was completely avoidable. All Plaintiff
20 had to do was read the Affidavit of Service and know that a person residing at the residence
21 was not served. Plaintiff could have effectuated proper service, and there would now be no
22 issue. This, however, is not the case. Plaintiff made his bed. Now he must live in it.

23 ///

1 **Defendant is Likely to Prevail on the Merits**

2 As stated herein, black-letter Nevada law provides that the person served must reside
3 at the residence. No argument is being made that the person was not of suitable age / discretion
4 or that the person served was involved in the litigation. Defendant focuses on that the person
5 served did not reside at the residence and was not authorized to accept service of process.

6 Plaintiff might assert that Defendant had knowledge of the divorce papers being served.
7 Under *Quinlan*, this is utterly irrelevant under Nevada law—improper service is no service at
8 all.

9 As such, it is highly likely that Defendant will prevail on the merits.

10 * * *

11 As such, the Court should stay these proceedings pending the outcome of this Motion.

12 **C. THE COURT SHOULD AWARD DEFENDANT ATTORNEY'S FEES AND**
13 **COSTS**

14 The Court should award Defendant attorney's fees and costs for having to bring this
15 matter before the Court. NRS 18.010 allows the Court to liberally award fees when a party
16 maintains a frivolous position.

17 Here, Plaintiff improperly served Defendant by serving an admitted contractor who did
18 not live at the residence. The process server should have known the rules of service of process
19 and should have actually served Defendant, but the process server did not. When the Affidavit
20 of Service came to Plaintiff, he should have read it and found that the service of process was
21 defective. Plaintiff should have effectuated proper service of process at this point; however,
22 he declined to do so.

1 Defendant's counsel attempted to obtain an agreement from Plaintiff's counsel, to no
2 avail. Plaintiff's counsel would not agree to set aside the Decree. Defendant's counsel
3 informed Plaintiff's of the improper service of process and of the *Quinlan* case. Still, counsel
4 would not agree to set aside the Decree.

5 Black-letter law says a person of suitable age and discretion who resides in the
6 residence may accept service. This is unquestionably the case. Plaintiff's own process server
7 admits they served a contractor—not a resident. The service of process is per se defective.

8 Plaintiff's position in this matter is per se baseless. Plaintiff should recognize the defect
9 in the service of process and simply agree to set aside the Decree. Plaintiff declined to do this.
10 This is why an award of attorney's fees for this Motion is warranted.

11 In determining the reasonableness of the fees to be awarded, the Court must analyze
12 the following factors:

- 13 • The qualities of the advocate: his ability, training, education, experience, professional
14 standing, and skill;
- 15 • The character of the work to be done: its difficulty, intricacy, importance, the time and
16 skill required, the responsibility imposed, and the prominence and character of the
17 parties where they affect the importance of the litigation;
- 18 • The work actually performed by the lawyer: the skill, time, and attention given to the
19 work; and
- 20 • The result: whether the attorney was successful and what benefits were derived.

21 *See Brunzell v. Golden State Nat. Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969); *see also*
22 *Miller v. Wilfong*, 121 Nev. 619, 623-24, 119 P.3d 727, 730 (2005). The Court must also
23 consider the relative income of the parties as this is a domestic case. *Miller*, 121 Nev. at 623-

1 24, 119 P.3d at 730. No one element should predominate or be given undue weight. *Brunzell*,
2 85 Nev. at 349, 455 P.2d at 33.

3 As to the *Brunzell* factors, Counsel has successfully litigated countless cases in the
4 Family Division of the Eighth Judicial District Court. Counsel has successfully litigated
5 dozens appeals and writ petitions at the Nevada Supreme Court. Numerous Family Court
6 judges in the Eighth Judicial District Court have confirmed that Counsel's legal acumen
7 warranted charging \$400 per hour—with none disagreeing. Counsel is in his fourteenth year
8 of practice. Counsel is an AV Preeminent Rated family law attorney by Martindale Hubbell.
9 In addition to numerous other accolades, Counsel has been named one of the top family law
10 attorneys in the state—and received a hand-signed letter from former Sen. Harry Reid
11 regarding the same. Counsel is a court-approved Settlement Master in the Eighth Judicial
12 District Court, Family Division whom the Family Courts appoints cases for him to mediate on
13 a pro bono basis. All of the substantive work in this matter was performed by Counsel, not
14 any junior associate or paralegal. What work was done by a paralegal was billed at a lower
15 rate and supervised / amended by Counsel. The legal work did require review of the complex
16 factual history and of several key Nevada and federal cases as to the issues presented. To
17 satisfy *Miller*, the filed Financial Disclosure Forms should evidence their respective income.
18 As to the result, that is up to the Court.

19 Should the Court be so inclined to award Defendant attorney's fees, she will file a
20 Memorandum of Fees and Costs with the redacted billing statements to comply with *Love v.*
21 *Love*.

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III.

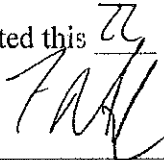
CONCLUSION

Based on the foregoing, the Court should enter the following orders:

- Setting aside the Decree of Divorce;
- Setting aside the Default;
- Staying the case until this Motion is decided; and
- Awarding Defendant attorney's fees and costs.

Under NRS 239B.030, the undersigned affirms the preceding contains no social security numbers.

Dated this 22 day of March, 2020



LAW OFFICES OF F. PETER JAMES
F. Peter James, Esq.
Nevada Bar No. 10091
3821 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89102
702-256-0087
Counsel for Defendant

DECLARATION OF F. PETER JAMES, ESQ.

I, F. Peter James, Esq., hereby declare and state under penalty of perjury as follows:

1. I am a member in good standing of the State Bar of Nevada.
2. I am counsel for Defendant, Rochelle Mezzano, in the above-entitled matter.
3. I have personal knowledge of the facts contained in this declaration, save those stated upon information and belief, and, as to those matter, I believe them to be true.

1 4. I am competent and willing to testify in a court of law as to the facts contained herein.

2 5. I have attempted to resolve this matter without having to file a motion. I contacted
3 opposing counsel via email and over the phone. I requested that they agree to set aside
4 the Decree. They declined. I informed opposing counsel of the improper service. I
5 also informed opposing counsel of the *Quinlan* case. Still, they declined to agree. They
6 left open the possibility of tweaking the Decree, but it needs to be set aside and the
7 issues litigated.

8 6. I declare under penalty of perjury under the law of the State of Nevada that the
9 foregoing is true and correct.

10 
11 F. PETER JAMES, ESQ.

3-27-2020
DATE

12 **DECLARATION OF ROCHELLE MEZZANO**

13 I, Rochelle Mezzano, declare under penalties of perjury of the laws of the State of
14 Nevada that the following is true and correct to the best of my knowledge and information. I
15 have personal knowledge of the facts contained in this Affidavit, save those stated upon
16 information and/or belief, and as to those matters, I believe them to be true. I am competent
17 and willing to testify in a court of law as to the facts contained in this Affidavit.

18 1. I am the Defendant in the above-entitled action.

19 2. I was never personally served with the Complaint and Summons. Someone served a
20 contractor that was working at my house. This contractor never lived at my residence
21 (735 Aesop Court; Reno, Nevada 89512). I never authorized the contractor to accept
22 service on my behalf. I never knew documents were being served at the time the
23

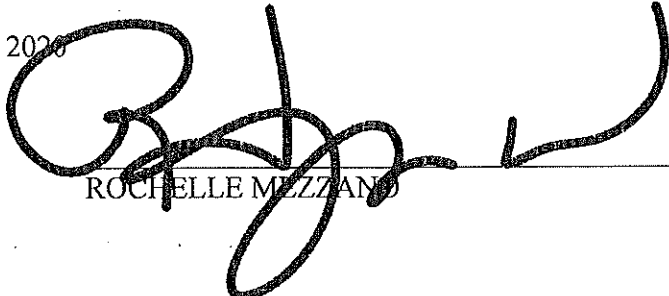
1 process server came to my residence. The contractor never told me a process server
2 even came by—he left the papers on a cabinet in my house. I later found them there.

3 3. If the case is not stayed, I will suffer irreparable harm to the real property at issue, as
4 well as the other property adjudicated in the Decree of Divorce.

5 4. I generally assert that the facts contained in this Motion are true and correct to the best
6 of my knowledge, information, and belief.

7 5. I declare under penalty of perjury under the law of the State of Nevada that the
8 foregoing is true and correct.

9 Dated this 20th day of March, 2020

10 
11 _____
12 ROCHELLE MEZZANO
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CERTIFICATE OF SERVICE

I certify that on this 22 day of March, 2020, I caused the above and foregoing document entitled **MOTION TO SET ASIDE DECREE OF DIVORCE AND FOR RELATED RELIEF** to be served as follows:


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

☒ pursuant to NEFCR, NRCP 5(b)(2)(D), and Administrative Order 14-2 captioned "In the Administrative 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;

to the attorney(s) / party(ies) listed below at the address(es) indicated below:

Alexander Morey, Esq.
Silverman, Kattelman, Springgate, Chtd.
500 Damonte Ranch Parkway, Suite 675
Reno, Nevada 89521
775-322-3223
Counsel for Plaintiff

By:


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

IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

* * *

John Townley _____)
_____))
_____))
vs. _____))
_____))
Rochelle Mezzano, et al. _____))
_____))
_____)

FAMILY DIVISION MOTION/OPPOSITION NOTICE (REQUIRED)
CASE NO. DV19-01564
DEPT. NO. 13

NOTICE: THIS MOTION/OPPOSITION NOTICE **MUST BE ATTACHED AS THE LAST PAGE** to every motion or other paper filed to modify or adjust a final order that was issued pursuant to chapter 125, 125B or 125C of NRS and to any answer or response to such a motion or other paper.

A.	Mark the CORRECT ANSWER with an X .	YES	NO
	1. Has a final decree or custody order been entered in this case? If yes , then continue to Question 2. If no , you do not need to answer any other questions.	<div style="font-size: 2em;">X</div>	
	2. Is this a motion or an opposition to a motion filed to change a final order? If yes , then continue to Question 3. If no , you do not need to answer any other questions.		<div style="font-size: 2em;">X</div>
	3. Is this a motion or an opposition to a motion filed only to change the amount of child support?		
	4. Is this a motion or an opposition to a motion for reconsideration or a new trial <u>and</u> the motion was filed within 14 days of the Judge's Order?		
	IF the answer to Question 4 is YES , write in the <u>filing date</u> found on the front page of the Judge's Order.	Date	
B.	If you answered NO to either Question 1 or 2 or YES to Question 3 or 4, you are <u>exempt</u> from the filing fee. However, if the Court later determines you should have paid the filing fee, your motion will <u>not</u> be decided until the fee is paid.		

I affirm that the answers provided on this Notice are true.

Date: March 22, 2020

Signature: _____



Print Name: _____

F. Peter James, Esq.

Print Address: _____

3821 W. Charleston Blvd, Ste 250, LV NV

Telephone Number: _____

89102 702-256-0087

EXHIBIT 6

1 Code: 2645
2 LAW OFFICES OF F. PETER JAMES, ESQ.
3 F. Peter James, Esq.
4 Nevada Bar No. 10091
5 Peter@PeterJamesLaw.com
6 3821 West Charleston Boulevard, Suite 250
7 Las Vegas, Nevada 89102
8 702-256-0087
9 702-256-0145 (fax)
10 Counsel for Defendant

11
12
13 **IN THE FAMILY DIVISION**
14 **OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,**
15 **IN AND FOR THE COUNTY OF WASHOE**
16

17 JOHN TOWNLEY,
18
19 Plaintiff,

CASE NO.: DV19-01564
DEPT.: 13

20 vs.

21 ROCHELLE MEZZANO, DOES I through XX,
22 to include Doe individuals, corporations,
23 limited liability companies, partnerships, trusts,
limited partnerships, and such other individuals
or entities as may exist or be found.

Defendant.

CONSOLIDATED OPPOSITIONS TO MOTIONS FILED MARCH 3, 2020

COMES NOW Defendant, Rochelle Mezzano, by and through her counsel, F. Peter James, Esq., who hereby moves this Honorable Court for denial of the following Motions filed March 3, 2020, save as agrees herein:

- Motion for an Order Directing Delivery of Funds Due Defendant Pursuant to Divorce and Papers and Things Relating to Defendant's Property to Last Known Residence (hereinafter "Motion for Order Directing Delivery of Funds");

- 1 • Motion for Order Requiring Defendant to Remove Plaintiff's Liability on Mortgage
2 Assigned to Her in Decree of Divorce and Motion Requiring Sale of Real Property to
3 Protect Plaintiff from Liability if Defendant Defaults in Payment of Mortgage
4 (hereinafter "Motion to Remove Plaintiff's Name");
- 5 • Motion to Join Irrevocable Trust to Facilitate Distribution of Community Property
6 Post-Divorce and Motion for Order Directing Distribution of Assets from Trusts
7 (hereinafter "Motion to Joint Trust");
- 8 • Motion Vesting Title to Real Property in Plaintiff; in the Alternative, Motion for Clerk
9 of Court to Execute Deed as Attorney in Fact (hereinafter "Motion Vesting Title").

10 This Opposition is made and based on the papers and pleadings on file herein, the attached
11 points and authorities, the attached affidavit(s) / declaration(s), the filed exhibit(s), and upon
12 any oral argument the Court will entertain.

13 **POINTS AND AUTHORITIES**

14 The Court should deny the motions and all requests for relief therein, save as agreed
15 herein.

16 As to all motions, the requests should be stayed pending resolution of the Motion to
17 Set Aside (which includes a request to stay), which was filed March 22, 2020. Plaintiff is
18 requesting affirmative relief that will have to be undone if the set aside is granted. If things
19 are done here, they must then be undone when (and if) the set aside is granted. A few more
20 weeks will not cause harm to Plaintiff.

21 As to the individual merits:

22 ///

23 ///

1 **Motion for Order Directing Delivery of Funds**

2 Plaintiff wishes to have certain property delivered to Defendant; however, he does not
3 want to be “forced” to personally deliver them to Defendant.

4 A solution to this is simple. Plaintiff can drop off the items at Defendant’s brother-in-
5 law’s house. Plaintiff and he golf regularly. Plaintiff can drop it off to Defendant’s sister.
6 Plaintiff’s girlfriend can drop it by—she goes there often and unannounced. Also, Plaintiff
7 can mail any such document to Defendant’s counsel, who will safeguard such items. It appears
8 to be a box of documents, not personal property, such as lamps or furniture.

9 **Motion to Remove Plaintiff’s Name**

10 Plaintiff is requesting that the Court have his name removed from the 735 Aesop Court
11 residence (hereinafter “Aesop”). With the current COVID-19 pandemic, selling the residence
12 will be problematic at best. Refinancing is not an option as Plaintiff took the lion share of the
13 marital assets, and Defendant is not employed. (See General Financial Disclosure Form filed
14 March 22, 2020).

15 Further, Plaintiff disconnected the office phone and did not pay dues for the office to
16 continue running. This caused two agents to leave Defendant’s employ. Plaintiff cancelled
17 Defendant’s cell phone. All of these things cause Plaintiff hardship. All of this resulted in
18 marital waste which could have gone to the upkeep of the marital residence.

19 Plaintiff is complaining about exposure to potential liability, but kept assets from
20 Defendant that she could have used to pay the mortgage. Though Plaintiff states Defendant
21 has stated an intention not to pay any mortgage, such is not the case. This statement is mere
22 chatter.

1 The Decree does not have a provision to force the sale or to remove any names from
2 the debts. Parties take the assets, subject to any debt. (*See* Decree at 5:17-20). If Plaintiff
3 wanted to have his name removed from the mortgage, he easily could have put the same in the
4 Decree he drafted and submitted to the Court. Yet, he did not. Now, he is asking for this relief
5 post-decree.

6 The Court should deny this request for relief.

7 **Motion to Joint Trust**

8 The trusts should have actually been joined in this initial divorce. Failure to join a trust
9 prior to orders being entered as to them renders the judgment void as to the trust. *See Guerin*
10 *v. Guerin*, 114 Nev. 127, 132-33, 953 P.2d 716, 720 (1998). Here, the Default Decree of
11 Divorce awards trust properties to the parties without the trust having been joined. (*See* Decree
12 of Divorce filed December 11, 2019 at Exhibits 1 and 2) (the sections titled "TRUSTS").

13 As such, the judgments as to the trust assets are void. The trusts need to be added to
14 an Amended Complaint to be joined as separate entities. They need to be served and they need
15 to answer. This gives credence to setting aside the Default Decree to have Defendant
16 participate as well.

17 Accordingly, the Court should deny this request for relief.

18 **Motion Vesting Title**

19 It is brazen of Plaintiff to move the Court for an order for Defendant to deliver funds
20 when he never served Defendant and then procured a default Decree without her participation.

