

Joseph Naso, #AR-9737
San Quentin State Prison
1-EB-80
San Quentin, CA 94974

FILED

SEPT. 17, 2021

SEP 24 2021

ALICIA L. LERUD, CLERK

By: [Signature]
DEPUTY CLERK

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

Electronically Filed
Oct 08 2021 10:00 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

MARIN COUNTY, CALIF.

PLAINTIFF

VS.

JOSEPH NASO

DEFENDANT

CASE, CV14-00331

DEPT. 4

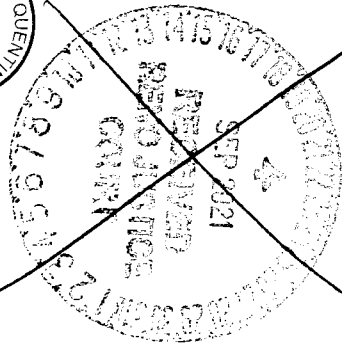
NOTICE OF APPEAL

DEFENDANT, JOSEPH NASO, HEREBY GIVES NOTICE
THAT HE WILL BE FILING AN APPEAL ON THE DISMISSAL
OF HIS MOTION TO STRIKE A FOUL JUDGMENT,
RULED BY THE ABOVE COURT ON AUG. 17, 2021

JOSEPH NASO

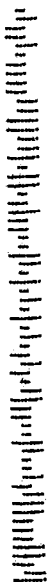
[Signature]

Joseph Naso, #AR-9737
CSP-SQ 1-EB-80
San Quentin, CA 94974



PLEASE SEND
ME BACK A
FILE COPY OF
THIS NOTICE.
THANK YOU.

8950131528 0026



RENO JUSTICE COURT
1 SIERRA STREET
RENO, NEVADA,
89501

Dist. Court

received
09/20/2021
USPS TRACKING \$000.532
ZIP 94904
04111206024

1 Code 1310
2
3
4
5

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

9 **COUNTY OF MARIN, CALIFORNIA,**

10 **Plaintiff,**

Case No. CV14-00331

11 **vs.**

Dept. No. 4

12 **JOSEPH NASO,**

13 **Defendant.**
14 _____/

15 **CASE APPEAL STATEMENT**

16 This case appeal statement is filed pursuant to NRAP 3(f).

- 17 1. Appellant is Joseph Naso.
18 2. This appeal is from an order entered by the Honorable Judge Connie J.
19 Steinheimer.
20 3. Appellant is representing himself in Proper Person on appeal, the Appellant's
21 address is:
22 Joseph Naso, #AR-9737
23 San Quentin State Prison
24 1-EB-80
25 San Quentin, CA 94974
26 4. Respondent is County of Marin, California. Respondent was represented in District
27 Court by:
28 Michael A. Rosenauer, Esq. SBN 2782

1 Michael A. Rosenauer, LTD
2 510 West Plumb Lane, Suite A
3 Reno, Nevada 89509

- 4 5. Respondent's attorney is not licensed to practice law in Nevada: n/a
5 6. Appellant is not represented by retained counsel in District Court.
6 7. Appellant is not represented by retained counsel on appeal.
7 8. Appellant has not granted leave to proceed in forma pauperis in the District Court.
8 9. Proceeding commenced by the filing of a Filing of Exemplified Copy of Foreign
9 Judgment on February 13th, 2014.
10 10. This is a civil proceeding and the Appellant is appealing the Order Denying Motion
11 to Strike and Dismiss Foul Judgment filed August 17th, 2021.
12 11. The case has not been the subject of a previous appeals to the Supreme Court.
13 12. This case does not involve child custody or visitation.
14 13. It is unknown if the case involves the possibility of a settlement.

15 Dated this 27th day of September, 2021.

16 Alicia L. Lerud
17 Clerk of the Court
18 By: /s/ Y.Viloria
19 Y.Viloria
20 Deputy Clerk
21
22
23
24
25
26
27
28

SECOND JUDICIAL DISTRICT COURT**STATE OF NEVADA****COUNTY OF WASHOE****Case History - CV14-00331****Case Description: COUNTY OF MARIN CA VS JOSEPH NASO (D4)****Case Number: CV14-00331 Case Type: FOREIGN JUDGMENT - CV - Initially Filed On: 2/13/2014****Parties**

<u>Party Type & Name</u>	<u>Party Status</u>
JUDG - CONNIE J. STEINHEIMER - D4	Active
PLTF - COUNTY OF MARIN - @77065	Active
DEFT - JOSEPH NASO - @1254260	Active
ATTY - Michael A. Rosenauer, Esq. - 2782	Active

