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2 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

3 Electronically Filed  
4 Apr 06 2022 02:58 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

5 JOHN TOWNLEY,

6 Petitioner,

S. Ct. Case No.

7 vs.

Dist. Ct. Case No. DV21-01640

8 SECOND JUDICIAL DISTRICT COURT  
9 OF THE STATE OF NEVADA, IN AND  
10 FOR THE COUNTY OF WASHOE, THE  
HONORABLE CYNTHIA LU,  
ACTING DISTRICT JUDGE,  
FAMILY COURT DIVISION, DEPT. 5,

11 Respondents,

12 and

ROCHELLE MEZZANO,

13 Real Party in Interest.  
14 \_\_\_\_\_/

15 **PETITIONER'S APPENDIX**

16 SILVERMAN KATTELMAN SPRINGGATE, CHTD.

17 Alexander C. Morey

18 Nevada Bar No. 11216

500 Damonte Ranch Parkway, Suite 675

19 Reno, Nevada 89521

(775) 322-3223

20 Attorneys for Petitioner  
21  
22

Petitioner, John Townley, by and through his counsel, Alexander C. Morey, Esq. of Silverman Kattelman Springgate, Chtd. hereby offers the following documents as Petitioner's Appendix.

#### INDEX TO PETITIONER'S APPENDIX

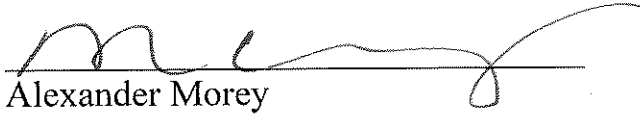
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Summons	10/28/19	1	006-009
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Proof of Service	12/10/21	1	028-040
Specially Appearing Defendant's Motion to Quash Service of Summons and Complaint	12/28/21	1	041-043
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Respectfully submitted.

Dated this 6<sup>th</sup> day of April, 2022.

SILVERMAN KATTELMAN SPRINGGATE CHTD.



Alexander Morey  
500 Damonte Ranch Pkwy. #675  
Reno, NV 89521  
775.322.3223  
amorey@sk-s-reno.com

1 **CERTIFICATE OF SERVICE**

2  
3 I hereby certify that I am an employee of Silverman, Kattelman Springgate,  
4 Chtd, and on the date set forth below, I served a true copy of the foregoing  
5  
6 Petitioner's Appendix the party(ies) identified below by:

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

10  
11 — Electronically, through the Court's ECF system.

12  
13 — Email:

14 addressed to:

15  
16 Second Judicial District Court  
17 State of Nevada, Family Division  
18 Department 5  
19 The Honorable Judge Cynthia Lu  
20 75 Court Street (mailing)  
21 One South Sierra St.  
22 Reno, NV 89501

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

*Counsel for Real Party in Interest*

23 Clerk of the Court  
24 Second Judicial District Court  
25 75 Court Street  
26 Reno, NV 89501

27 Dated this 6 day of April 2022.

28   
Toni Matts

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.**

10 **vs.**

**Dept.**

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 **COMPLAINT FOR DIVORCE**  
21 **(no children)**

22 **John Townley, by and through counsel, avers as follows:**

23 **1. JURISDICTION OF THE COURT.** Plaintiff is a resident of the State of  
24 Nevada. For a period of more than six weeks before commencement of this action  
25 Plaintiff has resided in the State of Nevada and now resides here. During the period of  
26 residency, Plaintiff had, and still has, the intent to make Nevada Plaintiff's home,  
27 residence, and domicile for an indefinite time.

28 **2. DOE DEFENDANTS.** The true names and capacities of the Doe Defendants are  
unknown to Plaintiff at this time. Plaintiff is informed and believes that each of the Doe  
Defendants is or has been the officer, director, partner, trustee, agent, servant, employee,

1 principal or alter ego of one or more of the other Defendants, or was a person, firm or  
2 corporation which did, or participated in the acts or omissions hereinafter described; or  
3 otherwise own, hold, or have possession of property and income of the community, and  
4 at such time as their true names and capacities become known to Plaintiff, Plaintiff will  
5 seek to amend the Complaint to insert the true names and capacities of the Doe  
6 Defendants. The Doe Defendants are herewith served in all such capacities as well as  
7 individually.

8 3. OTHER DEFENDANTS. All Defendants duly named are persons and entities  
9 which continuously and systematically conduct business within the State of Nevada.  
10 Plaintiff is informed and believes that those duly named entities and individuals hold,  
11 maintain, or possess investment accounts, assets, and/or property belonging to or held in  
12 the name of Plaintiff and/or Defendant, or their community estate, which property is at  
13 issue in these dissolution of marriage proceedings. Said Defendants are joined to the  
14 present lawsuit for the purposes of effecting a complete distribution of Plaintiff=s  
15 separate and community property and interests, and for the enforcement of any financial  
16 restraining orders obtained by either Plaintiff or Defendant during these proceedings. See  
17 *Guerin v. Guerin*, 118 Nev. 127 (1998).

18 4. MARRIAGE. Plaintiff and Defendant married in the City of Reno, County  
19 of Washoe, State of Nevada in the year 2000. Plaintiff recalls the ceremony being  
20 conducted in the summer or fall of that year. Plaintiff recalls the parties obtained a  
21 marriage license and participated in a ceremony with a person authorized to conduct  
22 marriages and completed a marriage certificate which they intended to but never filed  
23 after their honeymoon. Plaintiff and Defendant now are husband and wife.

24 5. CHILDREN. Plaintiff and Defendant have no minor children of their  
25 relationship. To the best of Plaintiff's knowledge, Defendant is not pregnant.

26 6. COMMUNITY PROPERTY AND DEBTS. Community assets and liabilities  
27 exist and should be awarded pursuant to law. If warranted by facts which show that  
28 Defendant caused economic harm to the community estate or which show any other

1 compelling reason, (1) an unequal division of the community assets or liabilities and/or  
2 reimbursement and restitution to the community, or (2) general, special, or punitive  
3 damages should be made in Plaintiff's favor from Defendant's post-division property.

4 7. SEPARATE PROPERTY AND DEBTS. Separate assets and liabilities exist  
5 and should be awarded pursuant to law. If warranted by facts which show that Defendant  
6 caused economic harm to Plaintiff's separate estate or which show any other compelling  
7 reason, (1) an unequal division of the community assets or liabilities and/or  
8 reimbursement or restitution from Defendant's post-division property, or (2) general,  
9 special, or punitive damages should be made in Plaintiff's favor from Defendant's post-  
10 division property.