21 As stated herein, the Court should stay these proceedings pending resolution of the
22 motion to set aside (which includes a stay). Undoing these things will be problematic, at best,
23 if they are ordered.

1 Plaintiff asserts that Defendant was properly served; however and as stated in the
2 Motion to Set Aside, she was not. Plaintiff cites numerous federal cases, which are not cited
3 properly as to their facts. The cited cases were not as simple as Plaintiff asserts. The plaintiffs
4 also made numerous service attempts, most mailed the documents certified mail, and there was
5 a history of the defendant evading service. Here, one attempt at service was made. There is
6 no record of certified mailings. There is no record of Defendant avoiding service.

7 Moreover and as stated in the Motion to Set Aside, Nevada has a very strict
8 interpretation on following service rules. *See Quinlan v. Camden USA, Inc.*, 126 Nev. 311,
9 236 P.3d 613 (2010) (improper service of process (even if the person to be served actually
10 receives the document served) is ineffectual and is not service of process; thus, the document
11 served improperly is deemed not served at all). It is important to note that this case involved
12 service between attorneys in ongoing litigation—not the more important and stricter initial
13 service of process.

14 This Nevada Supreme Court case speaks as to Nevada's policy on service of process.
15 Rule 4.2 clearly states that personal service must be made—if not, service upon a person
16 residing therein (who is of sufficient age and discretion) is proper. Neither was done here. The
17 contractor served did not live there. The process server could have stated who s/he was and
18 demanded to see Defendant to serve her. This did not happen. For all Defendant knew, it
19 could have been a solicitor or pollster. There was no attempt to evade service. There was
20 simply improper service of process. Nevada's policy is clearly follow proper service rules or
21 there is not service of process.

1 The Court should not take action at this time as it will divest Defendant of rights to
2 property and create irreparable harm. Loss of real property results in irreparable harm. *See*
3 *Dixon v. Thatcher*, 103 Nev. 414, 415-16, 742 P.2d 1029, 1030 (1987).

4 Similarly, Plaintiff should not be awarded attorney's fees. To be awarded fees, there
5 must be a basis. There can be no award of fees absent a statute or rule to the contrary. *See*
6 *Valley Electric Ass'n v. Overfield*, 121 Nev. 7, 9, 106 P.3d 1198, 1199 (2005). Plaintiff failed
7 to cite to any authority under which fees could be awarded. (*See generally* Mot.). Plaintiff
8 cites paragraph 10 of the Decree, which has no attorney's fees provision. Even if it did, it is
9 a default order issued unilaterally and which should be set aside. Still, as the paragraph
10 contains no fees provision, that issue is moot. Similarly, Rule 70 also does not contain a fees
11 provision. Moreover, Plaintiff fails to provide the *Brunzell / Wilfong* factors.

12 As such, the request for fees should be denied as well as the other requests for relief.

13 CONCLUSION

14 As such, the Court should deny the Motions and all requests for relief therein, save as
15 agreed herein.

16
17 Under NRS 239B.030, the undersigned affirms the preceding contains no social
18 security numbers.

19 Dated this 23rd day of March, 2020
20 /s/ F Peter James

21 LAW OFFICES OF F. PETER JAMES
22 F. Peter James, Esq.
Nevada Bar No. 10091
3821 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89102
23 702-256-0087
Counsel for Defendant

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IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

* * *

John Townley)
)
)
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 vs.)
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)
 Rochelle Mezzano, et al.)
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)

FAMILY DIVISION MOTION/OPPOSITION NOTICE (REQUIRED)
CASE NO. DV19-
DEPT. NO. 13

NOTICE: THIS MOTION/OPPOSITION NOTICE **MUST BE ATTACHED AS THE LAST PAGE** to every motion or other paper filed to modify or adjust a final order that was issued pursuant to chapter 125, 125B or 125C of NRS and to any answer or response to such a motion or other paper.

A.	Mark the CORRECT ANSWER with an X .	YES	NO
	1. Has a final decree or custody order been entered in this case? If yes , then continue to Question 2. If no , you do not need to answer any other questions.	X	
	2. Is this a motion or an opposition to a motion filed to change a final order? If yes , then continue to Question 3. If no , you do not need to answer any other questions.		X
	3. Is this a motion or an opposition to a motion filed only to change the amount of child support?		
	4. Is this a motion or an opposition to a motion for reconsideration or a new trial <u>and</u> the motion was filed within 14 days of the Judge's Order?		
	IF the answer to Question 4 is YES , write in the <u>filing date</u> found on the front page of the Judge's Order.	Date	
B.	If you answered NO to either Question 1 or 2 or YES to Question 3 or 4, you are <u>exempt</u> from the filing fee. However, if the Court later determines you should have paid the filing fee, your motion will <u>not</u> be decided until the fee is paid.		

I affirm that the answers provided on this Notice are true.

Date: March 23, 2020

Signature:

Print Name:

F. Peter James, Esq.

Print Address:

3821 W. Charleston Blvd., Ste 250; LV NV

Telephone Number:

89102 702-256-0087

EXHIBIT 7

Code:
1 Gary R. Silverman (NSB# 409) Michael V. Kattelman (NSB#6703)
2 John P. Springgate (NSB# 1350) Alexander C. Morey (NSB#11216)
3 Kenton Karrasch (NSB#13515) Benjamin Albers (NSB#11895)
4 Silverman Kattelman Springgate, Chtd.
5 500 Damonte Ranch Parkway, Suite 675
6 Reno, Nevada 89521
7 Telephone: 775/322-3223
8 Facsimile: 775/322-3649
9 Attorney for John Townley

10 **IN THE FAMILY DIVISION**
11 **OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
12 **IN AND FOR THE COUNTY OF WASHOE**

13 JOHN TOWNLEY,

14 Plaintiff

Case No. DV19-01564

15 vs.

Dept. 13

16 ROCHELLE MEZZANO, et. al.

17 Defendants.

18 **OPPOSITION TO MOTION TO SET ASIDE DECREE OF DIVORCE AND FOR**
19 **RELATED RELIEF**

20 Plaintiff, John Townley by and through his attorneys of record, SILVERMAN,
21 KATTELMAN SPRINGGATE, CHTD., opposes Defendant's Motion to Set Aside Decree
22 of Divorce and For Related Relief. Defendant's motion is untimely, ignores the true facts,
23 is supported by only a legally insufficient self-serving affidavit, and is based on an
24 irrelevant legal theory. Defendant's motion must be denied.

25 This Opposition is made and based upon the Points and Authorities and
26 declaration attached hereto and incorporated herein by this reference and upon all
27 pleadings and documents on file herein.

28 **POINTS AND AUTHORITIES**

FACTS

On September 11, 2019, undersigned counsel sent a letter to Rochelle Mezzano
advising her counsel represented John Townley, that John was proceeding with a

1 divorce, and that her immediate action was required, or John would proceed with
2 litigation. (Exhibit "1".) Ms. Mezzano did not respond, and John initiated this divorce
3 action. A complaint was filed, and a summons obtained.

4 On October 4, 2019, a process server arrived at Ms. Mezzano's home. The process
5 server determined Ms. Mezzano was in the house when she responded to an oral notice,
6 she should come to the door to get documents. Ms. Mezzano, who knew a divorce was
7 imminent, refused to come to the door. The process server, therefore, posted the
8 summons and complaint and left the property. It is certain Ms. Mezzano received the
9 documents; she sent an email to John at 6:54 p.m. on the day of service which read "I
10 got served papers today. I have twenty days including the weekend to respond. Which
11 means I need to retain an attorney. So, I need a retainer. How would you like to
12 proceed?" (Exhibit "2".) From that point forward, Ms. Mezzano refused to participate in
13 the case.

14 John and Ms. Mezzano then corresponded directly and agreed to hold a meeting
15 at counsel's office to discuss resolution. The meeting was to occur on the Morning of
16 October 22, 2019. Ms. Mezzano did not appear. Ms. Mezzano continued to avoid this
17 matter, and John proceeded with a default divorce.

18 At no point did Ms. Mezzano inform John or his counsel she believed service was
19 improper.

20 The Court entered a default divorce on December 11, 2019.

21 Notice of entry of the divorce decree was sent to Ms. Mezzano by mail and email
22 on December 12, 2019.

23 On December 31, 2019, undersigned counsel sent a letter to Ms. Mezzano
24 concerning necessary tasks to complete the division of property and deliver money and
25 property to her post-divorce. (Exhibit "3".) That letter sought execution of a deed
26 transferring her interest in 145 Redstone Drive, Reno, Nevada, to John.

27 On January 4, 2020, undersigned counsel received a letter from an attorney in
28 Las Vegas, Nevada, alleging he represented Ms. Mezzano and claiming Ms. Mezzano

1 would shortly move to set aside the decree of divorce. (Exhibit "4".) The letter contained
2 no specific allegations of fact or reference to any case law. (Id.)

3 On January 7, 2020, undersigned counsel spoke to Ms. Mezzano's putative
4 counsel by phone. On January 10, 2020, undersigned counsel sent a letter to Ms.
5 Mezzano's putative counsel. (Exhibit "5".) There was no response.

6 On January 27, 2020, undersigned counsel sent a letter to Ms. Mezzano's
7 putative counsel. There was no response.

8 **APPLICABLE LAW**

9 The burden of proof rests on the party moving for relief from a judgment. *SEC v.*
10 *Internet Sols. for Bus., Inc.*, 509 F.3d 1161, 1165-66 (9th Cir. 2007). *See also Conforte v.*
11 *Hanna*, 76 Nev. 239, 242-43, 351 P.2d 612, 614 (1960) (explaining the trial court did not
12 err in upholding the presumptively valid judgment in the face of a failure of service
13 challenge). Thus, "a defendant moving to vacate a default judgment based on improper
14 service of process, where the defendant had actual notice of the original proceeding but
15 delayed in bringing the motion until after entry of default judgment, bears the burden of
16 proving that service did not occur." *Id.* at 1165. The "burden is a substantial one. 'A signed
17 return of service constitutes prima facie evidence of valid service "which can be overcome
18 only by strong and convincing evidence."'" *Id.* at 1166. Self-serving and uncorroborated
19 affidavits are not such evidence. *See Lerma v. Stylistics L.A. Car Club, Inc.*, No. CV 12-
20 06704 DDP (JEMx), 2015 U.S. Dist. LEXIS 8048, at *7 (C.D. Cal. Jan. 23, 2015) (citing
21 cases).

22 An NRCP 60(b) motion, even a motion claiming a judgment is void for improper
23 service, must be brought "within a reasonable time", and lack of diligence and equitable
24 estoppel both function as bars to an NRCP 60(b)(4) motion. *Teriano v. Nev. State Bank*
25 *(In re Harrison Living Tr.)*, 121 Nev. 217, 222, 112 P.3d 1058, 1061 (2005). A "want of
26 diligence in seeking to set aside a judgment is ground enough for denial." *Union*
27 *Petrochemical Corp. v. Scott*, 96 Nev. 337, 339, 609 P.2d 323, 324 (1980).

28 **ANALYSIS**

1 In this case, Defendant cannot meet her burden to set aside this Court's decree of
2 divorce. First, Defendant's only evidence is her self-serving and uncorroborated affidavit.¹
3 That quantum of evidence is insufficient as a matter of law to carry her substantial burden
4 of proof. Second, Defendant, an experienced real estate broker, admitted she had been
5 served. Third, Defendant participated in the litigation by agreeing to a settlement
6 meeting. For reasons known only to her, she did not appear for the meeting. Fourth,
7 Defendant, despite having actual notice of the proceeding and receiving repeated
8 correspondence from Mr. Townley's counsel concerning the litigation and a coming
9 default judgment, never apprised counsel or Mr. Townley she believed service of process
10 was improper until after entry of judgment. These facts establish Defendant is estopped
11 from challenging the validity of service.² Fifth, Defendant waited more than four months
12 to move to set aside the decree of divorce; there is no justification for the delay, especially
13 in light of Mr. Townley, through counsel, repeatedly reaching out to Defendant's counsel
14 and because the only evidence provided by Defendant is her self-serving affidavit. Either
15 Defendant unreasonably delayed—likely seeking some tactical advantage—or Defendant
16 took four months to invent the uncorroborated allegations in her affidavit. Defendant's
17 unreasonable delay is "ground enough for denial."

18 As for Defendant's argument concerning substitute service of process and NRCP
19 4.2(a)(2), it is irrelevant. Defendant was not served by substitute service of process.
20 Defendant was personally served pursuant to NRCP 4.2(a)(1).³ And, as discussed above,
21 Defendant's self-serving, uncorroborated affidavit does not support her claim.
22

23 ¹ It is bizarre that after six months to consider the matter, Defendant presented only her self-
24 serving affidavit. A reasonable inference is there is no other evidence supporting Defendant's
25 claim.

26 ² The four elements of estoppel are "(1) the party to be estopped must be apprised of the true facts;
27 (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting
28 estoppel has the right to believe it was so intended; (3) the party asserting the estoppel must be
ignorant of the true state of facts; (4) he must have relied to his detriment on the conduct of the
party to be estopped." *Teriano v. Nev. State Bank (In re Harrison Living Tr.)*, 121 Nev. 217, 223,
112 P.3d 1058, 1062 (2005).

³ For a full discussion of the manner and propriety of service in this case, see Mr. Townley's
Motion Vesting Title to Real Property in Plaintiff; In the Alternative, Motion for Clerk of Court

1 Nor is Defendant's request for attorney's fees well taken. Defendant has brought a
2 motion to set aside this Court's divorce decree six months after she received notice of the
3 action and admitted she was served and four months after entry of the decree. At no point
4 before judgment did Defendant claim service was improper. At no point prior to her
5 motion did she communicate the contents of her self-serving affidavit. It is Defendant
6 who is litigating in a vexatious and harassing manner.

7 **CONCLUSION**

8 Defendant received personal service of the summons and complaint that began
9 this divorce six months ago, she admitted she was served, she scheduled a settlement
10 meeting, she received notice of every step of the case and numerous warnings about a
11 default, she did nothing. After entry of judgment she waited four months to take any
12 action, and after six months to consider the matter the only evidence she presents is her
13 self-serving affidavit. Defendant's motion is inadequately supported, legally inapposite,
14 barred by estoppel, and untimely. The Court must deny the motion.

15 Under NRS 239B.030 the undersigned affirms the preceding contains no social
16 security number.

17 Dated this 30 day of March 2020.

18 SILVERMAN KATTELMAN SPRINGGATE, CHTD.

19
20 /s/ Alexander C. Morey
21 ALEXANDER MOREY
22 Attorney for John Townley
23
24
25
26
27

28 _____
to Execute Deed as Attorney in Fact, which points and authorities are merged and incorporated
here.

DECLARATION OF JOHN TOWNLEY

COMES NOW, JOHN TOWNLEY, who executes this within the State of Nevada: I
declare under penalty of perjury that the following is true and correct:

1. I am the Plaintiff herein.
2. I make this declaration of my own personal knowledge, information and belief.
3. The statement of facts in the Opposition to Motion to Set Aside Decree of Divorce and For Related Relief are hereby merged and incorporated into this declaration. I know the facts are true of my own knowledge, except those matters stated upon information and belief. As to those matters, I believe them to be true.

EXECUTED this 30th day of March 2020.

John Townley

1 **CERTIFICATE OF SERVICE**

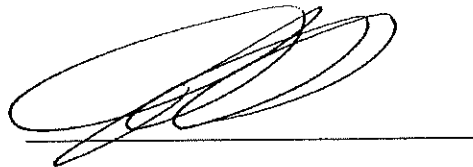
2
3 Pursuant to NRCP 5 (b), I hereby certify that I am an employee of Silverman,
4 Kattelman Springgate, Chtd, and on the date set forth below, I served a true copy of the
5 foregoing Opposition to Motion to Set Aside Decree of Divorce and For Related Relief the
6 party(ies) identified below by:

- 7
8 ☐ Placing an original or true copy thereof in a sealed envelope, postage
9 prepaid for collection and mailing in the United States Mail at Reno,
10 Nevada to
11 ☐ Hand Delivery
12 ☐ Facsimile to the following numbers:
13 ☐ Federal Express or other overnight delivery
14 ☐ Reno Carson Messenger Service
15 ☐ Certified Mail, Return receipt requested
16 ☒ Electronically, using Second Judicial District Court's ECF system.
17
18 ☐ Email:

19 addressed to:
20

21 F. Peter James
22 3821 West Charleston Blvd., Ste. 250
23 Las Vegas, NV 89102

24
25 Dated this 30 day of March 2020.