Disposed Hearings

- 1 Department: D4 -- Event: Request for Submission -- Scheduled Date & Time: 2/20/2014 at 13:30:00
Extra Event Text: REQUEST FOR JUDGMENT (NO PAPER ORDER PROVIDED)
Event Disposition: S200 - 3/26/2014
- 2 Department: D4 -- Event: Request for Submission -- Scheduled Date & Time: 6/16/2021 at 10:58:00
Extra Event Text: JOSEPH NAZO'S MOTION TO STRIKE AND DISMISS FOUL JUDGMENT FILED JUNE 7, 2021 OPPOSED ON JUNE 14, 2021
Event Disposition: S200 - 8/17/2021
- 3 Department: D4 -- Event: Request for Submission -- Scheduled Date & Time: 8/13/2021 at 14:32:00
Extra Event Text: ORDER DENYING MOTION TO STRIKE AND DISMISS FOUL JUDGMENT FILED 8/13/2021 (ORDER PROVIDED)
Event Disposition: S200 - 8/17/2021

Actions

- | | <u>Filing Date</u> | <u>-</u> | <u>Docket Code & Description</u> |
|---|--------------------|----------|--|
| 1 | 2/13/2014 | - | COV - **Civil Cover Sheet
<i>No additional text exists for this entry.</i> |
| 2 | 2/13/2014 | - | \$1760 - \$Foreign Judgment
<i>No additional text exists for this entry.</i> |
| 3 | 2/13/2014 | - | 2610 - Notice ...
Additional Text: NOTICE OF FILING APPLICATION FOR FOREIGN JUDGMENT AND AFFIDAVIT OF JUDGMENT CREDITOR |
| 4 | 2/13/2014 | - | 1075 - Affidavit ...
Additional Text: AFFIDAVIT OF JUDGMENT CREDITOR |
| 5 | 2/13/2014 | - | PAYRC - **Payment Receipted
Additional Text: A Payment of -\$260.00 was made on receipt DCDC442681. |
| 6 | 2/13/2014 | - | 1316 - **Closed-Filing Office Process
<i>No additional text exists for this entry.</i> |
| 7 | 2/14/2014 | - | 1040 - Affidavit of Mailing
Additional Text: Transaction 4305509 - Approved By: NOREVIEW : 02-14-2014:08:43:03 |

Report Does Not Contain Sealed Cases or Confidential Information

- 8 2/14/2014 - NEF - Proof of Electronic Service
Additional Text: Transaction 4305514 - Approved By: NOREVIEW : 02-14-2014:08:44:03
- 9 2/14/2014 - 2610 - Notice ...
Additional Text: NOTICE OF PENDENCY OF ACTION - Transaction 4305517 - Approved By: MELWOOD : 02-14-2014:11:37:55
- 10 2/14/2014 - NEF - Proof of Electronic Service
Additional Text: Transaction 4306196 - Approved By: NOREVIEW : 02-14-2014:11:38:51
- 11 2/20/2014 - 3870 - Request
Additional Text: REQUEST FOR JUDGMENT - Transaction 4312217 - Approved By: PDBROWN : 02-20-2014:12:17:54
- 12 2/20/2014 - 3860 - Request for Submission
Additional Text: REQUEST FOR JUDGMENT (NO PAPER ORDER PROVIDED) - Transaction 4312221 - Approved By: PDBROWN : 02-20-2014:12:23:17
PARTY SUBMITTING: MICHAEL A. ROSENAUER, ESQ.
DATE SUBMITTED: 02-20-14
SUBMITTED BY: PDBROWN
DATE RECEIVED JUDGE OFFICE:
- 13 2/20/2014 - NEF - Proof of Electronic Service
Additional Text: Transaction 4312459 - Approved By: NOREVIEW : 02-20-2014:12:19:15
- 14 2/20/2014 - NEF - Proof of Electronic Service
Additional Text: Transaction 4312479 - Approved By: NOREVIEW : 02-20-2014:12:24:33
- 15 2/20/2014 - 1325 - ** Case Reopened
No additional text exists for this entry.
- 16 3/26/2014 - 1880 - Judgment
Additional Text: Transaction 4361605 - Approved By: NOREVIEW : 03-26-2014:17:04:40
- 17 3/26/2014 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 18 3/26/2014 - NEF - Proof of Electronic Service
Additional Text: Transaction 4361608 - Approved By: NOREVIEW : 03-26-2014:17:05:40
- 19 3/26/2014 - F140 - Adj Summary Judgment
No additional text exists for this entry.
- 20 3/27/2014 - 2535 - Notice of Entry of Judgment
Additional Text: Transaction 4363402 - Approved By: NOREVIEW : 03-27-2014:16:20:52
- 21 3/27/2014 - NEF - Proof of Electronic Service
Additional Text: Transaction 4363406 - Approved By: NOREVIEW : 03-27-2014:16:21:54
- 22 6/7/2021 - 2650 - Opposition to ...
Additional Text: Joseph Naso's Motion to Strike and Dismiss Foul Judgment - Transaction 8483105 - Approved By: YVILORIA : 06-07-2021:16:39:22
- 23 6/7/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8483207 - Approved By: NOREVIEW : 06-07-2021:16:40:09
- 24 6/8/2021 - 2475 - Mtn to Strike...
Additional Text: MOTION TO STRIKE AND DISMISS FOUL JUDGMENT [SIC] - Transaction 8485237 - Approved By: BBLOUGH : 06-08-2021:14:53:00