11 8. PENDING CASES. To the best of Plaintiff's knowledge, there are no  
12 previous or pending cases in any court between the parties or the subject matter of this  
13 dispute.

14 9. LITIGATION FEES AND COSTS. Plaintiff has retained the firm of  
15 Silverman Kattelman Springgate, Chtd. to perform legal services in connection with this  
16 divorce and has incurred and will incur attorney's fees and costs for those services,  
17 including but not limited to this Complaint, interim motions for necessary immediate  
18 relief, discovery, preparation for court appearances, and court appearances. Defendant  
19 should be required to pay those fees and costs.

20 10. GROUNDS FOR DIVORCE. The parties are incompatible in marriage.

21 WHEREFORE, Plaintiff prays and demands judgment as follows:

22 1. That this marriage be dissolved and a decree of divorce granted to Plaintiff.

23 2. That community and separate property and debts be awarded pursuant to  
24 law.

25 3. That Defendant be ordered to pay Plaintiff's litigation fees and costs.


26 4. For such other and further relief as this Court deems just and proper.

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Dated this 24<sup>th</sup> day of September 2019.

  
ALEXANDER C. MOREY  
ATTORNEY FOR PLAINTIFF



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VERIFICATION

STATE OF NEVADA )

: ss

COUNTY OF WASHOE )

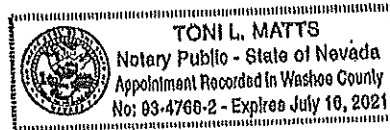
COMES NOW JOHN TOWNLEY, being first duly sworn under penalty of perjury and deposes and says:

1. I am the Plaintiff herein.
2. I make this verification of my own personal knowledge, information and belief.
3. I have read the foregoing Complaint for Divorce and know the contents thereof, and the same is true of my own knowledge, except those matters therein stated upon information and belief, and as to those matters I believe them to be true.
4. I do hereby swear under penalty of perjury that the assertions set forth in this Verification are true.

Subscribed and sworn to before me

By John Townley

this 24 day of Sept 2019,



Notary Public

Code: 4085

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

John Townley  
Plaintiff / Petitioner / Joint Petitioner,

Case No. DV19-01564

vs.

Dept. No. 13

Rochelle Mezzano, et al.  
Defendant / Respondent / Joint Petitioner.

SUMMONS

**TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 21 DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.**

A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that document (see complaint or petition). When service is by publication, add a brief statement of the object of the action.

The object of this action is: DIVORCE

1. If you intend to defend this lawsuit, you must do the following within 21 days after service of this summons, exclusive of the day of service:
  - a. File with the Clerk of the Court, whose address is shown below, a **formal written answer** to the complaint or petition, along with the appropriate filing fees, in accordance with the rules of the Court, and;
  - b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address is shown below.
2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the complaint or petition.

Dated this 2nd day of October, 2019.

Issued on behalf of Plaintiff(s):

Alexander Morey  
Name: Sliverman-Kattelman-Springgate, Chld.  
Address: 500 Demonte Ranch Parkway, Suite 675  
Reno, Nevada 89521  
Phone Number: 775-322-3223  
Email: \_\_\_\_\_

JACQUELINE BRYANT  
CLERK OF THE COURT

By: [Signature]  
Deputy Clerk  
Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

1 STATE OF NEVADA }

2 } ss.

AFFIDAVIT OF SERVICE

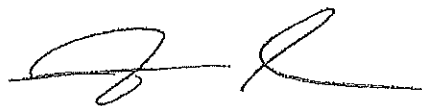
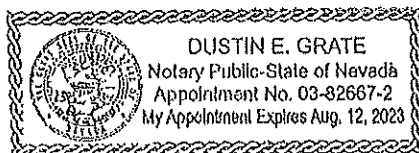
3 COUNTY OF WASHOE }

4  
5 I, Ashleigh Snover, being duly sworn says: That at all times herein affiant was and is a citizen of the  
6 United States, over 18 years of age, not a party to or interest in the proceeding in which this  
7 affidavit is made. That affiant received 1 copy(ies) of the **Summons, Complaint for Divorce,**  
8 **Order of Recusal, Order of Recusal and Random Reassignment, Case Assignment Notification**  
9 **x3, Motion to Seal File and Make Trial Private, Preemptory Challenge of Judge, and Request for**  
10 **Submission**, received on the 3rd day of October, 2019, and served the same on the 4th  
11 day of October, 2019, by: Ashleigh Snover

12 1. Delivering and leaving a copy posted on the Defendant's, ( Rochelle Mezzano ) Front  
13 Door at (state address) 735 Aesop Court Reno, Nevada 89512 Served with: **Summons,**  
14 **Complaint for Divorce, Order of Recusal, Order of Recusal and Random Reassignment, Case**  
15 **Assignment Notification x3, Motion to Seal File and Make Trial Private, Preemptory Challenge**  
16 **of Judge, and Request for Submission.**

17 - On the 4<sup>th</sup> Day of October, 2019, I arrived at 735 Aesop Court and as I approached  
18 the front door, an older white male came out. He stated that he was not sure if Rochelle was  
19 home and that he was hired to do work on the house. He then yelled Rochelle's name through  
20 the house and she replied "Yes?" When the male stated she had a "Young lady here to see  
21 you," Rochelle stated that she was not taking visitors and to text her. He then told her, "She  
22 has something she needs to give you." We did not say what it was or who I was and  
23 Rochelle's Response was "No thank you, I don't want it." She did not come to the door at all  
24 so I did not personally see her but her responding to the contractor proved that she did reside  
25 there. So at 11:37 AM I posted the serve on her front door and departed the property.  
26  
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31 Suscribed and Sworn Before me  
32 This 2 Day of October, 2019  
33  
34



Signature of person making service

Ashleigh Snover

Grate Detections LLC P.I. # 1782

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

3 AFFIRMATION

4 (NRS 239B.030)

5 The undersigned does hereby affirm that the document titled:

6 Summons

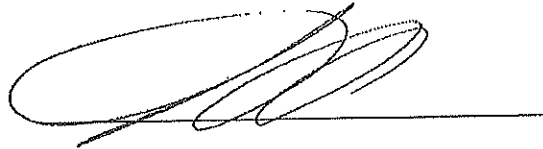
- 7 ☒ Does not contain the social security number of any person  
8 ☐ Contains the social security number of a person as required by:  
9 ☐ A specific state or federal law, to-wit: \_\_\_\_\_  
10 ☐ For the administration of a public program  
11 ☐ For an application for federal or state grant  
12 ☐ Confidential Family Court Information Sheet