26
27 
28

IN THE FAMILY DIVISION OF THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

John Tompkins
Rockelle vs. Mezzano

FAMILY DIVISION MOTION/OPPOSITION NOTICE (REQUIRED)
CASE NO. <u>DY19-01564</u>
DEPT. NO. <u>13</u>

NOTICE: THIS MOTION/OPPOSITION NOTICE MUST BE ATTACHED AS THE LAST PAGE to every motion or other paper filed to modify or adjust a final order that was issued pursuant to chapter 125, 125B or 125C of NRS and to any answer or response to such a motion or other paper.

A.	Mark the CORRECT ANSWER with an X.	YES	NO
	1. Has a final decree or custody order been entered in this case? If <u>yes</u> , then continue to Question 2. If <u>no</u> , you do not need to answer any other questions.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	2. Is this a motion or an opposition to a motion filed to change a final order? If <u>yes</u> , then continue to Question 3. If <u>no</u> , you do not need to answer any other questions.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	3. Is this a motion or an opposition to a motion filed only to change the amount of child support?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	4. Is this a motion or an opposition to a motion for reconsideration or a new trial <u>and</u> the motion was filed within 10 days of the Judge's Order?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	IF the answer to Question 4 is YES, write in the <u>filing date</u> found on the front page of the Judge's Order.	Date	
B.	If you answered NO to either Question 1 or 2 or YES to Question 3 or 4, you are <u>exempt</u> from the filing fee. However, if the Court later determines you should have paid the filing fee, your motion will <u>not</u> be decided until the fee is paid.		

I affirm that the answers provided on this Notice are true.

Date: 3/30/2020

Signature:

Print Name:

Print Address:

Telephone Number:

/s/ Alexander Morey
Alexander Morey
Silverman • Kattelman • Springgate, Chtd.
500 Damonte Ranch Parkway, Suite 676
Reno, Nevada 89521
775-322-3223

INDEX OF EXHIBITS

Exhibit Number	Description	Number of Pages
1	Letter dated September 11, 2019	2
2	Email	2
3	Letter dated December 31, 2019	5
4	Letter dated January 4, 2020	1
5	Letter dated January 10, 2020	6
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EXHIBIT 1

SILVERMAN
KATTELMAN
SPRINGGATE, Chtd.

Gary R. Silverman*
Michael V. Kattelman
John P. Springgate
Alexander C. Morey
Benjamin E. Albers
Kenton C. Karrasch

silverman@sks-reno.com
mvk@sks-reno.com
springgate@sks-reno.com
amorey@sks-reno.com
ben@sks-reno.com
karrasch@sks-reno.com

500 Damonte Ranch Parkway, Suite 675 – Reno, Nevada 89521
(775) 322-3223 Fax (775) 322-3649

www.sks-reno.com

September 11, 2019
Via U.S. Mail

Rochelle Mezzano
735 Aesop Ct.
Reno, NV 89512

RE: Marriage of Townley and Mezzano

Dear Ms. Mezzano:

Your husband, John Townley, hired us to help him through a divorce. After much deliberation, John has decided he cannot remain married. He has directed us to secure a divorce and a fair division of your and his property and debts as quickly and inexpensively as possible. John's hope is that you and he can avoid a protracted, contentious, messy, and expensive divorce. He would rather you and he keep your money than pay lawyers. Although John does not speak for you, he suspects you share his view. We find that early settlement negotiations are the best way to reduce the duration and expense of a divorce. We ask you meet with us to participate in negotiations within the next two weeks. Delay will not be tolerated.

John provided you a rough financial statement and three possible divisions of assets some time ago. We have included copies of those documents with this letter for your ease of reference. You did not respond to John. When we meet to discuss settlement, bring proposals for the division of your and John's assets and debts. We expect you will be willing to take either side of any proposal you make—you must be willing to take what you offer to John.

Before September 20, 2019, we must have a written response to this letter promising you will meet with us to discuss settlement within two weeks. John has honored your requests for delay for nearly a year. He is unwilling to delay longer. If you will not promptly engage in meaningful settlement negotiations that move you and John toward divorce, you force him to engage the court to create a timeline and force your marriage to an end. Therefore, if we do not receive your written response before September 20, 2019, John has directed us to file for divorce on September 20, 2019, which we will do.

Before that meeting, please provide us with a copy of any prenuptial agreement you claim is in effect between you and John and the location of the original document.

As a matter of recordkeeping, John has transferred the \$50,000 you requested to continue a remodel of your home. In exchange for that \$50,000 and the \$125,000 held in the safe in your home, John has transferred \$175,000 to himself. Moving forward, rather than fiddle with accountings, the \$175,000 in your control is your separate property and the \$175,000 in John's control is his separate property.

We look forward to hearing from your lawyer and scheduling a date to meet and discuss settlement. If you do not hire a lawyer—a choice we strongly advise against—we will work directly with you. In any discussions with us, you must keep in mind we are not your lawyers; we do not represent you; we represent John; and we advocate for John's interests.

You may reach us at 775-322-3223, by email at the addresses on the first page, and by mail to 500 Damonte Ranch Pkwy., Ste. 675, Reno, Nevada 89521. Contact us promptly. Delay will not be tolerated. We will file for divorce on September 20, 2019, if we do not have your promise to engage in meaningful settlement negotiations within two weeks.

Respectfully,

SILVERMAN KATTELMAN SPRINGGATE, CHTD.

A handwritten signature in black ink, appearing to read 'm c 6', is written over the printed name.

ALEXANDER MOREY

ACM:tm
cc: client

EXHIBIT 2

Alexander Morey

From: John Townley <renorealtors@yahoo.com>
Sent: Friday, January 10, 2020 12:58 PM
To: Alexander Morey
Subject: Fw: Mediation

Sent from Yahoo Mail on Android

----- Forwarded Message -----

From: "Rochelle Mezzano" <RochelleMezzano@Yahoo.com>
To: "renorealtors" <renorealtors@yahoo.com>
Sent: Fri, Oct 4, 2019 at 10:28 PM
Subject: Re: Mediation
Ok thanks.

On Oct 4, 2019, at 6:49 PM, renorealtors <renorealtors@yahoo.com> wrote:

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Rochelle Mezzano <RochelleMezzano@Yahoo.com>
Date: 10/4/19 6:54 PM (GMT-06:00)
To: renorealtors <renorealtors@yahoo.com>
Subject: Re: Mediation

I got served papers today.
I have twenty days including the weekend to respond. Which means I need to retain an attorney.
So, I need a retainer.
How would you like to proceed?

On Oct 4, 2019, at 2:08 PM, renorealtors <renorealtors@yahoo.com> wrote:

I have no objection will let you know monday or Tues

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Rochelle Mezzano <RochelleMezzano@Yahoo.com>

Date: 10/4/19 3:55 PM (GMT-06:00)

To: info@SierraMediation.com, renorealtors@yahoo.com

Subject: Mediation

EXHIBIT 3

SILVERMAN
KATTELMAN
SPRINGGATE, Chtd.

Gary R. Silverman*
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ben@sks-reno.com

www.sks-reno.com

500 Damonte Ranch Parkway, Suite 675 – Reno, Nevada 89521
(775) 322-3223 Fax (775) 322-3649

December 31, 2019
Via email & U.S. Mail

Rochelle Mezzano
735 Aesop Court
Reno, NV 89512

RE: Marriage of Townley & Mezzano, DV19-01564
Action Items

Dear Ms. Mezzano:

You and Mr. Townley are divorced. The Court entered the decree of divorce on December 11, 2019. Mr. Townley immediately began disentangling his finances from yours. Steps taken included, but were not limited to, closing certain joint accounts, obtaining a \$76,000 cashier's check, notifying renters, segregating insurance policies, and transferring utility bills. John directed me to send you this letter as notice **YOU SHOULD TAKE IMMEDIATE ACTION** to organize and manage your assets and obligations. A detailed discussion of some of the action items is below. Second, you must execute documents, including deeds and, possibly, a release of John's real estate license. Please contact me to arrange to sign the documents. Third, I have a box of documents and other items (including a \$76,000 cashier's check) at my office for your retrieval. Please contact me to arrange a time for you to come to my office and retrieve the items.

Discussion of Action Items:

Valley Road Tenants. With the award of this property to you, you are also awarded the lease contracts associated with the property. You currently hold the physical lease documents. Mr. Townley informed the tenants payment should be made to you moving forward. Payments have been made by placing payment in a drop box at Seven Star Realty. If you wish a different payment method, you must reach out to the tenants. Because you are the lessor and responsible for the lessor's obligations under the rental contracts, you must provide the tenants your contact information.

Utility Bills. Mr. Townley has removed his liability on the utility bills associated with the properties awarded to you. **YOU SHOULD TAKE IMMEDIATE STEPS TO CONTINUE UTILITY SERVICE. IF YOU DO NOT, THERE IS A RISK OF SIGNIFICANT PROPERTY DAMAGE IF PIPES FREEZE AND BURST.** Mr. Townley directed the bills to be delivered to your home on Aesop Court. Bills associated with Seven Star Realty will continue to that address. If you wish delivery to a different address, you must reach out to the service providers.

*Fellow of the American Academy of Matrimonial Lawyers.
†Nevada Certified Family Law Specialist

Seven Star Spectrum Bill. As a courtesy to you, Mr. Townley did not modify the Spectrum bill for the Valley Road property because that bill includes the Seven Star Realty business phone number. Mr. Townley was informed failure to pay the bill will cause a forfeit of the Seven Star Realty phone number. Mr. Townley intends to pay the January bill. He will not pay after that. If you do not take action before the end of the January billing period, you will likely forfeit Seven Star Realty's business phone number. Home and Auto Insurance. Mr. Townley contacted your insurers and separated the home and auto policies for his property and vehicles from your property and vehicles.

You are responsible for paying for your insurance going forward. Mr. Townley is informed the next payment will be due on or about January 20, 2020. Mr. Townley directed the insurers to delivery your bill to your home on Aesop Court. You must reach out to the insurers if you wish a different billing address or to change your coverage. Health Insurance. Mr. Townley is working to separate your health insurance policy from his policy. Mr. Townley expects to complete that division as of the February 2020 billing cycle. You must immediately contact Hometown Health and arrange for payment of your insurance premiums.

Keller Williams Profit Sharing. You must contact Keller Williams and inform the company where your profit sharing funds, if any, should be sent in the future.

Seven Star Realty Business Accounts. Mr. Townley cannot remove himself as a signer on the Seven Star Realty accounts as he is not an officer of the company. You must remove Mr. Townley. Please provide a date by which you will remove Mr. Townley from the accounts.

Cellular Phone. Your cellular phone bill will come due in January 2020. John observed activity on your number. If you wish to retain your cellular phone number, John will release it. However, Sprint informed John it will only hold the number for 48 hours. So, if you wish to keep the number, you must inform John beforehand. The transfer must be completed online. You must create an account with Sprint. John will not continue paying for this plan.

Redstone Drive. John received this property. Since you and he are on title to this property outside of any trust, you must transfer your interest in the property to John. A quitclaim deed transferring your interest in the property is attached to this letter. Be advised if you do not execute the quitclaim deed within 10 business days of presentation, John has the right to obtain an order the Clerk of Court sign as your attorney in fact and awarding him a judgment against you for the fees and costs he incurs.

Achilles Drive. John, in his capacity as trustee of the Townley Mezzano trust, intends to execute a quitclaim deed transferring this property from the trust to him before the trust is revoked/dissolved.

F Street. John, in his capacity as trustee of the Townley Mezzano trust, intends to execute a quitclaim deed transferring this property from the trust to him before the trust is revoked/dissolved.

Aesop Court. John, in his capacity as trustee of the Townley Mezzano trust, intends to execute a quitclaim deed transferring this property from the trust to you before the trust is revoked/dissolved. He will direct the deed be delivered to the Aesop Ct. address once recorded as well as all future tax statements.

Valley Road. John, in his capacity as trustee of the Townley Mezzano trust, intends to execute a quitclaim deed transferring this property from the trust to you before the trust is revoked/dissolved. He will direct the deed be delivered to the Aesop Ct. address once recorded as well as all future tax statements.

Corvette. The 2001 Corvette awarded to you in the divorce was held in the name of the Southern Illinois Wetland Preservation Trust. John, as trustee, executed the necessary documents to transfer the vehicle to you. Those documents are available for pickup at my office.

Gold & Coins. The gold and coins were awarded to John as part of his property upon divorce. You kept these coins in the safe at the Aesop Ct. home. There were a few ounces of Placer gold in the safe and a number of gold and silver coins. The gold and coins must be delivered to my office, 500 Damonte Ranch Plkwy., Ste. 675, Reno, Nevada 89521, within 30 days of this letter.

Safe Deposit Box. John transferred the autopayment for this box to the Seven Star Realty account. You may keep or terminate the box and its contents as you feel best. Releasing Real Estate License / Windup of Commissions. One commission will come due and payable to John from Seven Star Realty on or about January 7, 2020. The commission is an 80/20 split. Seven Star will owe John \$5,200. Second, John understands that you, the broker for Seven Star Realty, must release his license. Please confirm you will pay the commission due on receipt and release John's license promptly upon his request.

Feel free to call me to discuss this letter and this case: 775-322-3223.

Respectfully,

SILVERMAN KATTELMAN SPRINGGATE


Alexander Morey

ACM:tm
cc: client

On this _____ day of _____, 2020 John M. Townley, personally appeared before me, a Notary Public, who acknowledged to me that he executed the within document and that he did so freely, voluntarily and for the uses and purposes therein described.

Notary Public

Rochelle Mezzano

STATE OF NEVADA)
 ; ss
COUNTY OF WASHOE)

On this _____ day of _____, 2020 Rochelle Mezzano, personally appeared before me, a Notary Public, who acknowledged to me that she executed the within document and that she did so freely, voluntarily and for the uses and purposes therein described.

Notary Public

EXHIBIT 4



VIA FACSIMILE
January 4, 2020

Alexander Morey, Esq.
Silverman Kattelman Springgate, Chtd.
500 Damonte Ranch Parkway, Suite 675
Reno, Nevada 89521
775-322-3649 (fax)

Re: *Townley v. Mezzano, et al.*
DV19-01564

Dear Mr. Morey:

Please take notice that I represent Rochello Mezzano in the above-referenced matter.

I am informed that you have a default Decree of Divorce in place. It is my intention to file to set aside the same. Please advise your client not to remarry or otherwise dispose of marital assets as I will be requesting that the entire Decree be set aside, including the dissolution of the marriage. A basis for the set aside is that my client was not properly served.

Please advise if you are willing to stipulate to set aside the Decree. If so, I will draft up the paperwork. My client is also willing to entertain a fair settlement of this matter. Once I am familiar with the underlying facts, I can discuss the same with you.

For expediency, I am presently preparing the Motion to Set Aside. Even once filed, we can negotiate a fair resolution to the case. It is my understanding that the Decree did not equally divide the community assets. As stated, at present I am concentrating on the set aside. I will familiarize myself with the underlying facts of the case so I can speak about the matter properly.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

F. Peter James, Esq.

3821 WEST CHARLESTON BOULEVARD, SUITE 250
LAS VEGAS, NEVADA 89102
702-256-0087
702-256-0145(FAX)

EXHIBIT 5

SILVERMAN
KATTELMAN
SPRINGGATE, Chtd.

Gary R. Silverman*
Michael V. Kattelman
John P. Springgate†
Alexander C. Morey†
Kenton Karrasch
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springgate@sks-reno.com
amorey@sks-reno.com
karrasch@sks-reno.com
ben@sks-reno.com

500 Damonte Ranch Parkway, Suite 675 – Reno, Nevada 89521
(775) 322-3223 Fax (775) 322-3649

www.sks-reno.com

January 10, 2020
Via email and facsimile

F. Peter James
Law Offices of F. Peter James, Esq.
3821 West Charleston Blvd. St., 250
Las Vegas, NV 89102
Fax: 702-256-0145

RE: Marriage of Townley & Mezzano, DV19-01564

Dear Mr. James:

Ms. Mezzano is directing caustic communications to my client. Have her stop immediately. All communication about this case must proceed through counsel. Second, when you and I spoke on the phone earlier this week, I requested a statement from Ms. Mezzano about what she wanted out of this divorce. You indicated you were seeking that information from her. I do not know whether Mr. Townley will have any appetite to settle this matter without the Court relieving Ms. Mezzano of the decree, but before Ms. Mezzano proceeds with litigation, she has an obligation to explain her desired resolution. Third, Ms. Mezzano owns Seven Star Realty. She is responsible for managing the business and ensuring bills are paid. Ms. Mezzano is demanding my client make payments. In particular, Ms. Mezzano demands my client make a payment to an agent to whom Seven Star owes money. (See attached email.) Mr. Townley understands the payment to Seven Star from which the agent is due a commission is sitting—in check form—on Ms. Mezzano's desk at Seven Star. He does not believe there are sufficient funds in the Seven Star account to make the payment without depositing that check. Ms. Mezzano must return to Reno, deposit the check, and make the payment to the agent.