- 25 6/8/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8485242 - Approved By: NOREVIEW : 06-08-2021:14:53:56
- 26 6/16/2021 - 3860 - Request for Submission
Additional Text: Transaction 8497928 - Approved By: NOREVIEW : 06-16-2021:11:02:26
DOCUMENT TITLE: JOSEPH NAZO'S MOTION TO STRIKE AND DISMISS FOUL JUDGMENT FILED JUNE 7, 2021 OPPOSED ON JUNE 14, 2021
PARTY SUBMITTING: MICHAEL ROSENAUER ESQ
DATE SUBMITTED: 6-16-21
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:
- 27 6/16/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8497932 - Approved By: NOREVIEW : 06-16-2021:11:03:28
- 28 6/22/2021 - 2490 - Motion ...
Additional Text: DEFENDANT'S MOTION IN REPLY TO DIMISS MARIN COUNTY'S MOTION TO SPOSE DEFENDANTS MOTION TO STRIKE AND VOID. MARIN'S FOUL JUDGMENT - Transaction 8505974 - Approved By: KHUDSON : 06-22-2021:08:50:55
- 29 6/22/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8505982 - Approved By: NOREVIEW : 06-22-2021:08:51:58
- 30 8/13/2021 - 3860 - Request for Submission
Additional Text: Transaction 8595192 - Approved By: NOREVIEW : 08-13-2021:14:37:18
DOCUMENT TITLE: ORDER DENYING MOTION TO STRIKE AND DISMISS FOUL JUDGMENT FILED 8/13/2021 (ORDER PROVIDED)
PARTY SUBMITTING: MICHAEL ROSENAUER ESQ
DATE SUBMITTED: 8/13/2021
SUBMITTED BY: CS
DATE RECEIVED JUDGE OFFICE:
- 31 8/13/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8595197 - Approved By: NOREVIEW : 08-13-2021:14:38:17
- 32 8/17/2021 - 2842 - Ord Denying Motion
Additional Text: ORDER DENYING MOTION TO STRIKE AND DISMISS FOUL JUDGMENT - Transaction 8599307 - Approved By: NOREVIEW : 08-17-2021:11:54:33
- 33 8/17/2021 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 34 8/17/2021 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 35 8/17/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8599311 - Approved By: NOREVIEW : 08-17-2021:11:55:21
- 36 8/17/2021 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 8599827 - Approved By: NOREVIEW : 08-17-2021:14:12:58
- 37 8/17/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8599838 - Approved By: NOREVIEW : 08-17-2021:14:13:59
- 38 8/31/2021 - 3795 - Reply...
Additional Text: Transaction 8623547 - Approved By: AZAMORA : 08-31-2021:14:08:47
- 39 8/31/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8623563 - Approved By: NOREVIEW : 08-31-2021:14:09:46

40 9/24/2021 - 2515 - Notice of Appeal Supreme Court

No additional text exists for this entry.

41 9/27/2021 - 1310 - Case Appeal Statement

Additional Text: Transaction 8667477 - Approved By: NOREVIEW : 09-27-2021:14:05:26

42 9/27/2021 - 1350 - Certificate of Clerk

Additional Text: CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 8667477 - Approved By: NOREVIEW : 09-27-2021:14:05:26

43 9/27/2021 - 4113 - District Ct Deficiency Notice

Additional Text: NOTICE OF APPEAL FILING FEES - Transaction 8667477 - Approved By: NOREVIEW : 09-27-2021:14:05:26

44 9/27/2021 - NEF - Proof of Electronic Service

Additional Text: Transaction 8667482 - Approved By: NOREVIEW : 09-27-2021:14:06:30

1 CODE: 2840
2
3
4
5
6
7

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

10 * * * * *

11 COUNTY OF MARIN, CALIFORNIA,
12 Plaintiff,

CASE NO.: CV14-00331

12 v.