13 (NRS 125.130, NRS 125.230 and NRS 125B.055)

14 Dated this 25 day of October, 2019.

15 SILVERMAN KATTELMAN SPRINGGATE, CHTD.

16  
17  
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19  
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22  
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24  
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28



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 Summons 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

9  
10 \_\_\_\_\_ Hand Delivery

11 \_\_\_\_\_ Facsimile to the following numbers:

12 \_\_\_\_\_ Federal Express or other overnight delivery

13 \_\_\_\_\_ Reno Carson Messenger Service

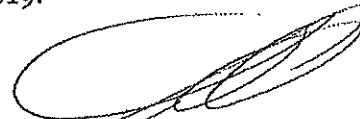
14 \_\_\_\_\_ Certified Mail, Return receipt requested

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

16  
17 addressed to:

18 Rochelle Mezzano  
19 735 Aesop Ct.  
20 Reno, NV 89512

21 Dated this 28 day of October 2019.

22  
23   
24 \_\_\_\_\_

**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](mailto:RochelleMezzano@Yahoo.com)>

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

To: [Info@SierraMediation.com](mailto:Info@SierraMediation.com), [renorealtors@yahoo.com](mailto:renorealtors@yahoo.com)

Subject: Mediation

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.  
3 500 Damonte Ranch Parkway, Suite 675  
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 **DEFAULT**

19 It appearing the Defendant is in default for failure to plead or otherwise defend as  
20 required by law, default is entered against the Defendant, Rochelle Mezzano.

21 Under NRS 239B.030 the undersigned affirms the preceding contains no social  
22 security number.

23 Dated this 1<sup>st</sup> day of November 2019.

24 JACQUELINE BRYANT

25   
26 Deputy Clerk  
27  
28



FILED  
Electronically  
DV19-01564  
2021-12-02 04:09:14 PM  
Alicia L. Lerud  
Clerk of the Court  
Transaction # 8778083

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROCHELLE MEZZANO,  
Appellant,  
vs.  
JOHN TOWNLEY,  
Respondent.

No. 81379

FILED

OCT 27 2021

ORDER OF REVERSAL AND REMAND

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

This is an appeal from a district court order denying a motion to set aside a default divorce decree. Second Judicial District Court, Family Court Division, Washoe County; Bridget E. Robb, Judge.

In September 2019, respondent John Townley filed a complaint seeking a divorce from appellant Rochelle Mezzano. In October 2019, a process server went to Mezzano's residence to serve her. When the process server arrived, a repairperson working inside the residence came out and spoke to the process server. The repairperson was unsure whether Mezzano was home, so he shouted her name, and she replied. The repairperson called out, a "[y]oung lady [is] here to see you," to which Mezzano replied that "she was not taking visitors and to text her." The repairperson then called out that "[s]he has something she needs to give you." Mezzano replied, "[n]o thank you, I don't want it." Mezzano did not come to the door. The process server then posted the summons and complaint on Mezzano's front door. The process server admitted, "[w]e did not say what it was or who I was." Later that day, Mezzano emailed Townley stating, "I got served papers today. I have [20] 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?"

Townley and Mezzano agreed to meet in counsel's office on October 22, 2019, to discuss resolving the case; however, Mezzano did not appear. Townley served Mezzano by mail with several documents relating to the case over a six-week period, including a notice of intent to take a default, the resulting default, and an application for a default judgment. Mezzano did not reply to any of these documents. On December 11, 2019, the court held a hearing on Townley's application for default judgment, after which it entered a default divorce decree. The next day, Townley served notice of entry of the divorce decree on Mezzano by mail and email.

On January 4, 2020, Townley's counsel received a letter from an attorney stating that he represented Mezzano and intended to move to set aside the default judgment and asking if Townley would stipulate thereto. On March 4, 2020, Townley personally served Mezzano with copies of several motions seeking to enforce the default divorce decree. Mezzano's counsel filed a notice of appearance on March 13, and filed a motion to set aside the default judgment on March 23, arguing that the default judgment was void because Townley did not properly serve Mezzano. Townley opposed, arguing that Mezzano did not file her motion to set aside the default judgment within a reasonable time and that she acknowledged service in her email to Townley.

The district court denied the motion, finding that posting the documents on the door was effective service under the circumstances. The court further found that Mezzano admitted to service by emailing Townley that she "got served papers today." The district court alternatively found that Mezzano failed to file the motion within a reasonable time, as she

waited two months after contacting Townley's counsel to take any action even though all the facts she relied on in her motion were within her knowledge.

We review a district court's decision whether to set aside a judgment under NRCP 60 for an abuse of discretion. *Kaur v. Singh*, 136 Nev., Adv. Op. 77, 477 P.3d 358, 361 (2020). A district court abuses its discretion when it incorrectly applies the law. *Gunderson v. D.R. Horton, Inc.*, 130 Nev. 67, 80, 319 P.3d 606, 615 (2014).

*Mezzano filed her motion to set aside the default judgment within a reasonable time*

Mezzano filed her motion to set aside the default judgment only three months after the district court entered the default judgment, and two months after she retained counsel and became aware that the service of process may have been faulty. On these facts, the motion was timely. See NRCP 60(c) (requiring that a motion to set aside be filed within six months of the judgment's entry if it alleges fraud, mistake, or new evidence, or within a reasonable time if it alleges that the judgment is void); *Kaur*, 136 Nev., Adv. Op. 77, 477 P.3d at 360-62 (affirming a district court order setting aside a 14-year-old divorce decree because the movant filed the motion to set aside the decree two months after discovering the basis for the motion, which the district court properly determined met NRCP 60(c)'s "within a reasonable time" requirement).

*Townley did not properly serve Mezzano*

Townley argues that service was proper because: (1) Mezzano was aware that Townley was proceeding with a divorce; (2) she was home when the process server arrived; (3) she was told that the person at her door needed to give her something; (4) she refused to come to the door; (5) the process server left the documents on her door; and (6) Mezzano took

possession of the documents and confirmed receipt of them to Townley. We disagree.