Last, I suggest you review Ms. Mezzano's communication with Mr. Townley, especially the attached message in which she admits she was served. Ms. Mezzano knew a divorce case was coming. Ms. Mezzano knew the process server was at her house and had documents to give her. The process server confirmed Ms. Mezzano was present inside the home. When Ms. Mezzano refused to come to the door to receive documents,

///

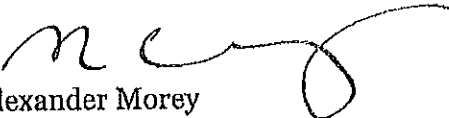
*Fellow of the American Academy of Matrimonial Lawyers.
†Nevada Certified Family Law Specialist

F. Peter James
January 10, 2020
Page 2 of 2

the process server posted the documents on the door. Ms. Mezzano received the documents. Ms. Mezzano was served. If she forces this issue, she should be prepared to pay Mr. Townley's attorney's fees and costs.

Respectfully,

SILVERMAN KATTELMAN SPRINGGATE


Alexander Morey

ACM;tm
enc.
cc: client

Alexander Morey

From: sevenstarrealty <sevenstarrealty@yahoo.com>
Sent: Thursday, January 9, 2020 4:03 PM
To: Alexander Morey
Subject: Fwd: 36-40 Park St check

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Rochelle Mezzano <RochelleMezzano@Yahoo.com>
Date: 1/9/20 1:44 PM (GMT-07:00)
To: renorealtors@yahoo.com, Boy Townley Townley <SevenStarRealty@yahoo.com>
Subject: Fwd: 36-40 Park St check

Dear John,

Are you in the process of finding someone to sue your present attorney for malpractice and damages? No offense, you might consider it very seriously.

Below Victor is needing a check. Figure it out, please, for his sake and ours.

Thank you.

Rochelle Mezzano.

Begin forwarded message:

From: VICTOR MCDONALD <esquiar00@aol.com>
Date: January 9, 2020 at 12:36:44 PM MST
To: Rochelle Mezzano <rochellemezzano@yahoo.com>
Subject: 36-40 Park St check

John texted me to say he is no
longer cutting commission checks
for 7 Star Realty

I need that check this week to pay bills

First Centennial check
\$19,000

My commission check
\$15,200

Thanks
Victor

Sent from my iPhone

Alexander Morey

From: John Townley <renorealtors@yahoo.com>
Sent: Friday, January 10, 2020 12:58 PM
To: Alexander Morey
Subject: Fw: Mediation

Sent from Yahoo Mail on Android

----- Forwarded Message -----

From: "Rochelle Mezzano" <RochelleMezzano@Yahoo.com>
To: "renorealtors" <renorealtors@yahoo.com>
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Subject: Re: Mediation
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Date: 10/4/19 6:54 PM (GMT-06:00)
To: renorealtors <renorealtors@yahoo.com>
Subject: Re: Mediation

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I have twenty days including the weekend to respond. Which means I need to retain an attorney.
So, I need a retainer.
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I have no objection will let you know monday or Tues

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Rochelle Mezzano <RochelleMezzano@Yahoo.com>

Date: 10/4/19 3:55 PM (GMT-06:00)

To: Info@SierraMediation.com, renorealtors@yahoo.com

Subject: Mediation

EXHIBIT 8

Code:
1 Gary R. Silverman (NSB# 409) Michael V. Kattelman (NSB#6703)
2 John P. Springgate (NSB# 1350) Alexander C. Morey (NSB#11216)
3 Kenton Karrasch (NSB#13515) Benjamin Albers (NSB#11895)
4 Silverman Kattelman Springgate, Chtd.
5 500 Damonte Ranch Parkway, Suite 675
6 Reno, Nevada 89521
7 Telephone: 775/322-3223
8 Facsimile: 775/322-3649
9 Attorney for John Townley

10
11
12 **IN THE FAMILY DIVISION**
13 **OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
14 **IN AND FOR THE COUNTY OF WASHOE**

15 JOHN TOWNLEY,

16 Plaintiff

Case No. DV19-01564

17 vs.

Dept. 13

18
19 ROCHELLE MEZZANO and
20 DOES I through XX,
21 to include Doe individuals,
22 corporations, limited liability companies,
23 partnerships, trusts, limited partnerships,
24 and such other individuals or entities
25 as may exist or be formed

26 Defendants.

27
28
29 **REPLY TO CONSOLIDATED OPPOSITIONS TO MOTIONS FILED**
30 **MARCH 3, 2020**

31 Plaintiff, John Townley by and through his attorneys of record, SILVERMAN,
32 KATTELMAN SPRINGGATE, CHTD., replies to Defendant's Consolidated Oppositions to
33 Motions Filed March 3, 2020.

34 **POINTS AND AUTHORITIES**

35 **Defendant was Personally Served**

36 The heart of Defendant's argument in this case is her claim she was not served with
37 the summons and complaint. Neither the facts nor the law supports her claim. Here, a
38

1 process server went to Defendant's home, determined Defendant was present inside,
2 heard Defendant refuse to come to the door to accept papers, and posted the papers on
3 Defendant's door. (See the affidavit of service filed in this matter.) The process server's
4 actions constitute personal service. Moreover, even if the actions of the process server did
5 not meet every technicality of the rules, only substantial compliance is required to hold a
6 defendant personally served. Here, the process server's actions were at least substantial
7 compliance, and Defendant received the documents and acknowledged service within
8 hours. Defendant was served.¹ See *Brockbank v. Second Judicial Dist. Court*, 65 Nev. 781,
9 201 P.2d 299 (1948) (discussing the corollary that rules for substitute service of process
10 must be strictly followed); see also, e.g., *Wagner v. Truesdell*, 1998 S.D. 9, ¶ 9, 574
11 N.W.2d 627, 629, *In re Coleman*, 793 N.W.2d 296, 302 (Minn. 2011).

14 **Defendant's Self-Serving Affidavit is Insufficient to Prove her Contentions**

15 A "defendant moving to vacate a default judgment based on improper service of
16 process, where the defendant had actual notice of the original proceeding but delayed in
17 bringing the motion until after entry of default judgment, bears the burden of proving
18 that service did not occur." *SEC v. Internet Sols. for Bus., Inc.*, 509 F.3d 1161, 1165 (9th
19 Cir. 2007). See also *Conforte v. Hanna*, 76 Nev. 239, 242-43, 351 P.2d 612, 614 (1960)
20 (explaining the trial court did not err in upholding the presumptively valid judgment in
21 the face of a failure of service challenge). The "burden is a substantial one. 'A signed return
22 of service constitutes prima facie evidence of valid service "which can be overcome only
23 by strong and convincing evidence.'"" *Id.* at 1166. Self-serving and uncorroborated
24
25
26
27

28 ¹ Defendant's argument service did not meet the requirements for substitute service is inapposite,
irrelevant, and, as discussed below, based on inadequate evidence.

1 affidavits are not such evidence. *See Lerma v. Stylistics L.A. Car Club, Inc.*, No. CV 12-
2 06704 DDP (JEMx), 2015 U.S. Dist. LEXIS 8048, at *7 (C.D. Cal. Jan. 23, 2015) (citing
3 cases). In this case, six months after service, the only evidence presented by Defendant in
4 support of her claim is her self-serving affidavit. As a matter of law, her affidavit is
5 insufficient to challenge service of process.

6 **Defendant never Requested Delivery of her Documents and Funds Despite**
7 **Inquiry**

9 For the first time in her oppositions, Defendant has suggested how to deliver her
10 documents and things. At no point did Defendant or her counsel reach out and present
11 any delivery destination. Defendant's sister and brother-in-law are not couriers. Nor is
12 her suggestion that Mr. Townley's girlfriend could deliver documents reasonable. First,
13 Mr. Townley's girlfriend does not associate with Defendant. (Exhibit "1" – declaration.)
14 Second, Mr. Townley's girlfriend is not a courier. Further, Defendant was more than
15 capable of coming to undersigned counsel's office and retrieving the documents and
16 things. Alternatively, Defendant was more than capable of sending instructions in writing.
17 That she did neither demonstrates an intent to delay and frustrate these proceedings.

18 **Defendant did not Service the Mortgage on her Home Despite having Cash**
19 **Available**

22 Defendant's financial disclosure form recently filed in this case discloses she
23 possesses \$80,000 in cash. (Exhibit "2" – FDF.) Despite having available cash and despite
24 Mr. Townley's attempts to transfer another \$70,000+ to her, Defendant demanded Mr.
25 Townley pay the mortgage on her home. Mr. Townley was forced to pay the mortgage to
26 protect his credit. Defendant's behavior is unreasonable and contrary to this Court's
27 decree of divorce.
28

1 **Defendant Ignores that the Court Distributed the Parties' Beneficial Property**
2 **Interests in the Trust**

3 Mr. Townley seeks an order joining the Southern Illinois Wetland Preservation
4 Trust to protect his co-trustee from unwarranted litigation by Defendant upon
5 distribution of assets held in the trust. The trust may distribute the assets to Mr. Townley
6 now, without a court order, because this Court's decree assigned all of the parties'
7 beneficial interests in certain trust assets—beneficial interests are property subject to
8 division upon divorce—to Mr. Townley. Defendant ignores this reality.

10 **Defendant's Description of the Effect of the *Quinlan* Case on Personal**
11 **Service is Misleading**

12 As described above, only substitute service of process is subject to strict
13 compliance rules. In contrast, personal service under NRCP 4.2(a)(1) is subject to a
14 substantial compliance analysis. The *Quinlan v. Camden USA, Inc.* case relied on by
15 Defendant concerned a substitute form of service—facsimile transmission—under NRCP
16 5. Defendant's assertion the service rules in *Quinlan* "between attorneys in ongoing
17 litigation" are laxer than those for service of initial process is incorrect. Nevada law is
18 directly to the contrary. *See Little v. Currie*, 5 Nev. 90, 92 (1869) (holding and citing cases
19 for the proposition that "[s]tatutory provisions for acquiring jurisdiction by any other
20 than personal service must be strictly pursued"). *See also Brockbank v. Second Judicial*
21 *Dist. Court*, 65 Nev. 781, 201 P.2d 299 (1948) (discussing in contrast to personal service
22 the rules for substitute service of process must be strictly followed); *Wagner v. Truesdell*,
23 1998 S.D. 9, ¶ 9, 574 N.W.2d 627, 629, *In re Coleman*, 793 N.W.2d 296, 302 (Minn. 2011).
24
25
26
27
28

1 **Because the Court will Resolve the Service of Process Issue in Deciding Mr.**
2 **Townley's Motions, there is no Reason to Stay Decision Pending Defendant's**
3 **Belated Motion to Set Aside on Identical Grounds**

4 Mr. Townley sought relief from the Court because Defendant spent the prior six
5 months making litigation difficult and the prior four months threatening to move to set
6 aside the Court's decree without promptly acting. Now, after months of waiting,
7 Defendant wants the Court to delay a decision on Mr. Townley's motions because she
8 claims she was improperly served. As set out here, in Mr. Townley's motions, and in his
9 opposition to Defendant's untimely motion, Defendant is wrong and has insufficiently
10 supported her claim. And, even were her claim valid, Defendant's failure to act promptly
11 is ground enough to deny her relief, *Union Petrochemical Corp. v. Scott*, 96 Nev. 337, 339,
12 609 P.2d 323, 324 (1980), and estops her claim. Because Defendant has had a full
13 opportunity to argue her position in opposition to Mr. Townley's motions, and the Court
14 must decide the matter when considering Mr. Townley's motions, there is no reason to
15 stay any part of this case. The facts and law are before the Court. Staying this case will
16 only create more delay and reward Defendant for her continued tactic to delay, avoid, and
17 frustrate this matter.

18 **BASIS OF REPLY**

19 This Reply is made and based upon the Points and Authorities and declaration
20 attached hereto and incorporated herein by this reference and upon all pleadings and
21 documents on file herein.

22 **CONCLUSION**

23 Defendant made a conscious choice to ignore this matter after being served. She
24 made a second conscious choice to delay and delay again after entry of judgment. Now,

1 after her months of delay, the only evidence she presents in support of her claims is a
2 self-serving affidavit legally insufficient to prove her case. Defendant wants only to delay
3 the effects of her decisions. The time for reckoning is now. Defendant was personally
4 served. She had her chance to litigate this matter. She did not. Now she must comply
5 with this Court's decree of divorce.

6
7 For the reasons herein, the reasons stated in Mr. Townley's motions, and for the
8 reasons stated in Mr. Townley's opposition to Defendant's legally and factually
9 insufficient motion to set aside this Court's decree, the Court should grant him the relief
10 sought in his motions and bring this matter to a close.

11 Under NRS 239B.030 the undersigned affirms the preceding contains no social
12 security number.

13
14 Dated this 30 day of March 2020.

15 SILVERMAN KATTELMAN SPRINGGATE, CHTD.

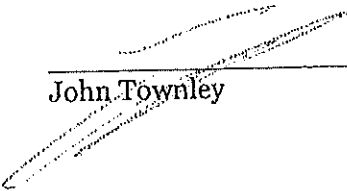
16
17 /s/ Alexander C. Morey
18 ALEXANDER MOREY
19 Attorney for John Townley
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DECLARATION OF JOHN TOWNLEY

COMES NOW, JOHN TOWNLEY, who executes this within the State of Nevada: I
declare under penalty of perjury that the following is true and correct:

1. I am the Plaintiff herein.
2. I make this declaration of my own personal knowledge, information and belief.
3. The statement of facts in Reply to Consolidated Oppositions to Motions Filed March 3, 2020 are hereby merged and incorporated into this declaration. I know the facts are true of my own knowledge, except those matters stated upon information and belief. As to those matters, I believe them to be true.

EXECUTED this 30th day of March 2020.



John Townley

CERTIFICATE OF SERVICE

Pursuant to NRCP 5 (b), I hereby certify that I am an employee of Silverman, Kattelman Springgate, Chtd, and on the date set forth below, I served a true copy of the foregoing Reply to Consolidated Oppositions to Motions Filed March 3, 2020 the party(ies) identified below by:

- ☒ Placing an original or true copy thereof in a sealed envelope, postage prepaid for collection and mailing in the United States Mail at Reno, Nevada to *Maria Moya*
- ☐ Hand Delivery
- ☐ Facsimile to the following numbers:
- ☐ Federal Express or other overnight delivery
- ☐ Reno Carson Messenger Service
- ☐ Certified Mail, Return receipt requested
- ☒ Electronically, using Second Judicial District Court's ECF system.
- ☐ Email:

addressed to:

F. Peter James
3821 West Charleston Blvd., Ste. 250
Las Vegas, NV 89102

Maria Moya
c/o 4888 Sparks. Blvd. #102
Sparks, NV 89436

Dated this 30 day of March 2020.

INDEX OF EXHIBITS

Exhibit Number	Description	Number of Pages
1	Declaration	1
2	FDF	8
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EXHIBIT 1

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DECLARATION OF EVA OTERO

COMES NOW, EVA OTERO, who executes this within the State of Nevada: I
declare under penalty of perjury that the following is true and correct:

1. I am John Townley's girlfriend.
2. I make this declaration of my own personal knowledge, information and belief.
3. Since at least late June 2018 I have not been to Rochelle Mezzano's home or Defendant's sister or brother-in-law's home. It is not true that I go to any of those locations often and unannounced.
4. While I live in the same area and drive the same streets, I have not stepped foot on Rochelle's property for over a year.
5. I know these facts are true of my own knowledge, except those matters stated upon information and belief. As to those matters, I believe them to be true.

EXECUTED this 27 day of March 2020.



Eva Otero

EXHIBIT 2

MISC

Name: F. Peter James, Esq.
Address: 3821 W. Charleston Blvd.
Suite 250; Las Vegas, NV 89102
Phone: 702-256-0087
Email: Peter@PeterJamesLaw.com
Attorney for Defendant
Nevada State Bar No. 10091

FILED
Electronically
DV19-01564
2020-03-22 01:20:17 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 7803304

Second Judicial District Court
Washoe County, Nevada

<u>John Townley</u> Plaintiff / Petitioner, vs. <u>Rochelle Mezzano, et al.</u> Defendant / Respondent.	Case No. <u>DV19-01564</u> Dept. <u>13</u>
---	---

GENERAL FINANCIAL DISCLOSURE FORM

A. Personal Information:

1. What is your full name? (first, middle, last) Rochelle Mezzano
2. How old are you? 54
3. What is your date of birth? March 18, 1967
4. What is your highest level of education? Associates Degree

B. Employment Information:

1. Are you currently employed/ self-employed? (☒ check one)
☐ No
☒ Yes If yes, complete the table below. Attached an additional page if needed.