DEPT. NO.: 4

13 JOSEPH NASO,
14 Defendant.

15 **ORDER DENYING MOTION TO STRIKE AND DISMISS FOUL JUDGMENT**

16 The Court has reviewed Mr. Naso's "Motion to Strike and Dismiss Foul
17 Judgment" filed June 8, 2021, the Opposition filed by Marin County on June 7, 2012
18 and the Reply thereto filed June 22, 2021.¹ The Court also reviewed the entirety of
19 its file including its Judgment filed March 26, 2013.
20

21 This matter stems from a Judgment entered by The Honorable James T. Chou,
22 Judge of the Superior Court of California, on December 20, 2013. The December 20,
23 2013 Judgement emanates from a post-conviction hearing focusing upon Mr. Naso's
24 obligation to reimburse Marin County for expenses incurred on behalf of Mr. Naso
25
26

27 _____
28 ¹ It appears as the anomaly in filing dates stems from the fact that Mr. Naso's Motion was served May 9, 2021 but was not filed until June 8, 2021. This time difference was probably caused by the fact that Mr. Naso's Motion was served by mail. These dates are irrelevant to the Court's decision.

1 while defending his criminal case alleging special circumstances murder. *See* Order
2 Regarding Payment of Costs of Defense filed December 20, 2013. Mr. Naso argues
3 that Judge Chou declared from the bench that Mr. Naso should not be required to
4 pay the \$170,949.69 in expenses spent by Marin County for services of defense
5 counsel, transcripts, investigation, and witness fees incident to his criminal defense.
6 Motion P.2., 1.3-9. Therefore, and inexplicably, the written Judgment entered by
7 Judge Chou on December 20, 2013, was improper.
8

9 Marin County, in Opposition, submitted a copy of Judge Chou's December 20,
10 2013 Judgment, arguing that the document was executed by Judge Chou and
11 therefore, properly entered. The California Judgment qualified as a Sister State
12 Judgment and pursuant to the United States Constitution Article IV, §1 could be
13 recognized in Nevada. Nevada utilizes the Uniform Enforcement of Foreign
14 Judgments Act which is codified at NRS 17.350 *et seq.* Marin County had complied
15 with all statutory requirements. *See* Judgment of Second Judicial District Court of
16 Nevada P.2., 1.12-14. Judge Chou's December 13, 2013 Judgment was therefore a
17 valid Nevada Judgment.
18
19

20 As authority, Mr. Naso directs the Court to Cal. Jur. 3rd Vol. 40A regarding
21 Void Judgments arguing that judgments entered by Courts that lacked subject
22 matter jurisdiction or personal jurisdiction over the defendant are void. Motion P.3,
23 1. 10-11. When a Court has violated the Defendant's due process rights by not
24 providing Notice or Right to be Heard, the judgment is voidable. Motion P. 3, 1. 7-22.
25

26 Mr. Naso's Motion is a direct attack upon the Nevada Judgment. He asks that
27 it be set aside not because of a procedural irregularity in Nevada, but because it was
28 based upon a Judgment erroneously entered in California by Judge Chou. Nevada

1 Rule of Civil Procedure 60 addresses the entry of judgments and subsection (b)(4)
2 focuses upon void judgments. NRCP 60(c)(1) requires that any Motion to set aside a
3 Judgment under Rule 60(b)(4) must be brought within a reasonable time.² While
4 subject to judicial discretion, the Nevada Supreme Court has found that two years is
5 an unreasonable period of time. *Deal v. Baines*, 110 Nev. 509, 874 P.2d 775 (Nev.
6 1994). In *Baines*, the Supreme Court found that almost two years between the entry
7 of the Judgment and the Motion to Set Aside the Judgment was too long when the
8 Counterclaimant continued to execute on the Counterclaim Defendant's assets for the
9 intervening twenty months. *Baines*, 110 Nev. 509, 512, 874 P.2d 778.

11 In the matter before this Court, Judge Chou's Judgment was established in
12 Nevada on March 26, 2014. Mr. Naso brought his Motion to set the Judgment aside
13 on May 9, 2021.³ More than 7 years had passed from the date the Nevada Judgment
14 was entered and Mr. Naso's Motion to set the Judgment aside. Moreover, and similar
15 to the facts in *Baines*, Mr. Naso had notice of the Nevada Judgment by way of the
16 Nevada levies upon his property and the fact that the Nevada properties are
17 enumerated within both the Nevada and California Judgments. It is undisputed that
18 Mr. Naso received copies of both Judgments and most especially the moving paper in
19 Nevada and the Nevada Judgment itself. *See e.g.* Certificate of Service attached to
20 the Nevada Judgment dated March 26, 2014. In fact, Mr. Naso admits that he was at
21 the December 13, 2013 hearing regarding his assets held before Judge Chou wherein
22 his Nevada assets were specifically discussed. Motion P.2, l. 5-6. Mr. Naso therefore

26
27 ² NRCP 60(b)(1) through (3) Motions must be brought within six months from the date of the Judgment. NRCP
60(c)(1).

28 ³ The Court could apply the Motion's filing date of June 8, 2021 but applying the date of service provides all
deference to Mr. Naso as it decreases the time between the entry of the Nevada Judgment and his Motion.