Under these circumstances, service by posting the documents on the door of Mezzano's residence did not meet the requirements of NRCP 4.2(a). The process server did not speak with Mezzano or personally serve the documents on Mezzano. While the process server posted the summons and complaint on Mezzano's door, the process server admitted that she did not announce her purpose or the nature of the documents to Mezzano. Accordingly, Townley failed to serve Mezzano properly. See NRCP 4.2(a)(1)-(3) (providing that service on an individual defendant is proper if the plaintiff personally serves the defendant, leaves the service at the defendant's dwelling with a person of suitable age and discretion residing at the abode, or delivers service to an authorized agent). To the extent that Townley alleges that Mezzano's refusal to come to the door demonstrates that she was evading service, posting the documents on the door was still ineffective here. See *Norris v. Causey*, 869 F.3d 360, 369-70 (5th Cir. 2017)<sup>1</sup> (holding that a plaintiff properly serves a defendant who is evading service if "the process server announces the nature of the documents and leaves them in close proximity to the defiant defendant"); cf. *Weiss v. Glemp*, 792 F. Supp. 215, 223-25 (S.D.N.Y. 1992) (holding that service was improper where the defendant was not trying to evade service because the manner of service was not reasonably calculated to give notice, and (1) the defendant

---


<sup>1</sup>"Federal cases interpreting the Federal Rules of Civil Procedure are strong persuasive authority, because the [NRCP] are based in large part upon their federal counterparts." *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 872, 876 (2002) (internal quotations and citation omitted).

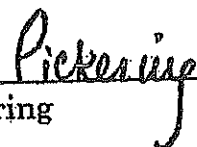
did not know that someone was attempting to give him official court papers, (2) the papers were not given to him, and (3) the papers did not touch him).


Moreover, Mezzano's acknowledgment that she found the summons and complaint is insufficient because "actual notice of a suit is not an effective substitute for service of process." *Abreu v. Gilmer*, 115 Nev. 308, 314 n.5, 985 P.2d 746, 749 n.5 (1999). Thus, the district court abused its discretion by denying Mezzano's motion because the judgment was void for lack of service. *See Browning v. Dixon*, 114 Nev. 213, 218, 954 P.2d 741, 744 (1998) (concluding that when a party obtains a default judgment through improper service of process, the judgment is void and must be set aside).

Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

  
\_\_\_\_\_, J.  
Cadish

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Herndon

cc: Hon. Bridget E. Robb, District Judge, Family Court Division  
Margaret M. Crowley, Settlement Judge  
Law Offices of F. Peter James, Esq.  
Silverman, Kattelman, Springgate, Chtd.  
Washoe District Court Clerk

Code:  
1 Gary R. Silverman (NSB# 409) Michael V. Kattelman (NSB#6703)  
John P. Springgate (NSB# 1350) Alexander C. Moray (NSB#11216)  
2 Kanton Kavarasch (NSB#13516) Benjamin Albers (NSB#11895)  
Silverman Kattelman Springgate, Chtd.  
3 500 Damonte Ranch Parkway, Suite 675  
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.

10 vs.

Dept.

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

16 Defendants.

17  
18 **COMPLAINT**  
19 **(No Children)**

20 John Townley, by and through counsel, avers as follows:

21 **FIRST CAUSE OF ACTION**  
22 **(ANNULMENT / DETERMINATION OF**  
23 **PUTATIVE SPOUSE PROPERTY RIGHTS)**

24 1. JURISDICTION OF THE COURT. Plaintiff is a resident of the State of  
25 Nevada. For a period of more than six weeks before commencement of this action Plaintiff  
26 has resided in the State of Nevada and now resides here. During the period of residency,  
27 Plaintiff had, and still has, the intent to make Nevada Plaintiff's home, residence, and  
28 domicile for an indefinite time. Further, the conduct giving rise to the putative spouse

1 property claims described herein occurred in Washoe County, Nevada, including, as  
2 described more fully below, the parties' putative marriage, the parties holding themselves  
3 out as married, participating in business activities, and making their homes.

4 2. DOE DEFENDANTS. The true names and capacities of the Doe Defendants are  
5 unknown to Plaintiff at this time. Plaintiff is informed and believes that each of the Doe  
6 Defendants is or has been the officer, director, partner, trustee, agent, servant, employee,  
7 principal or alter ego of one or more of the other Defendants, or was a person, firm or  
8 corporation which did, or participated in the acts or omissions hereinafter described; or  
9 otherwise own, hold, or have possession of property and income of the community, and  
10 at such time as their true names and capacities become known to Plaintiff, Plaintiff will  
11 seek to amend the Complaint to insert the true names and capacities of the Doe  
12 Defendants. The Doe Defendants are herewith served in all such capacities as well as  
13 individually.

14 3. OTHER DEFENDANTS. All Defendants duly named are persons and entities  
15 which continuously and systematically conduct business within the State of Nevada.  
16 Plaintiff is informed and believes that those duly named entities and individuals hold,  
17 maintain, or possess investment accounts, assets, and/or property belonging to or held in  
18 the name of Plaintiff and/or Defendant, or their community estate, which property is at  
19 issue in these dissolution of marriage proceedings. Said Defendants are joined to the  
20 present lawsuit for the purposes of effecting a complete distribution of Plaintiff's  
21 separate and community property and interests, and for the enforcement of any financial  
22 restraining orders obtained by either Plaintiff or Defendant during these proceedings. See  
23 *Guerin v. Guerin*, 118 Nev. 127 (1998).

24 4. INEFFECTIVE MARRIAGE. Plaintiff and Defendant, to the best of Plaintiff's  
25 recollection, participated in a marriage ceremony married in the City of Reno, County of  
26 Washoe, State of Nevada in the year 2000. Plaintiff recalls the parties obtained a marriage  
27 license. County records indicate the parties applied for a marriage on or about July 3,  
28 1999. (Exhibit "1") Plaintiff believed but did not verify the person who conducted the

ceremony was a person authorized to conduct marriages; however, Plaintiff cannot recall the place of marriage, the name of the officiant, the officiant's title, or whether there was a witness present. Plaintiff further recalls the officiant providing Plaintiff and Defendant a marriage certificate, which they took rather than pay the fee for the officiant to file the certificate. No marriage certificate was ever filed. There being no recorded marriage certificate establishing a person authorized to solemnize marriages did so or that the solemnization was appropriately witnessed, Plaintiff is entitled to a decree recognizing and declaring the parties were not legally married and never were husband and wife.

5. PUTATIVE SPOUSES. Plaintiff and Defendant participated in a marriage ceremony in the City of Reno, County of Washoe, State of Nevada in the year 2000. Plaintiff believed, in good faith, he and Defendant were legally married. Plaintiff and Defendant thereafter held themselves out as husband and wife and acted as husband and wife. The marriage, as described in paragraph 4, was not validly solemnized. Therefore, Plaintiff and Defendant were putative spouses.