Date of Hire	Employer Name	Job Title	Work Schedule (days)	Work Schedule (shift times)
10/27/2008	Seven Star Realty, Inc.	Corporate Broker	by appointment	

2. Are you disabled? (☒ check one)

☒ No
☐ Yes

If yes, what is your level of disability? _____
What agency certified you disabled? _____
What is the nature of your disability? _____

C. Prior Employment: If you are unemployed or have been working at your current job for less than 2 years, complete the following information.

Prior Employer: _____ Date of Hire: _____
Date of Termination: _____ Reason for Leaving: _____

Monthly Personal Income Schedule

A. Year-to-date Income.

As of the pay period ending today my gross year to date pay is 0.00.

B. Determine your Gross Monthly Income.

Hourly Wage

	×		=		×	52 Weeks	=		÷	12 Months	=	
Hourly Wage		Number of hours worked per week		Weekly Income				Annual Income				Gross Monthly Income

Annual Salary

	÷	12 Months	=	
Annual Income				Gross Monthly Income

C. Other Sources of Income.

Source of Income	Frequency	Amount	12 Month Average
Annuity or Trust Income			
Bonuses			
Car, Housing, or Other allowance:			
Commissions or Tips:			
Net Rental Income:			
Overtime Pay			
Pension/Retirement:			
Social Security Income (SSI):			
Social Security Disability (SSD):			
Spousal Support			
Child Support			
Workman's Compensation			
Other:			
Total Average Other Income Received			

Total Average Gross Monthly Income (add totals from B and C above)

D. Monthly Deductions

	Type of Deduction	Amount
1.	Court Ordered Child Support (automatically deducted from paycheck)	
2.	Federal Health Savings Plan	
3.	Federal Income Tax	
4.	Health Insurance Amount for you: _____ For Opposing Party: _____ For your Child(ren): _____	
5.	Life, Disability, or Other Insurance Premiums	
6.	Medicare	
7.	Retirement, Pension, IRA, or 401(k)	
8.	Savings	
9.	Social Security	
10.	Union Dues	
11.	Other: (Type of Deduction)	
Total Monthly Deductions (Lines 1-11)		

Business/Self-Employment Income & Expense Schedule

A. Business Income:

What is your average gross (pre-tax) monthly income/revenue from self-employment or businesses?
\$0.00

B. Business Expenses: Attach an additional page if needed.

Type of Business Expense	Frequency	Amount	12 Month Average
Advertising			
Car and truck used for business			
Commissions, wages or fees			
Business Entertainment/Travel			
Insurance			
Legal and professional			
Mortgage or Rent			
Pension and profit-sharing plans			
Repairs and maintenance			
Supplies			
Taxes and licenses (include est. tax payments)			
Utilities			
Other:			
Total Average Business Expenses			

Personal Expense Schedule (Monthly)

A. Fill in the table with the amount of money you spend each month on the following expenses and check whether you pay the expense for you, for the other party, or for both of you.

Expense	Monthly Amount I Pay	For Me <input type="checkbox"/>	Other Party <input type="checkbox"/>	For Both <input type="checkbox"/>
Alimony/Spousal Support	NEED	X		
Auto Insurance	\$500.00			
Car Loan/Lease Payment				
Cell Phone	\$150.00			
Child Support (not deducted from pay)				
Clothing, Shoes, Etc...	\$100.00			
Credit Card Payments (minimum due)	\$500.00			
Dry Cleaning	\$10.00			
Electric	\$200.00			
Food (groceries & restaurants)	\$300.00			
Fuel	\$100.00			
Gas (for home)	\$150.00		John	
Health Insurance (not deducted from pay)	NEED		cancelled	
HOA	\$150.00		my	
Home Insurance (if not included in mortgage)			Insurance	
Home Phone	\$10.00			
Internet/Cable	\$150.00			
Lawn Care	\$125.00			
Membership Fees	\$50.00			
Mortgage/Rent/Lease	\$2,400			
Pest Control	\$15.00			
Pets	\$35.00			
Pool Service	\$75.00			
Property Taxes (if not included in mortgage)				
Security				
Sewer	\$60.00			
Student Loans				
Unreimbursed Medical Expense	\$2,000			
Water	\$150.00			
Other:	\$266.00	Lifels.	X	
Total Monthly Expenses				

Household Information

- A. Fill in the table below with the name and date of birth of each child, the person the child is living with, and whether the child is from this relationship. Attached a separate sheet if needed.

	Child's Name	Child's DOB	Whom is this child living with?	Is this child from this relationship	Has this child been certified as special needs/disabled?
1 st					
2 nd					
3 rd					
4 th					

- B. Fill in the table below with the amount of money you spend each month on the following expenses for each child.

Type of Expense	1 st Child	2 nd Child	3 rd Child	4 th Child
Cellular Phone				
Child Care				
Clothing				
Education				
Entertainment				
Extracurricular & Sports				
Health Insurance (if not deducted from pay)				
Summer Camp/Programs				
Transportation Costs for Visitation				
Unreimbursed Medical Expenses				
Vehicle				
Other:				
Total Monthly Expenses				

- C. Fill in the table below with the names, ages, and the amount of money contributed by all persons living in the home over the age of eighteen. If more than 4 adult household members attached a separate sheet.

Name	Age	Person's Relationship to You (i.e. sister, friend, cousin, etc...)	Monthly Contribution

Personal Asset and Debt Chart

A. Complete this chart by listing all of your assets, the value of each, the amount owed on each, and whose name the asset or debt is under. If more than 15 assets, attach a separate sheet.

Line	Description of Asset and Debt Thereon	Gross Value		Total Amount Owed		Net Value	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.	Cash	\$80,000	-	\$	=	\$ 80,000	Rochelle
2.		\$	-	\$	=	\$	
3.		\$	-	\$	=	\$	
4.		\$	-	\$	=	\$	
5.		\$	-	\$	=	\$	
6.		\$	-	\$	=	\$	
7.		\$	-	\$	=	\$	
8.		\$	-	\$	=	\$	
9.		\$	-	\$	=	\$	
10.		\$	-	\$	=	\$	
11.		\$	-	\$	=	\$	
12.		\$	-	\$	=	\$	
13.		\$	-	\$	=	\$	
14.		\$	-	\$	=	\$	
15.		\$	-	\$	=	\$	
Total Value of Assets (add lines 1-15)		\$	-	\$	=	\$	

B. Complete this chart by listing all of your unsecured debt, the amount owed on each account, and whose name the debt is under. If more than 5 unsecured debts, attach a separate sheet.

Line #	Description of Credit Card or Other Unsecured Debt	Total Amount owed	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.	Chase Credit Card	\$ 8,000	Rochelle Mezzano
2.	Medical Debt	\$ 40,000	Rochelle Mezzano
3.		\$	
4.		\$	
5.		\$	
6.		\$	
Total Unsecured Debt (add lines 1-6)		\$ 48,000	

CERTIFICATION

Attorney Information: Complete the following sentences:

1. I (have/have not) have retained an attorney for this case.
2. As of the date of today, the attorney has been paid a total of \$ \$7,500.00 on my behalf.
3. I have a credit with my attorney in the amount of \$ 1,200 (approx).
4. I currently owe my attorney at total of \$ 0.
5. I owe my prior attorney at total of \$ 0.

IMPORTANT: Read the following paragraphs carefully and initial each one if applicable.

RdM This document does not contain the personal information of any person as defined by NRS 603A.040.

RdM I swear or affirm under penalty of perjury that I have read and followed all instructions in completing this Financial Disclosure Form. I understand that, by my signature, I guarantee the truthfulness of the information on this Form. I also understand that if I knowingly make false statements I may be subject to punishment, including contempt of court.

 I have attached a copy of my 3 most recent pay stubs to this form.

 I have attached a copy of my most recent YTD income statement/P&L statement to this form, if self-employed.

 I have not attached a copy of my pay stubs to this form because I am currently unemployed.

Rochelle Mezzano

Signature

3/20/2020

Date

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EXHIBIT 9

1 Code: 3860
LAW OFFICES OF F. PETER JAMES, ESQ.
2 F. Peter James, Esq.
Nevada Bar No. 10091
3 Peter@PeterJamesLaw.com
3821 West Charleston Boulevard, Suite 250
4 Las Vegas, Nevada 89102
702-256-0087
5 702-256-0145 (fax)
Counsel for Defendant
6

7 **IN THE FAMILY DIVISION**
8 **OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,**
9 **IN AND FOR THE COUNTY OF WASHOE**

10 JOHN TOWNLEY,

11 Plaintiff,

12 vs.

13 ROCHELLE MEZZANO, DOES I through XX,
to include Doe individuals, corporations,
14 limited liability companies, partnerships, trusts,
limited partnerships, and such other individuals
15 or entities as may exist or be found.

16 Defendant.

CASE NO.: DV19-01564
DEPT.: 13

17 **REQUEST FOR SUBMISSION**

18 Defendant, Rochelle Mezzano, by and through her counsel. F. Peter James, Esq.,
19 hereby requests that the Motion to Set Aside Decree of Divorce and for Related Relief in the
20 above-entitled matter be submitted to the Court for decision.

21 ///

22 ///

23 ///

1 Under NRS 239B.030, the undersigned affirms the preceding contains no social
2 security numbers.

3 Dated this 12th day of May, 2020

4 /s/ *F. Peter James*

5 LAW OFFICES OF F. PETER JAMES

6 F. Peter James, Esq.

7 Nevada Bar No. 10091

8 3821 W. Charleston Blvd., Suite 250

9 Las Vegas, Nevada 89102

10 702-256-0087

11 Counsel for Defendant

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EXHIBIT 10

Code:
1 Gary R. Silverman (NSB# 409) Michael V. Kattelman (NSB#6703)
John P. Springgate (NSB# 1350) Alexander C. Morey (NSB#11216)
2 Kenton Karrasch (NSB#13515) Benjamin Albers (NSB#11895)
Silverman Kattelman Springgate, Chtd.
500 Damonte Ranch Parkway, Suite 675
3 Reno, Nevada 89521
Telephone: 775/322-3223
4 Facsimile: 775/322-3649
Attorney for John Townley

5 **IN THE FAMILY DIVISION**
6 **OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**

8 JOHN TOWNLEY,

9 Plaintiff

Case No. DV19-01564

10 vs.

Dept. 13

11 ROCHELLE MEZZANO and
12 DOES I through XX,
13 to include Doe individuals,
14 corporations, limited liability companies,
15 partnerships, trusts, limited partnerships,
and such other individuals or entities
as may exist or be formed.

16 Defendants.
17 _____/

18 **REQUEST FOR SUBMISSION**

19 It is requested that the Motion for Order Requiring Defendant to Remove
20 Plaintiff's Liability on Mortgage Assigned to Her in Decree of Divorce and Motion
21 Requiring Sale of Real Property to Protect Plaintiff From Liability If Defendant Defaults
22 In Payment of the Mortgage in the above entitled matter be submitted to the Court for
23 decision.

24 ///

25 ///

26 ///

27 ///

1 Under NRS 239B.030 the undersigned affirms the preceding contains no social
2 security number.

3 Dated this 30 day of March 2020.

4 SILVERMAN KATTELMAN SPRINGGATE, CHTD.
5

6
7 /s/ Alexander Morey
8 ALEXANDER MOREY
9 Attorney for John Townley
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1 CERTIFICATE OF SERVICE

2
3 Pursuant to NRCP 5 (b), I hereby certify that I am an employee of Silverman,
4 Kattelman Springgate, Chtd, and on the date set forth below, I served a true copy of the
5 foregoing Request for Submission the party(ies) identified below by:

6 ☐ Placing an original or true copy thereof in a sealed envelope, postage
7 prepaid for collection and mailing in the United States Mail at Reno,
8 Nevada to

9
10 ☐ Hand Delivery

11 ☐ Facsimile to the following numbers:

12 ☐ Federal Express or other overnight delivery

13 ☐ Reno Carson Messenger Service

14 ☐ Certified Mail, Return receipt requested

15 ☒ Electronically, using Second Judicial District Court's ECF system.

16 ☐ Email:

17
18 addressed to:

19 F. Peter James
20 3821 West Charleston Blvd., Ste. 250
21 Las Vegas, NV 89102

22 Dated this 30 day of March 2020.

23
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Code:
1 Gary R. Silverman (NSB# 409) Michael V. Kattelman (NSB#6703)
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Silverman Kattelman Springgate, Chtd.
500 Damonte Ranch Parkway, Suite 675
3 Reno, Nevada 89521
Telephone: 775/322-3223
4 Facsimile: 775/322-3649
Attorney for John Townley

5 **IN THE FAMILY DIVISION**
6 **OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**

8 JOHN TOWNLEY,

9 Plaintiff

Case No. DV19-01564

10 vs.

Dept. 13

11 ROCHELLE MEZZANO and
12 DOES I through XX,
13 to include Doe individuals,
14 corporations, limited liability companies,
15 partnerships, trusts, limited partnerships,
16 and such other individuals or entities
17 as may exist or be formed

Defendants.

18 **REQUEST FOR SUBMISSION**

19 It is requested that the Motion to Join Irrevocable Trust to Facilitate Distribution
20 of Community Property Post-Divorce and Motion for Order Directing Distribution of
21 Assets From Trusts in the above entitled matter be submitted to the Court for decision.

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1 Under NRS 239B.030 the undersigned affirms the preceding contains no social
2 security number.

3 Dated this 30 day of March 2020.

4 SILVERMAN KATTELMAN SPRINGGATE, CHTD.
5

6
7 /s/ Alexander Morey
8 ALEXANDER MOREY
9 Attorney for John Townley
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3 Pursuant to NRCP 5 (b), I hereby certify that I am an employee of Silverman,
4 Kattelman Springgate, Chtd, and on the date set forth below, I served a true copy of the
5 foregoing Request for Submission the party(ies) identified below by:

6 X Placing an original or true copy thereof in a sealed envelope, postage
7 prepaid for collection and mailing in the United States Mail at Reno,
8 Nevada to Maria Moya

9
10 _____ Hand Delivery

11 _____ Facsimile to the following numbers:

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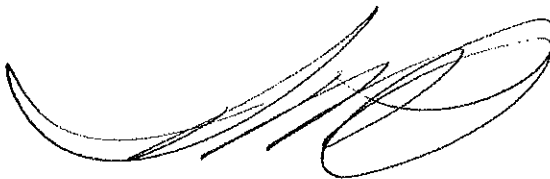
16 _____ Email:

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19
20 F. Peter James
21 3821 West Charleston Blvd., Ste. 250
22 Las Vegas, NV 89102

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24 c/o 4888 Sparks Blvd. #102
25 Sparks, NV 89436

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5 **IN THE FAMILY DIVISION**
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7 **IN AND FOR THE COUNTY OF WASHOE**

8 JOHN TOWNLEY,

9 Plaintiff

Case No. DV19-01564

10 vs.

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11 ROCHELLE MEZZANO and
12 DOES I through XX,
13 to include Doe individuals,
14 corporations, limited liability companies,
15 partnerships, trusts, limited partnerships,
and such other individuals or entities
as may exist or be formed

16 Defendants.

17
18 **REQUEST FOR SUBMISSION**

19 It is requested that the Motion for Order Directing Delivery of Funds Due
20 Defendant Pursuant to Divorce and Papers and Things Relating to Defendant's Property
21 to Last Known Residence in the above entitled matter be submitted to the Court for
22 decision.

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1 Under NRS 239B.030 the undersigned affirms the preceding contains no social
2 security number.

3 Dated this 30 day of March 2020.

4 SILVERMAN KATTELMAN SPRINGGATE, CHTD.
5

6
7 /s/ Alexander Morey
8 ALEXANDER MOREY
9 Attorney for John Townley
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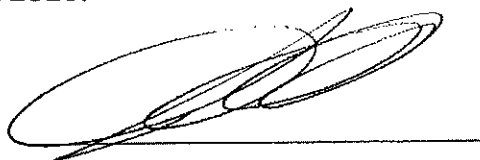
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500 Damonte Ranch Parkway, Suite 675

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Telephone: 775/322-3223

4 Facsimile: 775/322-3649

Attorney for John Townley

5 **IN THE FAMILY DIVISION**

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to include Doe individuals,

13 corporations, limited liability companies,

partnerships, trusts, limited partnerships,

14 and such other individuals or entities

as may exist or be formed

15 Defendants.

16
17 **REQUEST FOR SUBMISSION**

18 It is requested that the Motion Vesting Title to Real Property in Plaintiff: In The
19 Alternative, Motion for Clerk of Court to Execute Deed as Attorney in Fact in the above
20 entitled matter be submitted to the Court for decision.
21

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1 Under NRS 239B.030 the undersigned affirms the preceding contains no social
2 security number.