1 cannot now argue that neither the Nevada nor California Judgments were entered
2 without his knowledge. Mr. Naso was placed on actual notice that his Nevada assets
3 were at risk at Judge Chou's December 13, 2013 hearing and by way of the resulting
4 December 20, 2013 Judgment. Mr. Naso received both procedural due process and
5 had the opportunity to be heard on December 13, 2013. The California Judgment is
6 neither defective nor void.
7

8 While the Court can deny Mr. Naso's Motion on this basis alone, the Court also
9 must observe that Mr. Naso is attacking the sister state (Nevada) judgment, not the
10 domiciliary (California) judgment. An attack upon the California Judgment would
11 have been filed in Marin County, California. Therefore, the only arguments available
12 to Mr. Naso are those which attack the validity of the domiciliary (California)
13 judgment. *See e.g. City of Oakland v. Desert Outdoor Advertising*, 127 Nev. 533 at
14 536, 267 P.3d 48 at ____, (Nev. 2011).
15

16 Here, Mr. Naso's only criticism of the Marin County Judgment entered by
17 Judge Chou is that the California Judgment was somehow entered without Judge
18 Chou's knowledge or was entered by mistake. In reviewing Judge Chou's Judgment,
19 it is clear that it was not entered by mistake. The Judgment specifically finds that
20 Mr. Naso was not indigent when he made the contrary representation at the
21 commencement of his defense to the charge of special circumstances murder. Judge
22 Chou notes that Mr. Naso disposed of a minimum of \$295,465.37 in liquid assets prior
23 to the December 13, 2013 hearing. Judge Chou's Order further enumerates some of
24 Mr. Naso's Nevada real property assets which are subject to lien and subsequent levy.
25 California Order Regarding Payment of Costs of Defense P. 3, l. 14 to P. 4, l. 24.
26 Nothing could be mistaken, especially by Judge Chou's where he used the words,
27
28

1 "Defendant is Ordered to pay the County of Marin \$170,949.69". California Order P.4,
2 1.8.

3 Therefore, based upon the foregoing, this Court finds that Mr. Naso's "Motion
4 to Strike and Dismiss Foul Judgment" is untimely and not supported by applicable
5 law. Mr. Naso's "Motion to Strike and Dismiss Foul Judgment" is hereby DENIED.
6

7 DATED this 17 day of AUGUST, 2021.
8

9 
10 DISTRICT JUDGE
11

12
13 Prepared by:

14 MICHAEL A. ROSENAUER, ESQ.
15 State Bar No. 2782
16 MICHAEL A. ROSENAUER, LTD.
17 510 West Plumb Lane, Suite A
18 Reno, Nevada 89509
19 (775) 324-3303 Telephone
20 (775) 324-6616 Fax
21 michael@mrosenauer.com

22 Attorney for the County of Marin
23
24
25
26
27
28

1 CODE: 2540
2 MICHAEL A. ROSENAUER, ESQ.
State Bar No. 2782
3 MICHAEL A. ROSENAUER, LTD.
4 510 West Plumb Lane, Suite A
Reno, Nevada 89509
5 (775) 324-3303 Telephone
(775) 324-6616 Fax
6 michael@mrosenauer.com

7 Attorney for the County of Marin

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

10 *****

11 COUNTY OF MARIN, CALIFORNIA,
12 Plaintiff,
13 v.

CASE NO.: CV14-00331

DEPT. NO.: 4

13 JOSEPH NASO,
14 Defendant.
15 _____/

16 **NOTICE OF ENTRY OF ORDER DENYING MOTION TO STRIKE AND**
17 **DISMISS FOUL JUDGEMENT**

18 PLEASE TAKE NOTICE that on the 17th day of August 2021, an Order
19 Denying Motion to Strike and Dismiss Foul Judgment (the "Order") was entered in
20 the above-captioned matter.

21 A copy of the Order is attached hereto as **Exhibit "1"**.

22 **AFFIRMATION:** Pursuant to NRS 239B.030, the undersigned does hereby affirm
23 that the preceding document does not contain the Social Security number of any
24 person.

25 DATED this 17th day of August 2021.

26 MICHAEL A. ROSENAUER, LTD.

27 /s/ Michael A. Rosenauer, Esq.
28 MICHAEL A. ROSENAUER, ESQ.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

**NOTICE OF ENTRY OF ORDER DENYING MOTION TO STRIKE AND
DISMISS FOUL JUDGEMENT**

8

9

11

15

16

18

19

20

21

County of Marin California, Plaintiff

V.