6. DIVISION OF PROPERTY. The property acquired by the parties during their putative marriage which would be community property had they validly married should be divided pursuant to the laws for the division of community property in the State of Nevada. That property includes the following real property ownership and title to which is in contest in this action:

a. 735 Aesop Ct. Reno, NV APN:003-431-10  
Reno, NV 89512

b. 670 Valley Road, Reno, NV APN: 008-181-25  
Reno, NV 89512

7. CONFIRMATION OF OTHER PROPERTY. The property held by either party which would be their separate property had they validly married should be confirmed to the owner pursuant to the laws for confirmation of separate property in the State of Nevada.

8. LITIGATION FEES AND COSTS. Plaintiff has retained the firm of Silverman Kattelman Springgate, Chtd. to perform legal services in connection with this action and



1 has incurred and will incur attorney's fees and costs for those services, including but not  
2 limited to this Complaint, interim motions for necessary immediate relief, discovery,  
3 preparation for court appearances, and court appearances. Defendant should be required  
4 to pay those fees and costs.

5 **FIRST ALTERNATIVE CAUSE OF ACTION**

6 **(DIVORCE)**

7 9. Plaintiff hereby merges, incorporates, restates, and realleges the allegations  
8 made in paragraphs 1 through 8 as though fully set forth at this point.

9 10. CHILDREN. Plaintiff and Defendant have no minor children of their  
10 relationship. To the best of Plaintiff's knowledge, Defendant is not pregnant.

11 11. COMMUNITY PROPERTY AND DEBTS. Provided the Court determines  
12 the parties are legally married, community assets and liabilities exist and should be  
13 awarded pursuant to law. That property includes the following real property ownership  
14 and title to which is in contest in this action:

15 a. 735 Aesop Ct. Reno, NV APN:003-431-10  
16 Reno, NV 89512

17 b. 670 Valley Road, Reno, NV APN: 008-181-25  
18 Reno, NV 89512

19 12. SEPARATE PROPERTY AND DEBTS. Separate assets and liabilities exist  
20 and should be awarded pursuant to law.

21 13. PENDING CASES. To the best of Plaintiff's knowledge, there is one  
22 previous or pending case between the parties or the subject matter of this dispute, to wit:  
23 Case No. DV19-01564, Second Judicial District Court of the State of Nevada, Washoe  
24 County.

25 14. LITIGATION FEES AND COSTS. Plaintiff has retained the firm of  
26 Silverman Kattelman Springgate, Chtd. to perform legal services in connection with this  
27 divorce and has incurred and will incur attorney's fees and costs for those services,  
28 including but not limited to this Complaint, interim motions for necessary immediate

1 relief, discovery, preparation for court appearances, and court appearances. Defendant  
2 should be required to pay those fees and costs.

3 15. GROUNDS FOR DIVORCE. The parties are incompatible in marriage.

4 WHEREFORE, Plaintiff prays for and demands judgment as follows:

5 1. Entry of a decree declaring the parties did not legally marry and are not and  
6 never were husband and wife;

7 2. Entry of a decree determining the parties were putative spouses from the time  
8 of their marriage ceremony in the year 2000 through the filing of this Complaint;

9 3. Entry of a decree dividing the property acquired by the parties during their  
10 putative marriage which would be community property had they validly married should  
11 be divided pursuant to the laws for the division of community property in the State of  
12 Nevada;

13 4. Entry of a decree confirming the property held by either party which would be  
14 their separate property had they validly married should be confirmed to the owner  
15 pursuant to the laws for confirmation of separate property in the State of Nevada;

16 5. Entry of a decree requiring Defendant to pay Plaintiff's attorney's fees and costs  
17 incurred in this action; and

18 6. Entry of a decree granting Plaintiff further and additional relief deemed  
19 necessary and just.

20 In the alternative, if and only if, the Court determines the parties were legally  
21 married, Plaintiff prays for and demands judgment as follows:

22 1. Entry of a decree dissolving the parties' marriage and granting a decree of  
23 divorce to Plaintiff;

24 2. Entry of a decree awarding the parties' community and separate property and  
25 debts be pursuant to law;

26 3. Entry of a decree requiring Defendant to pay Plaintiff's litigation fees and costs  
27 incurred in this action; and

28

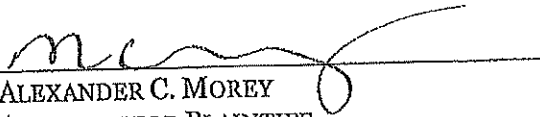
1 4. Entry of a decree granting Plaintiff further and additional relief deemed  
2 necessary and just.

3 **AFFIRMATION**

4 The undersigned affirms this Complaint (No Children) contains no social security  
5 numbers.

6 Dated this 9 day of November 2021.

7 SILVERMAN KATTELMAN SPRINGGATE, CHTD.  
8

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10   
11 ALEXANDER C. MOREY  
12 ATTORNEY FOR PLAINTIFF  
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VERIFICATION

STATE OF NEVADA )

: ss

COUNTY OF WASHOE )

COMES NOW JOHN TOWNLEY, being first duly sworn under penalty of perjury  
and deposes and says:

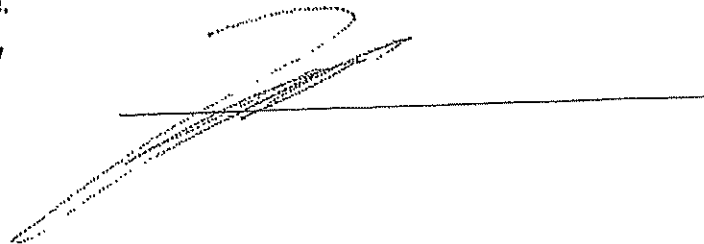
1. I am the Plaintiff herein.

2. I make this verification of my own personal knowledge, information and  
belief.

3. I have read the foregoing Complaint (No Children) and know the contents  
thereof, and the same is true of my own knowledge, except those matters therein stated  
upon information and belief, and as to those matters I believe them to be true.