3 Dated this 30 day of March 2020.

4 SILVERMAN KATTELMAN SPRINGGATE, CHTD.

5
6
7 /s/ Alexander Morey
8 ALEXANDER MOREY
9 Attorney for John Townley
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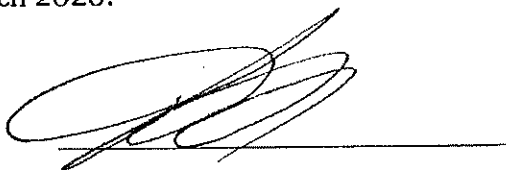


EXHIBIT 11

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6 IN THE FAMILY DIVISION
7 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE
9

10 JOHN TOWNLEY,

11 Plaintiff,

12 vs.

13 ROCHELLE MEZZANO,
14

15 Defendant.
16 _____/

Case No. DV19-01564

Dept. No. 13

17 **ORDER GRANTING MOTION FOR ORDER REQUIRING DEFENDANT TO**
18 **REMOVE PLAINTIFF'S LIABILITY ON MORTGAGE ASSIGNED TO HER IN**
19 **DECREE OF DIVORCE AND MOTION REQUIRING SALE OF REAL**
20 **PROPERTY TO PROTECT PLAINTIFF FROM LIABILITY IF DEFENDANT**
21 **DEFAULTS IN PAYMENT OF THE MORTGAGE**

22 This Court reviewed John Townley's ("Mr. Townley") *Motion for Order to Remove*
23 *Plaintiff's Liability on Mortgage Assigned to Her in Decree of Divorce and Motion Requiring Sale*
24 *of Real Property to Protect Plaintiff from Liability if Defendant Defaults in Payment of Mortgage*
25 ("the Motion"), submitted on March 30, 2020. It now finds and orders as follows:

26 **Findings of Fact**

27 1. Mr. Townley initiated this case by filing a *Complaint for Divorce (no children)*
28 ("the Complaint") on September 24, 2019. Mr. Townley filed an Affidavit of Service ("the Affidavit") on October 28, 2019. A Clerk's Default was entered in this matter on November 1, 2019. Plaintiff sent Rochelle Mezzano ("Ms. Mezzano") *Notice of Intent to Take Default*

1 Judgment by mail on November 19, 2019. The Court entered its *Findings of Fact, Conclusions*
2 *of Law and Decree of Divorce* ("the Default Decree") on December 11, 2019. Plaintiff sent Ms.
3 Mezzano *Notice of Entry of Findings of Fact, Conclusions of Law and Decree of Divorce* by mail
4 on December 12, 2019.

5 2. Mr. Townley requests the Court require Ms. Mezzano remove his liability on
6 the mortgage associated with the real property at 735 Aesop Court, Reno, Nevada ("735
7 Aesop Court") within 180 days of the Court's order because she has failed to pay the
8 mortgage. He alleges Ms. Mezzano lives at 735 Aesop Court and has been remodeling the
9 property. Mr. Townley argues Ms. Mezzano has failed to indemnify, defend, and hold
10 him harmless from the liability associated with the property. Mr. Townley claims he has
11 been paying the mortgage to protect his credit. He argues the Court should set a deadline
12 for her to refinance in order to hold him harmless.

13 3. Ms. Mezzano filed her *Consolidated Oppositions to Motions* on March 3, 2020
14 ("the Consolidated Opposition"). She argues all Mr. Townley's requests should be stayed
15 pending resolution of her motion to set aside the Default Decree. As the Court denied her
16 motion, the request for a stay is denied as moot. The Court has addressed Ms. Mezzano's
17 arguments regarding alleged insufficient service of process in its separate Order.¹
18 Regarding 735 Aesop Court, Ms. Mezzano argues that refinancing is not an option because
19 "Plaintiff took the lion share of marital assets, and Defendant is not Employed." Ms.
20 Mezzano further claims Mr. Townley did not pay certain office costs resulting in two
21 agents leaving her employ. Ms. Mezzano argues that Mr. Townley kept assets from her
22 that could have been used to pay the mortgage on 735 Aesop Court. Ms. Mezzano asserts
23 she has never stated an intention not to pay the mortgage. Moreover, Ms. Mezzano argues
24 that the Decree does not have a provision requiring she remove his name from the
25 mortgage or to force a sale of the home.

26 4. Mr. Townley replies and argues that Ms. Mezzano's financial disclosure
27 form, filed on March 22, 2020, discloses she possesses \$80,000 in cash and therefore was

28 ¹ The Court notes that Ms. Mezzano appears to admit she was home at the time of service but refused to come to the door because "it could have been a solicitor or pollster." Combined Opposition at p. 5.

1 able to pay her mortgage. Instead, Ms. Mezzano demanded he pay the mortgage. Mr.
2 Townley argues Ms. Mezzano's behavior was unreasonable and forced him to protect his
3 credit.

4 Conclusions of Law


5 1. Courts have the power "[t]o compel obedience to its lawful judgments,
6 orders and process, and to the lawful orders of its judge out of court in an action or
7 proceeding pending therein." NRS 1.210(3).

8 2. Here, Ms. Mezzano claims her alleged refusal to pay the mortgage is simply
9 "chatter." However, Ms. Mezzano fails to dispute she has not been paying the mortgage.
10 If both Parties remain liable on the mortgage, then these issues will drag on for an
11 indeterminate amount of time. Ms. Mezzano took the property subject to the debt and
12 therefore Mr. Townley should not have to continue to monitor the asset and protect his
13 credit. The Court finds 180 days is a reasonable timeframe for Ms. Mezzano to refinance
14 735 Aesop Court and that this refinance is a necessary matter involved with enforcing the
15 asset division in this case.

16 3. Based on the above reasoning, Mr. Townley's Motion is **GRANTED**. Ms.
17 Mezzano shall have 180 days to remove Mr. Townley's liability on the mortgage
18 associated with 735 Aesop Court.

19 **IT IS SO ORDERED.**

20 Dated: May 27th, 2020.

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23 District Judge

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28 Case No. DV19-01564

1 CODE:
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6 IN THE FAMILY DIVISION
7 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE
9

10 JOHN TOWNLEY,

11 Plaintiff,

12 vs.

13 ROCHELLE MEZZANO,
14

15 Defendant.
16 _____/

Case No. DV19-01564

Dept. No. 13

17 **ORDER REGARDING MOTION FOR ORDER DIRECTING DELIVERY OF**
18 **FUNDS DUE DEFENDANT PURSUANT TO DIVORCE AND PAPERS AND**
19 **THINGS RELATING TO DEFENDANT'S PROPERTY TO LAST KNOWN**
20 **RESIDENCE**

21 This Court reviewed John Townley's ("Mr. Townley") *Motion for Order Directing*
22 *Delivery of Funds Due Defendant Pursuant to Divorce and Papers and Things Relating to*
23 *Defendant's Property to Last Known Residence* ("the Motion"), submitted on March 30, 2020.
24 It now finds and orders as follows:

25 **Findings of Fact**

26 1. Mr. Townley initiated this case by filing a *Complaint for Divorce (no children)*
27 ("the Complaint") on September 24, 2019. Mr. Townley filed an Affidavit of Service ("the
28 Affidavit") on October 28, 2019. A *Clerk's Default* was entered in this matter on November
1, 2019. Plaintiff sent Rochelle Mezzano ("Ms. Mezzano") *Notice of Intent to Take Default*
Judgment by mail on November 19, 2019. The Court entered its *Findings of Fact, Conclusions*

1 of *Law and Decree of Divorce* ("the Decree") on December 11, 2019. Plaintiff sent Ms.
2 Mezzano *Notice of Entry of Findings of Fact, Conclusions of Law and Decree of Divorce* by mail
3 on December 12, 2019.

4 2. Mr. Townley requests the Court issue an order because Ms. Mezzano will not
5 retrieve certain funds or items awarded to her in the Decree. Mr. Townley states that he is
6 holding the money due Ms. Mezzano as part of her share of the Parties' estate. Mr.
7 Townley claims he had a cashier's check and a box of documents at his counsel's office,
8 but she failed to pick up the items. Therefore, Mr. Townley states he redeposited the
9 funds and paid the mortgage on Ms. Mezzano's property. He asserts Ms. Mezzano has not
10 proposed a means to transfer the remainder of those funds or the documents and other
11 things. Mr. Townley argues he should not be responsible for maintaining the funds due
12 Ms. Mezzano. He suggests the Court order the items sent to Ms. Mezzano's last known
13 residence.

14 3. Ms. Mezzano filed her *Consolidated Oppositions to Motions* on March 3, 2020
15 ("the Consolidated Opposition"). She argues all Mr. Townley's requests should be stayed
16 pending resolution of her motion to set aside the Default Decree. As the Court denied her
17 motion, her request for a stay is now denied as moot. The Court has addressed Ms.
18 Mezzano's arguments regarding alleged insufficient service of process in its separate
19 Order.¹ Regarding the merits of the Motion, Ms. Mezzano proposes Mr. Townley drop off
20 items at her brother-in-law's house, have his girlfriend drop it by, or mail any documents
21 to her counsel.

22 4. Mr. Townley replies and argues that Ms. Mezzano's sister and brother in law
23 are not couriers and her suggestion that his girlfriend drop off documents is unreasonable.
24 Mr. Townley argues Ms. Mezzano's failure to retrieve her documents or send written
25 instructions shows an intent to delay the proceedings.

26 ///

27 ///

28 ¹ The Court notes that Ms. Mezzano appears to admit she was home at the time of service but refused to come to the door because "it could have been a solicitor or pollster." Combined Opposition at p. 5.

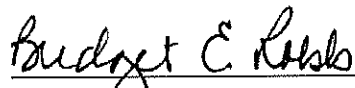
1 Conclusions of Law

2 1. Courts have the power "[t]o compel obedience to its lawful judgments,
3 orders and process, and to the lawful orders of its judge out of court in an action or
4 proceeding pending therein." NRS 1.210(3).

5 2. Here, Ms. Mezzano acknowledges Mr. Townley has certain documents and
6 funds that must be transferred to her pursuant to the Decree. The Court finds that Ms.
7 Mezzano provides no argument why she failed to pick up the cashier's check or
8 documents and other things Mr. Townley had prepared for her. The Court will not
9 require a non-party take any affirmative action or accept a check or documents on Ms.
10 Mezzano's behalf as she suggests. Accordingly, the Parties shall arrange for a time to
11 exchange these items within ten (10) days of the date of this Order. If the Parties fail to do
12 so, Mr. Townley shall ship the items to Ms. Mezzano's counsel as she proposes, and Ms.
13 Mezzano shall reimburse Mr. Townley for any cost.

14 **IT IS SO ORDERED.**

15 Dated: May 27th, 2020.

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18 District Judge

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23 Case No. DV19-01564
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4 IN THE FAMILY DIVISION
5 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF WASHOE
7

8 JOHN TOWNLEY,
9

10 Plaintiff,

11 vs.

12 ROCHELLE MEZZANO,
13

14 Defendant.
15

Case No. DV19-01564

Dept. No. 13

16 ORDER REGARDING MOTION TO JOIN IRREVOCABLE TRUST TO
17 FACILITATE DISTRIBUTION OF COMMUNITY PROPERTY POST-
18 DIVORCE AND ORDER DIRECTING DISTRIBUTION OF ASSETS FROM
19 TRUSTS

20 This Court reviewed John Townley's ("Mr. Townley") *Motion to Join Irrevocable*
21 *Trust to Facilitate Distribution of Community Property Post-Divorce and Order Directing*
22 *Distribution of Assets from Trusts*, submitted on March 30, 2020. It now finds and orders as
23 follows:
24

25 Findings of Fact

26 1. Mr. Townley initiated this case by filing a *Complaint for Divorce (no children)*
27 ("the Complaint") on September 24, 2019. Mr. Townley filed an Affidavit of Service ("the
28 Affidavit") on October 28, 2019. A *Clerk's Default* was entered in this matter on November
1, 2019. Plaintiff sent Rochelle Mezzano ("Ms. Mezzano") *Notice of Intent to Take Default*
Judgment by mail on November 19, 2019. The Court entered its *Findings of Fact, Conclusions*
of Law and Decree of Divorce ("the Decree") on December 11, 2019. Plaintiff sent Ms.

1 Mezzano Notice of Entry of Findings of Fact, Conclusions of Law and Decree of Divorce by mail
2 on December 12, 2019.

3 2. Mr. Townley requests the Court enter an order directing the distribution of
4 assets and vehicles from the trust to each party according to the Decree. Mr. Townley
5 states that he and Ms. Mazzano are the grantors and primary beneficiaries of the Southern
6 Illinois Wetlands Preservation Trust ("the Trust"). Mr. Townley and Silva Moya ("Ms.
7 Moya") are the current trustees, and the trust is irrevocable. Mr. Townley states the Trust
8 holds title to vehicles used by the Parties. Mr. Townley argues that, although the Trust was
9 not joined as a party, the Parties were awarded beneficial interests in the Trust assets and
10 Trust. Since entry of the Decree, Mr. Townley claims Ms. Mezzano has demanded
11 payment from the Trust for her expenses. He notes the Decree awarded him all beneficial
12 interests in the Trust, except for certain vehicles awarded to Ms. Mezzano. Mr. Townley
13 argues joining the Trust as a party pursuant to NRCP 19(a) is necessary for the Court to
14 direct distribution of the assets. He further argues joinder was not necessary prior to entry
15 of the Decree because the Parties were simply awarded beneficial interests in the Trust.

16 3. Ms. Mezzano filed her *Consolidated Oppositions to Motions* on March 3, 2020
17 ("the Consolidated Opposition"). She argues all Mr. Townley's requests should be stayed
18 pending resolution of her motion to set aside the Default Decree. As the Court denied her
19 motion, the request for a stay is denied as moot. The Court has addressed Ms. Mezzano's
20 arguments regarding alleged insufficient service of process in its separate Order.¹ Ms.
21 Mezzano argues the Trust should have been joined in the initial divorce. Therefore, the
22 judgment is void as to any award of trust property. Ms. Mezzano asserts the Trust must
23 be added to an amended complaint, joined as a separate entity, be served and file an
24 answer.

25 4. Mr. Townley replies and argues the Trust should be joined to avoid litigation
26 from Ms. Mezzano upon distribution of the Trust assets. Mr. Townley argues the Trust
27 can already distribute the assets to him. He notes that Ms. Mezzano fails to address that

28 ¹ The Court notes that Ms. Mezzano appears to admit she was home at the time of service but refused to come to the door because "it could have been a solicitor or pollster." Combined Opposition at p. 5.

1 the Decree awarded the Parties "beneficial interests" in trust assets, which are subject to
2 division upon divorce.

3 Conclusions of Law

4 1. Pursuant to NRCP 19(a):

5 (1) *Required Party*. A person who is subject to service of
6 process and whose joinder will not deprive the court of
subject-matter jurisdiction must be joined as a party if:

7 (A) in that person's absence, the court cannot accord
8 complete relief among existing parties; or

9 (B) that person claims an interest relating to the subject of
the action and is so situated that disposing of the action in
the person's absence may:

10 (i) as a practical matter impair or impede the person's ability
11 to protect the interest; or

12 (ii) leave an existing party subject to a substantial risk of
13 incurring double, multiple, or otherwise inconsistent
obligations because of the interest.

14 (2) *Joinder by Court Order*. If a person has not been joined as
required, the court must order that the person be made a
15 party. A person who refuses to join as a plaintiff may be
16 made either a defendant or, in a proper case, an involuntary
plaintiff.

17 2. In *Gladys Baker Olsen Family Tr. By & Through Olsen v. Eighth Judicial Dist.*
18 *Court In & For Cty. of Clark*, 110 Nev. 548, 554, 874 P.2d 778, 782 (1994), an ex-wife sought to
19 satisfy her judgment against her ex-husband by executing upon a trust created by a third-
20 party after their divorce. The court held the district court's order was void because it
21 could not issue "any orders affecting the rights of the Trust until it [was] properly joined
22 as a party."² *Id.* at 554, 782. The Court in *Guerin v. Guerin*, 114 Nev. 127, 132-33, 953 P.2d
23

24
25 ² The district court "(1) ordered the removal of Gladys as trustee from her own trust; (2) rejected the
26 successor trustee which Gladys had selected; (3) ordered the law firm of Edwards & Kolesar, Chtd., (counsel)
27 to select a new trustee; (4) declared the spendthrift provision in the Trust agreement void as against public
28 policy; (5) ordered counsel to redraft the trust agreement in a manner which eliminated all spendthrift
provisions to Al; (6) declared Gladys in breach of her fiduciary duties for allowing the Trust to purchase the
condo and for lending Al money to purchase the 1993 Grand Marquis; (7) invalidated the Trust's promissory
note and security interest in the 1993 Grand Marquis; (8) froze all the assets of the Trust so that they could
not be sold; and (9) transferred title to the condo and 1993 Grand Marquis to Betty."