Joseph Naso, Defendant

Case No.: CV14-00331

Dept. No: 4

[illegible]

Exhibit “1”

EXHIBIT “1”

1 CODE: 2840
2
3
4
5
6
7

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

10 * * * * *

11 COUNTY OF MARIN, CALIFORNIA,
12 Plaintiff,
13 v.

CASE NO.: CV14-00331

DEPT. NO.: 4

14 JOSEPH NASO,
15 Defendant.
16 _____/

17 **ORDER DENYING MOTION TO STRIKE AND DISMISS FOUL JUDGMENT**

18 The Court has reviewed Mr. Naso's "Motion to Strike and Dismiss Foul
19 Judgment" filed June 8, 2021, the Opposition filed by Marin County on June 7, 2012
20 and the Reply thereto filed June 22, 2021.¹ The Court also reviewed the entirety of
21 its file including its Judgment filed March 26, 2013.

22 This matter stems from a Judgment entered by The Honorable James T. Chou,
23 Judge of the Superior Court of California, on December 20, 2013. The December 20,
24 2013 Judgement emanates from a post-conviction hearing focusing upon Mr. Naso's
25 obligation to reimburse Marin County for expenses incurred on behalf of Mr. Naso
26

27 _____
28 ¹ It appears as the anomaly in filing dates stems from the fact that Mr. Naso's Motion was served May 9, 2021 but was not filed until June 8, 2021. This time difference was probably caused by the fact that Mr. Naso's Motion was served by mail. These dates are irrelevant to the Court's decision.

1 while defending his criminal case alleging special circumstances murder. See Order
2 Regarding Payment of Costs of Defense filed December 20, 2013. Mr. Naso argues
3 that Judge Chou declared from the bench that Mr. Naso should not be required to
4 pay the \$170,949.69 in expenses spent by Marin County for services of defense
5 counsel, transcripts, investigation, and witness fees incident to his criminal defense.
6 Motion P.2., 1.3-9. Therefore, and inexplicably, the written Judgment entered by
7 Judge Chou on December 20, 2013, was improper.
8

9 Marin County, in Opposition, submitted a copy of Judge Chou's December 20,
10 2013 Judgment, arguing that the document was executed by Judge Chou and
11 therefore, properly entered. The California Judgment qualified as a Sister State
12 Judgment and pursuant to the United States Constitution Article IV, §1 could be
13 recognized in Nevada. Nevada utilizes the Uniform Enforcement of Foreign
14 Judgments Act which is codified at NRS 17.350 *et seq.* Marin County had complied
15 with all statutory requirements. See Judgment of Second Judicial District Court of
16 Nevada P.2., 1.12-14. Judge Chou's December 13, 2013 Judgment was therefore a
17 valid Nevada Judgment.
18
19

20 As authority, Mr. Naso directs the Court to Cal. Jur. 3rd Vol. 40A regarding
21 Void Judgments arguing that judgments entered by Courts that lacked subject
22 matter jurisdiction or personal jurisdiction over the defendant are void. Motion P.3,
23 1. 10-11. When a Court has violated the Defendant's due process rights by not
24 providing Notice or Right to be Heard, the judgment is voidable. Motion P. 3, 1. 7-22.
25

26 Mr. Naso's Motion is a direct attack upon the Nevada Judgment. He asks that
27 it be set aside not because of a procedural irregularity in Nevada, but because it was
28 based upon a Judgment erroneously entered in California by Judge Chou. Nevada

1 Rule of Civil Procedure 60 addresses the entry of judgments and subsection (b)(4)
2 focuses upon void judgments. NRCP 60(c)(1) requires that any Motion to set aside a
3 Judgment under Rule 60(b)(4) must be brought within a reasonable time.² While
4 subject to judicial discretion, the Nevada Supreme Court has found that two years is
5 an unreasonable period of time. *Deal v. Baines*, 110 Nev. 509, 874 P.2d 775 (Nev.
6 1994). In *Baines*, the Supreme Court found that almost two years between the entry
7 of the Judgment and the Motion to Set Aside the Judgment was too long when the
8 Counterclaimant continued to execute on the Counterclaim Defendant's assets for the
9 intervening twenty months. *Baines*, 110 Nev. 509, 512, 874 P.2d 778.

11 In the matter before this Court, Judge Chou's Judgment was established in
12 Nevada on March 26, 2014. Mr. Naso brought his Motion to set the Judgment aside
13 on May 9, 2021.³ More than 7 years had passed from the date the Nevada Judgment
14 was entered and Mr. Naso's Motion to set the Judgment aside. Moreover, and similar
15 to the facts in *Baines*, Mr. Naso had notice of the Nevada Judgment by way of the
16 Nevada levies upon his property and the fact that the Nevada properties are
17 enumerated within both the Nevada and California Judgments. It is undisputed that
18 Mr. Naso received copies of both Judgments and most especially the moving paper in
19 Nevada and the Nevada Judgment itself. *See e.g.* Certificate of Service attached to
20 the Nevada Judgment dated March 26, 2014. In fact, Mr. Naso admits that he was at
21 the December 13, 2013 hearing regarding his assets held before Judge Chou wherein
22 his Nevada assets were specifically discussed. Motion P.2, l. 5-6. Mr. Naso therefore

26
27 ² NRCP 60(b)(1) through (3) Motions must be brought within six months from the date of the Judgment. NRCP
60(c)(1).