4. I do hereby swear under penalty of perjury that the assertions set forth in  
this Verification are true.

11/9/21



# INDEX OF EXHIBITS

Exhibit Number	Description	Number of Pages
1	County Records information	1
2		
3		
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6		
7		
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9		

FILED  
Electronically  
DV21-01640  
2021-11-09 03:21:27 PM  
Alicia L. Lerud  
Clerk of the Court  
Transaction # 8741728 : yvlloria

EXHIBIT 1

[Return to Search Results](#)

You searched for: exact search in GroomLastNameID for townley and exact search in BrideLastNameID for mezzano and AssumedNameVerID is false and SecAssmNameVerID is false and docsearchPOST.DocTypeSearchOver=Certificate of Search FFN, Certificate of Search Marriage, Emergency Marriage Application, Fictitious Firm Name - Manual, Fictitious Firm Name, and 31 more

One item found.1

Description	Summary
Marriage Application MA99-11571	07/03/1999 07:33:19 PM JOHN TOWNLEY married to ROCHELLE MEZZANO

One item found.1

[Return to Search Results](#)

Code:  
1 Gary R. Silverman (NSB# 409) Michael V. Kattelmann (NSB#6703)  
John P. Springgate (NSB# 1350) Alexander C. Morey (NSB#11216)  
2 Kenton Karraseh (NSB#13516) Benjamin Albays (NSB#11896)  
Silverman Kattelmann Springgate, Chtd.  
500 Damonte Ranch Parkway, Suite 675  
3 Reno, Nevada 89521  
Telephone: 776/322-3223  
4 Facsimile: 776/322-3649  
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. DV21-01640

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,  
and such other individuals or entities  
as may exist or be formed

17 Defendants.

18  
19 PROOF OF SERVICE

20 ///

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1 I then approached the front door, actively recording this entire event. I came into full  
2 clear view of Ms. Mezzano standing in her doorway of the front door. I instructed Ms.  
3 Mezzano that she was positively identified as Rochelle Mezzano.

4 I then asked Ms. Mezzano if she wanted to come outside at take the legal documents  
5 that I held clearly in my left hand in front of her 3 feet away. I then explained to Rochelle  
6 Mezzano that she was positively identified and that she has been legally served with the  
7 documents I held in my left hand. I then asked Ms. Mezzano if she was willing to take them  
8 from me or if I should just drop them on her front doorstep.

9 Ms. Mezzano refused to answer me and then turned to close the front door. I then  
10 instructed Ms. Mezzano that I was going to leave her legal documents upon the front  
11 doorstep as she had once again been positively identified and that she was legally served.  
12 Ms. Mezzano closed the door behind her.

13 Mr. Debord and myself left the residence at that time where I took up my position of  
14 surveillance and observed at approximately 1:20pm the adult black male opened the front  
15 screen door and pick up the papers that were left on the front step per the discussion I had  
16 with Ms. Mezzano before she walked back inside to close the door behind her.

17 Attachments to this affidavit are screen shots of the video of positively identifying  
18 Ms. Mezzano along with photos taken during the service. Also included are photos taken of  
19 the adult black male opening the front door and taking inside the papers left with Ms.  
20 Mezzano at 12:56pm.

1 Included via dropbox to Toni Matts of Silverman Kattelman Springgate, chtd. Is a  
2 copy of the photos and video taken during the legal service upon Rochelle Mezzano.  
3

4 Attachments:

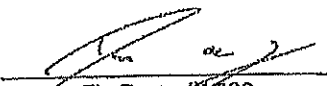
- 5 (1) Printed page of (8) photos of service  
6 (2) (1) video provided to Toni Matts of Silverman Kattelman Springgate, chtd via  
7 dropbox link.  
8 (3) Washoe County Assesors office printout.

9 Served with the following documents:

- 10 1. Summons, Complaint (no children), Notice of Case Management Conference,  
11 Request for submission, Ex Parte Motion for Entry of Joint Preliminary  
12 Injunction, Joint Preliminary Injunction.  
13

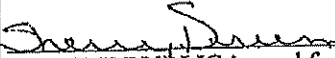
14 I declare under penalty of perjury of the laws of the State of Nevada that the  
15 foregoing is true and correct.  
16

17 Dated: 12-10-2021

18   
19 Dustin E. Grate #1782  
Grate Detections, LLC

20 SUBSCRIBED AND SWORN to before me this  
21 10 day of December 2021



22  Washoe Co. NV  
23 NOTARY PUBLIC in and for the said County and State  
24  
25

///  
///  
///

**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 Proof of Service the party(ies) identified below by:

X 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

— Electronically, using Supreme Court's Eflex system.

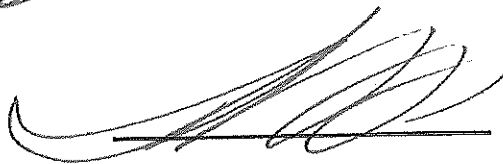
— Email:

addressed to:

Rochelle Mezzano  
735 Aesop Court  
Reno, NV 89512

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

Dated this 10 day of Dec 2021.