1 716, 720 (1998), abrogated on other grounds by *Pengilly v. Rancho Santa Fe Homeowners*
2 *Ass'n*, 116 Nev. 646, 5 P.3d 569 (2000), discussed the holding in *Olsen* and clarified that
3 because the trust in that case was not a party, the district court's order was void "insofar as
4 it affects the rights of the Hill Family Trust."

5 3. Here, the Decree awarded Mr. Townley vehicles and a toy hauler "and/or
6 the parties' beneficial interest in the vehicle via the Southern Illinois Wetlands
7 Preservation Trust such that upon distribution of the vehicle from the trust all right, title,
8 and interest shall be owned by Husband;" and "[t]he parties' beneficial interest in the
9 Southern Illinois Wetlands Preservation Trust except the interest in the 2001 Corvette
10 assigned to Wife." The Decree awarded Ms. Mezzano the "2001 Chevy Corvette and/or
11 the parties' beneficial interest in the vehicle via the Southern Illinois Wetlands
12 Preservation Trust such that upon distribution of the vehicle from the trust all right, title,
13 and interest shall be owned by Wife."

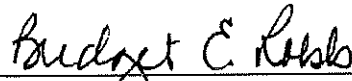
14 4. The Court finds that the Decree did not adversely affect the rights of the
15 Trust. Rather, the Decree awards the beneficial interest in the trust and certain assets of
16 the trust. The Decree did not require distribution of trust assets, but instead awarded the
17 interest in trust assets upon distribution. Unlike *Olson*, the Trust was created prior to the
18 Parties' divorce. Ms. Mezzano does not dispute the Parties' beneficial interests in the Trust
19 is community property. Therefore, this Court had subject matter jurisdiction to divide this
20 community interest. See *Klabacka v. Nelson*, 133 Nev. 164, 170, 394 P.3d 940, 946 (2017)
21 ("[W]e conclude that the family court had subject-matter jurisdiction over all claims
22 brought in the Nelsons' divorce, including those relating to property held within the [self-
23 settled spendthrift trusts]."); see also *Lauricella v. Lauricella*, 409 Mass. 211, 216-17, 565
24 N.E.2d 436, 439 (1991) ("We conclude that the husband's beneficial interest in the trust
25 property is subject to equitable division under § 34.")

26 5. The Decree provides the Parties' beneficial interests—except for the
27 Corvette—were awarded to Mr. Townley. The Decree did not modify the terms of the
28 Trust and therefore the Court may enforce its orders. However, Mr. Townley now seeks to

1 enforce the Decree by directing the Trust to distribute assets. In order to exercise such
2 jurisdiction, the Trust must be joined as a party. Accordingly, Mr. Townley's Motion is
3 GRANTED. The Court finds the Trust is a necessary party and must be joined to enforce
4 the terms of the Decree.

5 **IT IS SO ORDERED.**

6 Dated: May 29, 2020.

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10 District Judge

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14 Case No. DV19-01564
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6 IN THE FAMILY DIVISION
7 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE
9

10 JOHN TOWNLEY,
11

12 Plaintiff,

13 vs.

14 ROCHELLE MEZZANO,
15

16 Defendant.
17

Case No. DV19-01564

Dept. No. 13

18 ORDER REGARDING MOTION VESTING TITLE TO REAL PROPERTY IN
19 PLAINTIFF; IN THE ALTERNATIVE, MOTION FOR CLERK OF COURT TO
20 EXECUTE DEED AS ATTORNEY IN FACT
21

22 This Court reviewed John Townley's ("Mr. Townley") *Motion Vesting Title to Real*
23 *Property in Plaintiff; in the Alternative, Motion for Clerk of Court to Execute Deed as Attorney in*
24 *Fact* ("the Motion to Vest Title"), submitted on March 30, 2020. It now finds and orders as
25 follows:
26

27 Findings of Fact
28

1. Mr. Townley initiated this case by filing a *Complaint for Divorce (no children)*
("the Complaint") on September 24, 2019. Mr. Townley filed an Affidavit of Service ("the
Affidavit") on October 28, 2019. A *Clerk's Default* was entered in this matter on November
1, 2019. Plaintiff sent Rochelle Mezzano ("Ms. Mezzano") *Notice of Intent to Take Default*
Judgment by mail on November 19, 2019. The Court entered its *Findings of Fact, Conclusions*

1 of Law and Decree of Divorce ("the Decree") on December 11, 2019. Plaintiff sent Ms.
2 Mezzano Notice of Entry of Findings of Fact, Conclusions of Law and Decree of Divorce by mail
3 on December 12, 2019.

4 2. Mr. Townley requests the Court issue an order vesting title to 145 Redstone
5 Drive, Reno, Nevada, APN 003-351-09 ("145 Redstone Drive"), in him as his sole and
6 separate property pursuant to NRCP 70(b). Alternatively, Mr. Townley requests the Court
7 direct the Clerk of Court to execute the necessary deed to vest the title. Mr. Townley
8 further requests the Court award him his reasonable attorney's fees and costs based upon
9 Ms. Mezzano's failure to sign the necessary documents. Mr. Townley claims he sent Ms.
10 Mezzano a letter concerning necessary tasks to complete the division of property on
11 December 31, 2019. Mr. Townley states the only correspondence he has received in return
12 was a letter from Ms. Mezzano's current counsel stating he would move to set aside the
13 Decree shortly (a motion was not filed until two months later). Mr. Townley argues that
14 Ms. Mezzano was properly served, and the Court may enter an order requiring
15 conveyance of the property. Mr. Townley notes that Paragraph 10 of the Default Decree
16 requires each Party execute all documents necessary to effectuate the division of assets.
17 He argues Ms. Mezzano has no valid objection to executing the document. Mr. Townley
18 also argues he is entitled to an award of attorney's fees pursuant to NRCP 70 and
19 Paragraph 10 of the Decree.

20 3. Ms. Mezzano filed her *Consolidated Oppositions to Motions* on March 3, 2020
21 ("the Consolidated Opposition"). She argues all Mr. Townley's requests should be stayed
22 pending resolution of her motion to set aside the Default Decree. As the Court denied her
23 motion, the request for a stay is denied as moot. The Court has addressed Ms. Mezzano's
24 arguments regarding alleged insufficient service of process in its separate Order.¹ She
25 argues that neither Paragraph 10 of the Default Decree nor NRCP 70 has an attorney's fee
26 provision.

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28 ¹ The Court notes that Ms. Mezzano appears to admit she was home at the time of service but refused to come to the door because "it could have been a solicitor or pollster." Combined Opposition at p. 5.

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Conclusions of Law

1. Pursuant to NRCP 70:

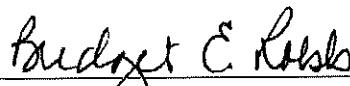
(a) **Party's Failure to Act; Ordering Another to Act.** If a judgment requires a party to convey land, to deliver a deed or other document, or to perform any other specific act and the party fails to comply within the time specified, the court may order the act to be done--at the disobedient party's expense--by another person appointed by the court. When done, the act has the same effect as if done by the party.

(b) **Vesting Title.** If the real or personal property is within this state, the court--instead of ordering a conveyance--may enter a judgment divesting any party's title and vesting it in others. That judgment has the effect of a legally executed conveyance.

2. Here, Ms. Mezzano's only argument is the Decree should be set aside. As noted above, the Court already denied that relief. The Court finds that the Decree awards Mr. Townley 145 Redstone Drive as his sole and separate property. The Decree further requires the Parties execute all necessary documents to effectuate the division of property. The Court finds Ms. Mezzano was required to sign the quitclaim deed within ten (10) business days, unless she provided a written objection within that time period. Pursuant to NRCP 70(a), the Court may order the act be done "at the disobedient party's expense." Because Ms. Mezzano arguably "objected" to signing the deed based on her motion to set aside Default Decree, the Court does not award fees at this time. **Ms. Mezzano shall sign the quitclaim deed for 145 Redstone Drive within ten (10) days of the date of this Order.** If Ms. Mezzano fails to comply, then the Court will appoint the Clerk of Court to sign on behalf of Ms. Mezzano and award Mr. Townley his reasonable attorney's fees and costs incurred in obtaining the signature.

IT IS SO ORDERED.

Dated: May 27th, 2020.


District Judge

DV19-01564

1 CODE:
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6 IN THE FAMILY DIVISION
7 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE
9

10 JOHN TOWNLEY,

11 Plaintiff,

12 vs.

13 ROCHELLE MEZZANO,
14

15 Defendant.
16 _____/

Case No. DV19-01564

Dept. No. 13

17 ORDER DENYING MOTION TO SET ASIDE DECREE OF DIVORCE AND
18 FOR RELATED RELIEF

19 This Court reviewed Rochelle Mazzano's ("Ms. Mazzano") *Motion to Set Aside*
20 *Decree of Divorce and for Related Relief* ("the Motion to Set Aside"), submitted on April 8,
21 2020. It now finds and orders as follows:

22 Findings of Fact

23 1. Mr. Townley initiated this case by filing a *Complaint for Divorce (no children)*
24 ("the Complaint") on September 24, 2019. Mr. Townley filed an Affidavit of Service ("the
25 Affidavit") on October 28, 2019. A *Clerk's Default* was entered in this matter on November
26 1, 2019. Plaintiff sent Ms. Mezzano *Notice of Intent to Take Default Judgment* by mail on
27 November 19, 2019. The Court entered its *Findings of Fact, Conclusions of Law and Decree of*
28 *Divorce* ("the Default Decree") on December 11, 2019. Plaintiff sent Ms. Mezzano *Notice of*

1 *Entry of Findings of Fact, Conclusions of Law and Decree of Divorce* by mail on December 12,
2 2019.

3 2. Ms. Mezzano moves the Court to set aside the Default Decree in this case
4 based on alleged improper service of process. Ms. Mezzano claims Mr. Townley did not
5 personally serve her with the Summons, Complaint, and other filed documents. Instead,
6 she states that a "contractor" at her home was provided the documents, but he was never
7 authorized to accept service of process. Ms. Mezzano claims that the contractor never
8 informed her a process served came by and she only "later found" the documents inside
9 her home. Ms. Mezzano argues the judgment is void due to improper service of the
10 complaint and therefore must be set aside. Ms. Mezzano acknowledges an email to Mr.
11 Townley stating she received the divorce papers, but she argues that fact does not
12 establish valid service. She believes Mr. Townley will suffer no prejudice if the Default
13 Decree is set aside and requests an award of attorney's fees.

14 3. Mr. Townley responds and opposes setting aside the Decree. Mr. Townley
15 argues that Ms. Mezzano's request is untimely, ignores facts, and is only supported by a
16 legally insufficient self-serving affidavit. Based on the method of service stated in the
17 Affidavit of Service, Ms. Mezzano's legal theory is irrelevant. Mr. Townley asserts the
18 process server determined Ms. Mezzano was in her home when she responded to an oral
19 notice to come to the door to get documents. Ms. Mezzano refused and therefore the
20 process server posted the summons and complaint and left the property pursuant to
21 NRCP 4.2(a)(1). Mr. Townley attaches a copy of the email Ms. Mezzano references that
22 reads: "I got served papers today. I have twenty days including the weekend to respond.
23 Which means I need to retain an attorney. So, I need a retainer. How would you like to
24 proceed?" He claims she initially agreed to attend a meeting to discuss settlement but
25 never showed up. Mr. Townley notes that Ms. Mezzano refused to participate in the case
26 from that point forward. On January 4, 2020, Mr. Townley's counsel states he received a
27 letter from Ms. Mezzano's current attorney stating he represented Ms. Mezzano and
28 would be moving to set aside the decree. Mr. Townley argues that, after six months from
the date of alleged service, Ms. Mezzano only presented a single self-serving affidavit in

1 support of her arguments. He further argues Ms. Mezzano admits actual notice of the
2 proceedings but never asserted a lack of service until the default judgment was already
3 entered. Even after that point, Ms. Mezzano waited more than four months to move to set
4 aside.

5 4. Ms. Mezzano did not file a reply.

6 Conclusions of Law

7 1. Pursuant to NRCP 60(b), this Court may set aside an entry of default
8 judgment for the following reasons:

- 9 (1) mistake, inadvertence, surprise, or excusable neglect;
10 (2) newly discovered evidence that, with reasonable
11 diligence, could not have been discovered in time to move
12 for a new trial under Rule 59(b);
13 (3) fraud (whether previously called intrinsic or extrinsic),
14 misrepresentation, or misconduct by an opposing party;
15 (4) the judgment is void;
16 (5) the judgment has been satisfied, released, or discharged;
17 it is based on an earlier judgment that has been reversed or
18 vacated; or applying it prospectively is no longer equitable;
19 or
20 (6) any other reason that justifies relief.

21 2. Although the decision to set aside a default is made at the Court's discretion,
22 a trial on the merits is always favored over a procedural default. *Kahn v. Orme*, 108 Nev.
23 510, 516, 835 P.2d 790, 794 (1992)(internal citations omitted); *see also Yochum v. Davis*, 98
24 Nev. 484, 487, 653 P.2d 1215, 1217 (1982) (the district court "must give due consideration to
25 the state's underlying basic policy of resolving cases on their merits wherever possible").
26 The policy favoring decisions on the merits is heightened in cases involving domestic
27 relations matters. *Price v. Dunn*, 106 Nev. 100, 105, 787 P.2d 785, 788 (1990) (citing *Dagher*
28 *v. Dagher*, 103 Nev. 26, 28, 731 P.2d 1329, 1330 (1987)).

3. Before granting a NRCP 60(b)(1) motion, a court must consider whether the
moving party: (1) made a prompt application; (2) lacked an intent to delay the
proceedings; (3) lacked knowledge of procedural requirements; and (4) exercised good

1 faith. *Kahn v. Orme*, 108 Nev. 510, 513-14, 835 P.2d 790, 793 (1992). The moving party has
2 the burden of proving inadvertence, surprise, or excusable neglect "by a preponderance of
3 the evidence." *Id.* Similarly, the party "moving to vacate default judgment for improper
4 service of process bears the burden to prove that he is entitled to relief." *S.E.C. v. Internet*
5 *Sols. for Bus. Inc.*, 509 F.3d 1161, 1166 (9th Cir. 2007)¹. **The Court may also consider a**
6 **movant's lack of diligence in bringing a claim pursuant to NRCP 60(b)(4).** *See In re*
7 *Harrison Living Tr.*, 121 Nev. 217, 224, 112 P.3d 1058, 1062 (2005) ("[T]he district court did
8 not abuse its discretion in finding that Teriano unreasonably delayed filing a petition to set
9 aside a void judgment, and in applying equitable estoppel to Teriano's petition.").

10
11 4. Here, the Court finds Ms. Mezzano's affidavit is insufficient to overcome her
12 burden. The Affidavit of Service states that Ms. Mezzano was served with the summons
13 and complaint by "[d]elivering and leaving a copy posted on the Defendant's (Rochelle
14 Mezzano) Front Door at 735 Aesop Court, Reno, Nevada 89512." The process server
15 included a narrative of service stating an older white male answered the door then yelled
16 Ms. Mezzano's name. The process server stated that Ms. Mezzano responded but would
17 not come to the door. Although the process served did not personally see Ms. Mezzano,
18 she believed responding to her name proved that Ms. Mezzano was there. Notably, **Ms.**
19 **Mezzano fails to address the sworn statements of a disinterested third party regarding**
20 **service of process.** *See S.E.C.*, 509 F.3d at 1166 (internal quotations omitted) ("A signed
21 return of service constitutes prima facie evidence of valid service which can be overcome
22 only by strong and convincing evidence."). Ms. Mezzano simply includes her own self-
23 serving affidavit stating a "contractor" was given documents that she only later found in
24 her home. The Court finds that the process server's affidavit is the most credible evidence
25 provided.
26

27
28 ¹ The court went on to explain: "The defendant who chooses not to put the plaintiff to its proof, but instead
allows default judgment to be entered and waits, for whatever reason, until a later time to challenge the
plaintiff's action, should have to bear the consequences of such delay." *S.E.C.*, 509 F.3d at 1166.

5. The Court notes that - on the same day as the alleged service - Ms. Mezzano admits she sent an email stating "I got served papers today" and requested money to retain an attorney. The Court finds Ms. Mezzano's email was an appearance in this case. Accordingly, Ms. Mezzano was later provided notice of Mr. Townley's intent to take a default, which she ignored. Mr. Townley then provided notice of his intent to seek a default judgment, which she also ignored. The Court notes that the property division appeared fair and equal and Ms. Mezzano was awarded income producing property and her business.