28 ³ The Court could apply the Motion's filing date of June 8, 2021 but applying the date of service provides all
deference to Mr. Naso as it decreases the time between the entry of the Nevada Judgment and his Motion.

1 cannot now argue that neither the Nevada nor California Judgments were entered
2 without his knowledge. Mr. Naso was placed on actual notice that his Nevada assets
3 were at risk at Judge Chou's December 13, 2013 hearing and by way of the resulting
4 December 20, 2013 Judgment. Mr. Naso received both procedural due process and
5 had the opportunity to be heard on December 13, 2013. The California Judgment is
6 neither defective nor void.
7

8 While the Court can deny Mr. Naso's Motion on this basis alone, the Court also
9 must observe that Mr. Naso is attacking the sister state (Nevada) judgment, not the
10 domiciliary (California) judgment. An attack upon the California Judgment would
11 have been filed in Marin County, California. Therefore, the only arguments available
12 to Mr. Naso are those which attack the validity of the domiciliary (California)
13 judgment. *See e.g. City of Oakland v. Desert Outdoor Advertising*, 127 Nev. 533 at
14 536, 267 P.3d 48 at ____, (Nev. 2011).
15

16 Here, Mr. Naso's only criticism of the Marin County Judgment entered by
17 Judge Chou is that the California Judgment was somehow entered without Judge
18 Chou's knowledge or was entered by mistake. In reviewing Judge Chou's Judgment,
19 it is clear that it was not entered by mistake. The Judgment specifically finds that
20 Mr. Naso was not indigent when he made the contrary representation at the
21 commencement of his defense to the charge of special circumstances murder. Judge
22 Chou notes that Mr. Naso disposed of a minimum of \$295,465.37 in liquid assets prior
23 to the December 13, 2013 hearing. Judge Chou's Order further enumerates some of
24 Mr. Naso's Nevada real property assets which are subject to lien and subsequent levy.
25 California Order Regarding Payment of Costs of Defense P. 3, l. 14 to P. 4, l. 24.
26 Nothing could be mistaken, especially by Judge Chou's where he used the words,
27
28

1 "Defendant is Ordered to pay the County of Marin \$170,949.69". California Order P.4,
2 1.8.

3 Therefore, based upon the foregoing, this Court finds that Mr. Naso's "Motion
4 to Strike and Dismiss Foul Judgment" is untimely and not supported by applicable
5 law. Mr. Naso's "Motion to Strike and Dismiss Foul Judgment" is hereby DENIED.
6

7 DATED this 17 day of AUGUST, 2021.
8

9
10 Connie J. Steinheimer
11 DISTRICT JUDGE
12

13 Prepared by:

14 MICHAEL A. ROSENAUER, ESQ.
15 State Bar No. 2782
16 MICHAEL A. ROSENAUER, LTD.
17 510 West Plumb Lane, Suite A
18 Reno, Nevada 89509
19 (775) 324-3303 Telephone
20 (775) 324-6616 Fax
21 michael@mrosenauer.com

22 Attorney for the County of Marin
23
24
25
26
27
28

1 Code 1350

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

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

COUNTY OF MARIN, CALIFORNIA,

Plaintiff,

Case No. CV14-00331

vs.

Dept. No. 4

JOSEPH NASO,

Defendant.

CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 27th day of September, 2021, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 27th day of September, 2021.

Alicia L. Lerud
Clerk of the Court
By /s/Y.Viloria
Y.Viloria
Deputy Clerk

CIVIL COVER SHEET

Washoe County, Nevada

Case No.

CV14 00331

(Assigned by Clerk's Office)

COPY

I. Party Information

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

DOB:

COUNTY OF MARIN, CALIFORNIA

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

DOB:

JOSEPH NASO

Attorney (name/address/phone):

MICHAEL A ROSENAUER

510 W PLUMB LANE STE A

RENO NV 89509-775 324 3303

Attorney (name/address/phone):

JAN 15 2014

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

☐ Arbitration Requested

Civil Cases

Real Property

- ☐ Landlord/Tenant - LT
- ☐ Unlawful Detainer - UD
- ☐ Title to Property
- ☐ Foreclosure - FC
- ☐ Liens - LE
- ☐ Quiet Title - QT
- ☐ Specific Performance - SP
- ☐ Condemnation/Eminent Domain-CD
- ☐ Other Real Property - RO
- ☐ Partition - PT
- ☐ Planning/Zoning - PZ