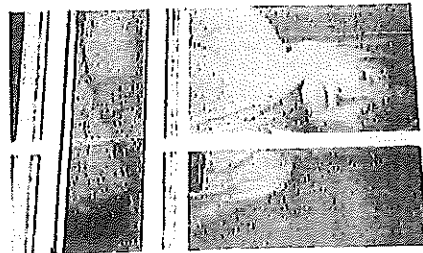
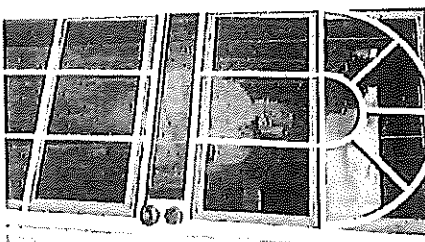
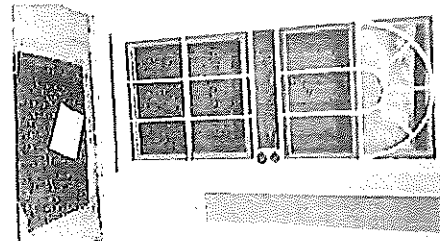
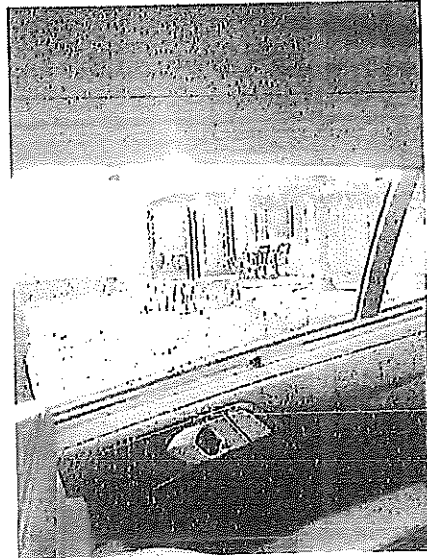
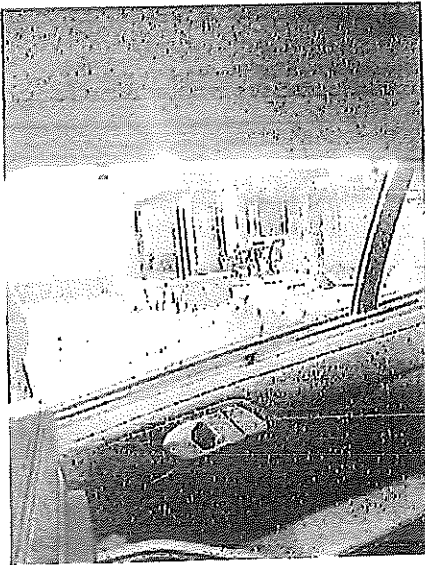
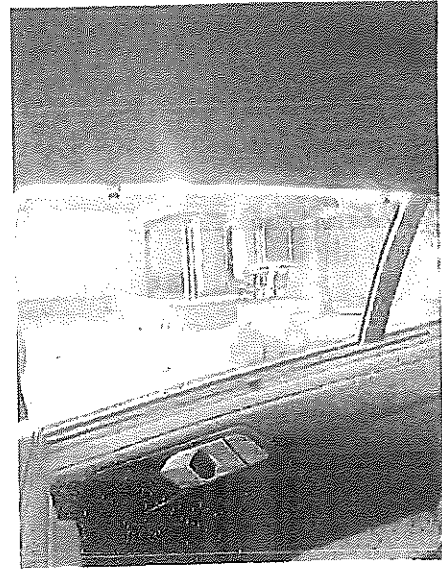
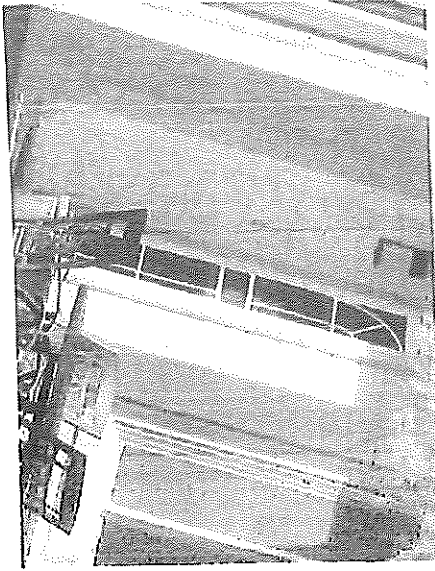


# INDEX OF EXHIBITS

Exhibit Number	Description	Number of Pages
1	Photos	1
2	Video	1
3	Assessor property data	2
4		
5		
6		
7		
8		
9		

FILED  
Electronically  
DV21-01640  
2021-12-10 04:36:33 PM  
Allcia L. Lerud  
Clerk of the Court  
Transaction # 8792504

EXHIBIT 1

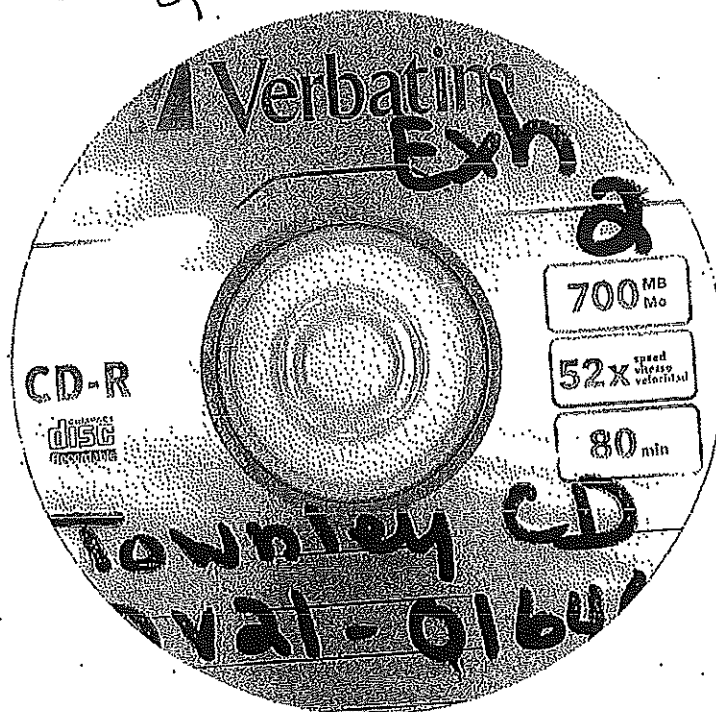


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Electronically  
DV21-01640  
2021-12-10 04:36:33 PM  
Alicia L. Lerud  
Clerk of the Court  
Transaction # 8792504

EXHIBIT 2



Exhibit 2.



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Electronically  
DV21-01640  
2021-12-10 04:36:33 PM  
Allcia L. Lerud  
Clerk of the Court  
Transaction # 8792504

# EXHIBIT 3

## WASHOE COUNTY ASSESSOR PROPERTY DATA

Owner Information				Building Information				XFOB	SUBAREA
APN	003-431-10	Cord 1 of 1		Bld #1 Situs	735 AESOP CT	Property Name			
Situs 1	735 AESOP CT RENO NV 89512	Bld # 1		Quality	R30 Average	Building Type	Single Family Residence		
Owner 1	MEZZANO TOWNLEY TRUST	TRUST		Stories	1 Story	2nd Occupancy			
Owner 2 or Trustee	TOWNLEY TRUSTEE, JOHN M	TRUSTEE		Year Built	1992	WAY	1992		
Owner 3 or Trustee	MEZZANO TRUSTEE, ROCHELLE D	TRUSTEE		Bedrooms	3	Square Feet	1876		
Mail Address	735 AESOP CT RENO NV 89512			Full Baths	2	Finished Bsmt	0		
				Half Baths	0	Unfin Bsmt	0		
				Fixtures	11	Basement Type			
				Fireplaces	0	Gar Conv Sq Feet	0		
				Hent Type	FORCED AIR	Total Garage Area	720		
				2nd Hent Type		Garage Type	ATTACHED		
				Exterior Walls	SIDING ON FRAME	Detached Garage	0		
				2nd Ext Walls		Basement Gar Door	0		
				Roof Cover	CONCRETE TILE	Sub Floor	WOOD		
				% Complete	100	Frame	FRAME		
				Obso/Bldg Adj	0	Units/Bldg	1		
				Construction Modifier		Units/Parcel	1		