6. Ms. Mezzano admits she had actual notice of the proceedings and does not deny receiving notice of Mr. Townley's intent to proceed with a default. The Court further finds that Ms. Mezzano's request to set aside can also be denied based on her failure to make a prompt application to set aside the default judgment. The Court notes that all the facts alleged in Ms. Mezzano's Motion to Set aside were within her knowledge, yet she waited two months after contacting Mr. Townley's counsel to take any action.

7. Based on the above reasoning, the Court finds no good cause to set aside the Decree. Ms. Mezzano's Motion to Set Aside is **DENIED**. Ms. Mezzano's request for attorney's fees is also **DENIED**.

IT IS SO ORDERED.

Dated: May 22nd, 2020.

Budget E. Rusk
District Judge

Case No. DV19-01564

EXHIBIT 12

1 THE O'MARA LAW FIRM, P.C.
2 DAVID C. O'MARA (Nevada Bar No. 8599)
3 311 East Liberty Street
4 Reno, NV 89501
5 Telephone: 775/323-1321
6 Facsimile: 775/323-4082

7 Attorney for Ms. Rochelle Mezzano

8 IN THE FAMILY DIVISION
9 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
10 IN AND FOR THE COUNTY OF WASHOE

11 JOHN TOWNLEY

12 Plaintiff,

13 v.

14 ROCHELLE MEZZANO

15 Defendant.

) Case No. DV19-01564

) Dept. 13

16 **NOTICE OF APPEARANCE**

17 PLEASE TAKE NOTICE that David C. O'Mara, Esq. and The O'Mara Law Firm, P.C.
18 enters their appearance as counsel of record for Defendant, Rochelle Mezzano, in the above-entitled
19 matter. Please send all future pleadings and correspondence to The O'Mara Law Firm, P.C. at the
20 address listed above.

21 **AFFIRMATION**
(Pursuant to NRS 239B.030)

22 The undersigned does hereby affirm that the preceding document filed in the above
23 referenced matter does not contain the social security number of any person.

24 THE O'MARA LAW FIRM, P.C.

25 DATED: December 21, 2021.

26 /s/ David C. O'Mara

27 DAVID C. O'MARA

28 311 E. Liberty Street
Reno, Nevada 89501
775.323.1321
david@omaratlaw.net

1 CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee of The O'Mara Law Firm, P.C., 311 E. Liberty
3 Street, Reno, Nevada 89501, and on this date I served a true and correct copy of the foregoing
4 document on all parties to this action by:

5 _____ Depositing in a sealed envelope placed for collection and mailing in the United States
6 _____ Mail, at Reno, Nevada, following ordinary business practices

7 _____ Personal Delivery

8 _____ Facsimile

9 _____ Federal Express or other overnight delivery

10 _____ Messenger Service

11 _____ Certified Mail with Return Receipt Requested

12 X _____ Electronically through the Court's ECF system

13 addressed as follows:

14 SILVERMAN KATTELMAN SPRINGGATE, CHTD.
15 Alexander C. Morey, Esq.
16 500 Damonte Ranch Pkwy, Ste 675
17 Reno, Nevada 89521

18 DATED: December 22, 2021

19 _____
20 /s/ Bryan Snyder
21 BRYAN SNYDER
22
23
24
25
26
27
28

EXHIBIT 13

1 THE O'MARA LAW FIRM, P.C.
2 DAVID C. O'MARA (Nevada Bar No. 8599)
3 311 East Liberty Street
4 Reno, NV 89501
5 Telephone: 775/323-1321
6 Facsimile: 775/323-4082

7 Attorney for Ms. Rochelle Mezzano

8 IN THE FAMILY DIVISION
9
10 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
11
12 IN AND FOR THE COUNTY OF WASHOE

13 JOHN TOWNLEY

14 Plaintiff,

15 v.

16 ROCHELLE MEZZANO

17 Defendant.

) Case No. DV19-01564

) Dept. 13

) **NOTICE OF PEREMPTORY**
) **CHALLENGE**

18 Defendant, by and through undersigned counsel, hereby gives notice of a peremptory
19 challenge of the Honorable Bridget E. Robb of the Second Judicial District Court, Department 13,
20 under Nevada Supreme Court Rule 48.1.

21 **AFFIRMATION**
22 (Pursuant to NRS 239B.030)

23 The undersigned does hereby affirm that the preceding document filed in the above
24 referenced matter does not contain the social security number of any person.

25 THE O'MARA LAW FIRM, P.C.
26 DATED: December 28, 2021.

27 /s/ David C. O'Mara
28 DAVID C. O'MARA
311 E. Liberty Street
Reno, Nevada 89501
775.323.1321
david@omaralaw.net

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of The O'Mara Law Firm, P.C., 311 E. Liberty
3 Street, Reno, Nevada 89501, and on this date I served a true and correct copy of the foregoing
4 document on all parties to this action Electronically through the Court's ECF system:

5 SILVERMAN KATTELMAN SPRINGGATE, CHTD.
6 Alexander C. Morey, Esq.
7 500 Damonte Ranch Pkwy, Ste 675
8 Reno, Nevada 89521

8 DATED: December 28, 2021

/s/ David O'Mara
DAVID O'MARA

EXHIBIT 14

Code:
1 Gary R. Silverman (NSB# 409) Michael V. Kattelman (NSB#6703)
John P. Springgate (NSB# 1350) Alexander C. Morey (NSB#11216)
2 Kenton Karrasch (NSB#13515) Benjamin Albers (NSB#11895)
Silverman Kattelman Springgate, Chtd.
500 Damonte Ranch Parkway, Suite 675
3 Reno, Nevada 89521
Telephone: 775/322-3223
4 Facsimile: 775/322-3649
Attorney for John Townley

5 **IN THE FAMILY DIVISION**
6 **OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**

8 **JOHN TOWNLEY,**

9 **Plaintiff**

Case No. DV19-01564

10 **vs.**

Dept. 13

11
12 **ROCHELLE MEZZANO and**
13 **DOES I through XX,**
14 **to include Doe individuals,**
15 **corporations, limited liability companies,**
16 **partnerships, trusts, limited partnerships,**
17 **and such other individuals or entities**
18 **as may exist or be formed**

19 **Defendants.**

20 **OBJECTION TO INVALID PEREMPTORY CHALLENGE**

21 John Townley, through undersigned counsel, hereby objects to the invalid
22 peremptory challenge of the Honorable Bridget Robb. Supreme Court Rule 48.1(5)
23 provides that "A notice of peremptory challenge may not be filed against any judge who
24 has made any ruling on a contested matter or commenced hearing any contested matter
25 in the action." Here, Judge Robb has ruled on multiple contested motions, including Ms.
26 Mezzano's motion to set aside the decree of divorce and affirmative request for
27 attorney's fees and Mr. Townley's motions to enforce the decree of divorce.
28

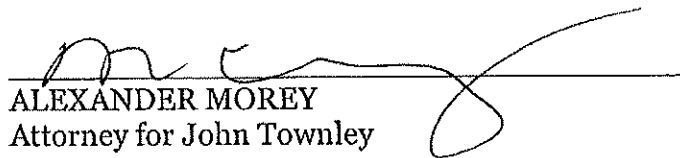
1 The invalid peremptory challenge must be ignored and this matter remain with
2 the assigned Honorable Bridget Robb.

3 This Objection is made and based on the points and authorities herein, any
4 attachments hereto, and the file in this matter.

5 This Objection contains no personal information as defined in NRS 239B.030.

6 Dated this 28th day of December 2021.

7
8 SILVERMAN KATTELMAN SPRINGGATE, CHTD.

9
10
11 
12 ALEXANDER MOREY
13 Attorney for John Townley
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1 CERTIFICATE OF SERVICE

2
3 Pursuant to NRCP 5 (b), I hereby certify that I am an employee of Silverman,
4 Kattelman Springgate, Chtd, and on the date set forth below, I served a true copy of the
5 foregoing Objection to Invalid Peremptory Challenge the party(ies) identified below by:

6 — Placing an original or true copy thereof in a sealed envelope, postage
7 prepaid for collection and mailing in the United States Mail at Reno,
8 Nevada to

9
10 X Electronically, using Second Judicial District Court's Eflex system.

11 — Email:

12 addressed to:

13
14 David O'Mara
15 O'Mara Law Firm PC
16 311 E. Liberty St.
17 Reno, NV 89501

18 Under NRS 239B.030 the undersigned affirms the preceding contains no social
19 security number.

20
21 Dated this 28 day of Dec 2021.

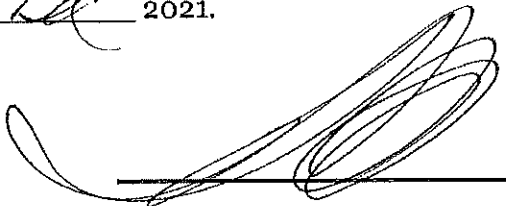
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EXHIBIT 15

1 **CODE 1312**

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6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9
10 **JOHN TOWNLEY,**

11 **Plaintiff,**

Case No: DV19-01564

12 **vs.**

Dept. No: 13

13 **ROCHELLE MEZZANO,**

14 **Defendant.**
15 _____/

16
17 **CASE ASSIGNMENT NOTIFICATION**

18 I hereby certify that the above-entitled matter has been randomly reassigned
19 to Department 5, from Department 13.

20 Additional information:

21 On December 28, 2021, a **NOTICE OF PEREMPTORY CHALLENGE** was
22 filed.

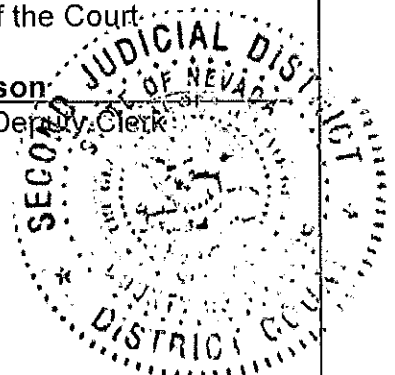
23 Dated January 3, 2022.

24
25 _____
ALICIA LERUD

Clerk of the Court

26
27 By /s/N. Mason

N. Mason- Deputy Clerk



1 CERTIFICATE OF SERVICE

2 Case No. DV19-01564

3 I certify that I am an employee of the Second Judicial District Court; that on
4 January 3, 2022, I electronically filed the Case Assignment Notification with the clerk of the
5 Court System which will send a notice of electronic filing to the following:

6
7 HONORABLE CYNTHIA LU

8 MICHAEL V. KATTELMAN, ESQ. for JOHN TOWNLEY

9 DAVID O'MARA, ESQ. for ROCHELLE MEZZANO

10 JOHN P. SPRINGGATE, ESQ. for JOHN TOWNLEY

11 BENJAMIN ALBERS, ESQ. for JOHN TOWNLEY

12 ALEXANDER C. MOREY, ESQ. for JOHN TOWNLEY

13 GARY ROBERT SILVERMAN, ESQ. for JOHN TOWNLEY

14 KENTON CRAIG KARRASCH, ESQ for JOHN TOWNLEY

15
16
17 Pursuant to NRCP 5 (b), I certify that I am an employee of the Second
18 Judicial District Court, and that on January 3, 2022, I deposited in the Washoe County
19 mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a
20 true copy of the attached document, addressed to:

21
22 The undersigned does hereby affirm that the preceding document does not
23 contain the social security number of any person.

24
25 Dated January 3, 2022.

26 /s/N. Mason

27 N. Mason
28 Deputy Clerk

EXHIBIT 16

1 CODE:
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6 IN THE FAMILY DIVISION
7 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE

9 JOHN TOWNLEY,

10 Plaintiff,

Case No. DV19-01564

11 VS.

Dept. No. 5

12 ROCHELLE MEZZANO,

13 Defendant.
14 _____/

15 **ORDER STRIKING PEREMPTORY CHALLENGE**

16 Plaintiff John Townley, through counsel Alex Morey, Esq., commenced this action
17 on September 24, 2019, by filing a Complaint for Divorce (no children) in Department 2.
18 The Department 2 judge recused herself. The matter was then reassigned to Department
19 11, where that judge recused himself. The matter was then reassigned to Department 12.
20 Mr. Townley then filed a peremptory challenge of Department 12. On October 1, 2019, the
21 matter was then reassigned to Department 13.

22 Over two years later, on December 28, 2021, Defendant Rochelle Mezzano, through
23 counsel David O'Mara, Esq., filed a Notice of Peremptory Challenge. On that same day, Mr.
24 Townley filed an Objection to Invalid Peremptory Challenge. On January 3, 2022, the filing
25 office filed a Case Assignment Notification randomly reassigning this matter to
26 Department 5. The Court has reviewed the record and now finds and orders as follows.

27 Supreme Court Rule (SCR) 48.1(2)(a) requires the clerk of court to randomly
28 reassign a case to another judge "[w]ithin 2 days of the notice of peremptory challenge

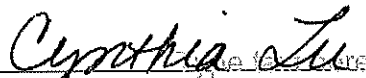
1 having been filed.” The Supreme Court of Nevada has held that once a case is reassigned,
2 “the challenged judge is divested of all jurisdiction, and the judge to whom the case is
3 reassigned must resolve the issue of timeliness.”¹ It is that issue that this Court now
4 undertakes.

5 Pursuant to SCR 48.1(5), “[a] notice of peremptory challenge may not be filed
6 against any judge who has made any ruling on a contested matter or commenced hearing
7 any contested matter in the action.” A review of the record clearly shows that the judge in
8 Department 13 issued several rulings on contested matters. As such, the Court finds that
9 Ms. Rochelle’s Notice of Peremptory Challenge was untimely.

10 Therefore, the Court strikes the Peremptory Challenge filed on December 28, 2021,
11 and this case shall be returned to Department 13.

12 **IT IS SO ORDERED.**

13 Dated this 5th day of January, 2022.

14 
15 Cynthia Lu
16 District Court Judge

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¹ *State, Dept. of Motor Vehicles and Public Safety v. Eighth Judicial Dist. Court In and For County of Clark*,
113 Nev. 1338, 1341, 948 P.2d 261, 262.

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court, and that on this date, I deposited for mailing, first class postage prepaid, at Reno, Nevada, a true and correct copy of the foregoing document addressed to:

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court, and that on this date, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice to:

DAVID O'MARA, ESQ.

Parties should contact the Second Judicial District Court Filing Office at 775-328-3110, ext. 7, or visit <https://wceflex.washoecourts.com> to sign up for a free e-flex account. Parties who are unable to file electronically may file an Application for Electronic Filing and Service Exemption form.

Demo too

Judicial Assistant

EXHIBIT 17

CODE 1250

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

John Townley
Plaintiff,

vs.

Case No. DV19-01564

Rochelle Mezzano, et al
Defendant.

Dept. No. 13

APPLICATION FOR SETTING

TYPE OF ACTION: Divorce

MATTER TO BE HEARD: Status hearing

Date of Application: 1/20/22 Made by: both counsel
Plaintiff or Defendant

COUNSEL FOR PLAINTIFF: Alexander Morsey

COUNSEL FOR DEFENDANT: Dario O'Mara

Instructions: Check the appropriate box. Indicate who is requesting the jury.

☐ Jury Demanded by (Name): _____

☐ No Jury Demanded by (Name): _____

Estimated Duration of Trial: _____

per email per email

Attorney(s) for Plaintiff

Status Hearing 2:30 p.m. 6th
Setting at on the

Attorney(s) for Defendant

April 2022
day of

Trial - No.

Setting at

on the

day of

20

1 **CERTIFICATE OF SERVICE**

2
3 Pursuant to NRCP 5 (b), I hereby certify that I am an employee of Silverman,
4 Kattelman Springgate, Chtd, and on the date set forth below, I served a true copy of the
5 foregoing **Application for Setting** the party(ies) identified below by:

6 — Placing an original or true copy thereof in a sealed envelope, postage
7 prepaid for collection and mailing in the United States Mail at Reno,
8 Nevada to
9

10 X Electronically, using Second Judicial District Court's Eflex system.

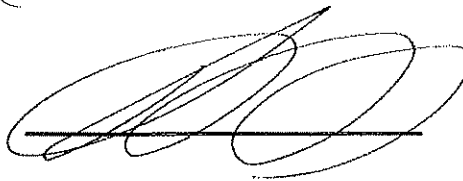
11 — Email:

12 addressed to:

13
14 David O'Mara
15 O'Mara Law Firm PC
16 311 E. Liberty St.
17 Reno, NV 89501

18 Under NRS 239B.030 the undersigned affirms the preceding contains no social
19 security number.

20
21 Dated this 21 day of Jan 2022.

22
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