Torts

- ☐ Negligence
- ☐ Negligence - Auto - VP
- ☐ Negligence - Medical/Dental - MD
- ☐ Negligence - Premises Liability - SF (Slip/Fall)
- ☐ Negligence - Other - NO
- ☐ Product Liability
- ☐ Product Liability/Motor Vehicle-VH
- ☐ Other Torts/Product Liability - PL
- ☐ Intentional Misconduct
- ☐ Torts/Defamation(Libel/Slander)-DF
- ☐ Interfere with Contract Rights - IR
- ☐ Employment Torts(Wrongful Term)-WT
- ☐ Other Torts - TO
- ☐ Anti-trust - AI
- ☐ Fraud/Misrepresentation - FM
- ☐ Insurance- IN
- ☐ Legal Tort- LG
- ☐ Unfair Competition - UC

Probate

- ☐ Summary Administration - SU
- ☐ General Administration - FA
- ☐ Special Administration - SL
- ☐ Set Aside Estates - SE
- ☐ Trust/Conservatorships
- ☐ Individual Trustee - TR
- ☐ Corporate Trustee - TM
- ☐ Other Probate - OP

Other Civil Filing Types

- ☐ Construction Defect - CF
- ☐ Chapter 40
- ☐ General
- ☐ Breach of Contract
- ☐ Building & Construction - BC
- ☐ Insurance Carrier - BF
- ☐ Commercial Instrument - CI
- ☐ Other Contracts/Acct/Judg. - CO
- ☐ Collection of Actions - CT
- ☐ Employment Contract - EC
- ☐ Guarantee - GU
- ☐ Sale Contract - SC
- ☐ Uniform Commercial Code - UN
- ☐ Civil Petition for Judicial Review
- ☐ Foreclosure Mediation - FO
- ☐ Other Administrative Law - AO
- ☐ Department of Motor Vehicles-DM
- ☐ Worker's Compensation Appeal-SI
- ☐ Appeal from Lower Court
- ☐ Transfer from Justice Court - TJ
- ☐ Justice Court Civil Appeal - CA
- ☐ Civil Writ
- ☐ Other Special Proceeding - SS
- ☐ Other Civil Filing
- ☐ Compromise of Minor's Claim - CM
- ☐ Conversion of Property - CN
- ☐ Damage to Property - DG
- ☐ Employment Security - ES
- ☐ Enforcement of Judgment - EJ
- ☒ Foreign Judgment - Civil - FJ
- ☐ Other Personal Property - PO
- ☐ Recovery of Property - RE
- ☐ Stockholder Suit - ST
- ☐ Other Civil Matters - GC
- ☐ Confession of Judgment - CJ
- ☐ Name Change - Adult - NC
- ☐ Out of State Commission - OS
- ☐ Petition to Seal Criminal Records-PS

III. Business Court Requested (If you check a box below, you must check an additional box above to determine case type.)

- ☐ NRS Chapters 78-88
- ☐ Investments (NRS 104 Art. 8)
- ☐ Enhanced Case Mgmt/Business
- ☐ Commodities (NRS 90)
- ☐ Deceptive Trade Practices (NRS 598)
- ☐ Other Business Court Matters
- ☐ Securities (NRS 90)
- ☐ Trademarks (NRS 600A)

02.13.14

Date

Michael A. Rosemeyer

Signature of initiating party or representative

Code 4132

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

COUNTY OF MARIN, CALIFORNIA,

Case No. CV14-00331

Plaintiff,

Dept. No. 4

vs.

JOSEPH NASO,

Defendant.

NOTICE OF APPEAL DEFICIENCY

TO: Clerk of the Court, Nevada Supreme Court,
and All Parties or their Respective Counsel Of Record:

On September 24th, 2021, Defendant, Joseph Naso, filed a Notice of Appeal with the Court. Plaintiff failed to include the Twenty-Four Dollar (\$24.00) Notice of Appeal filing fee, the Five Hundred Dollar (\$500.00) District Court appeal bond, and the Two Hundred Fifty Dollar (\$250.00) Supreme Court filing fee.

Pursuant to NRAP 3(a)(3), on September 27th, 2021, the Notice of Appeal was filed with the Nevada Supreme Court. By copy of this, Mr. Naso will be notified by mail of the deficiency.

Dated this 27th day of September, 2021.

Alicia L. Lerud
Clerk of the Court

By: /s/Y.Viloria
Y.Viloria
Deputy Clerk

CERTIFICATE OF SERVICE

CASE NO. CV14-00331

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County Of Washoe; that on the 27th day of September, 2021, I electronically filed the Notice of Appeal Deficiency with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

MICHAEL ROSENAUER, ESQ. for COUNTY OF MARIN

Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada:

Joseph Naso, #AR-9737

San Quentin State Prison

1-EB-80

San Quentin, CA 94974

By:/s/Y.Viloria
Y.Viloria
Deputy Clerk