## Parcel Information

Keyline Desc	UNIVERSITY HEIGHTS 1 LT 34 BLK B (ROS 6097)		
Subdivision	UNIVERSITY HEIGHTS 1		
		Section 35 Township 20 Range 19	
Record of Survey Map : Parcel Map# : Sub Map# 1972			
Special Property Code			
2021 Tax District	1000	Prior APN	
2020 Tax District	1000	Tax Cap Status	Low Cap Qualified Primary Residence
PERMITS		01/05/2006	

## Land Information

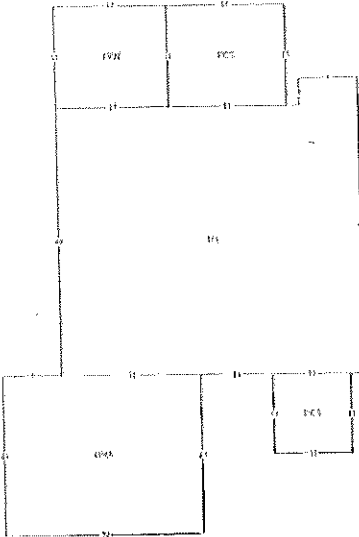
Land Use	200	DOR Code	200	Sewer	Municipal	Neighborhood	BHCD	DH Neighborhood Map
Size	14,810 SqFt	Size	0.340 Acres	Street	Paved	Zoning Code	PD	
				Water	Muni			

## Sales and Transfer Records

Grantor	Grantee	Doc #	Doc Type	Doc Date	DOR Code	Value/Sale Price	Sale Code	Note
MEZZANO, ROCHELLE D	MEZZANO TOWNLEY TRUST	3611806	DEED	01-16-2008	200		0 3BGG	
TOWNLEY, JOHN M	MEZZANO, ROCHELLE D	3431575	DEED	08-29-2006	200		0 3BGG	
TOWNLEY, JOHN M	TOWNLEY, JOHN M	3073499	DEED	07-26-2004	200		0 3BGG	
LAMBERT, JAMES C	TOWNLEY, JOHN M	2970601	DEED	12-18-2003	200	255,000	2D	
	LAMBERT, JAMES C	1878936		03-17-1995	200	150,000	2D	

## Valuation Information

	Taxable Land	New Value	Taxable Imps	OB50	Tax Cap Value	Taxable Total	Land Assessed	Imps Assessed	Total Assessed	Exemption Value
2021/22 FY	72,000	0	167,719	0	197,856	239,719	25,200	58,701	83,902	0



003-431-10 05/30/2016

All parcel data on this page is for use by the Washoe County Assessor for assessment purposes only. The summary data on this page may not be a complete representation of the parcel or of the improvements thereon. Building information, including unit counts and number of permitted units, should be verified with the appropriate building and planning agencies. Zoning information should be verified with the appropriate planning agency. All parcels are reappraised each year. This is a true and accurate copy of the records of the Washoe County Assessor's Office as of 11-18-2021

If you have questions or corrections about our property data you can call us at 775-328-2277 or email us at [exemptions@washoecounty.us](mailto:exemptions@washoecounty.us)

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. DV21-01640

Dept. 13

**SPECIALLY APPEARING  
DEFENDANT'S MOTION TO QUASH  
SERVICE OF SUMMONS AND  
COMPLAINT**

16 Rochelle Mezzano, by and through her counsel, David C. O'Mara, Esq. and The O'Mara  
17 Law Firm, P.C. moves this Court to Quash the Service of Summons and Complaint. This motion is  
18 made in good faith and based upon the Memorandum of Points and Authorities, any and all papers  
19 and pleadings filed herein.

**MEMORANDUM OF POINTS AND AUTHORITIES**

20 At some point around December 10, 2021, Mr. Townley filed a Proof of Service claiming  
21 that he, through his agent, personally served Ms. Rochelle Mezzano. The document was sent by  
22 mail to Ms. Mezzano.

23 Mr. Townley's agent claims, as a legal conclusion, that Ms. Mezzano "has been legally  
24 served with documents [he] held in [his] left hand." See Proof of Service, 3:6-8. The agent then  
25 admits that Ms. Mezzano did not acknowledge him and that he never personally gave her the  
26 unidentified documents.

27 Instead, the agent admits that he did not personally serve Ms. Mezzano, and in fact, simply  
28 states that he was "going to leave her legal documents upon the front doorstep." *Id.* 3:10-11. At no  
time was Ms. Mezzano personal served with a Summons and Complaint.

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**LEGAL DISCUSSION**

NRCP 4.2(a)(1) requires that “[u]nless otherwise provided by these rules, service may be made on an individual: (1) by delivering a copy of the summons and complaint to the individual personally.” In this case, service of leaving the documents, as Townley claims, did not meet the requirements of NRCP 4.2(a). The process server did not speak with Ms. Mezzano or personally serve the documents on her. Additionally, the process server did not identify the purpose or the nature of the documents to Ms. Mezzano.

While Mr. Townley may claim that leaving the documents on the door is substantial compliance, which it isn’t, the language of NRCP 4.2 requires the document to be delivered to the “individual personally.” This language is clear and unambiguous. The doctrine of substantial compliance does not apply in cases involving original service of process. Indeed, the Rules provide for a number of ways a party could be served. *See* NRCP 4.2(a)(2)-(a)(3); *see also* 4.4. Words have meaning and the Nevada Rules of Civil Procedure specifically state “individual personally.” Strict compliance when it comes to original service of process is required. Since Mr. Townley did not strictly comply with with the provisions of NRCP 4.2(a)(1), service was not properly accomplished.

**CONCLUSION**

For the foregoing reasons, service of the legal documents, Summons and Complaint, must be quashed as service was not properly made in this case.

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

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

THE O’MARA LAW FIRM, P.C.

DATED: December 27, 2021

\_\_\_\_\_  
/s/ David C. O’Mara  
DAVID C. O’MARA

CERTIFICATE OF SERVICE

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

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

DATED: December 27, 2021

/s/ David O'Mara  
DAVID O'MARA

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#13516) Benjamin Albers (NSB#11895)  
Silverman Kattelman Springgate, Chtd.  
3 500 Damonte Ranch Parkway, Suite 675  
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. DV21-01640

10 **vs.**

Dept. 5

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 **OPPOSITION TO MOTION TO QUASH**

21 For years Rochelle Mezzano has needlessly frustrated the legal process to dissolve  
22 her and John Townley's marriage. The current Motion to Quash, filed despite video  
23 evidence of the entire interaction between Ms. Mezzano and the process servers,  
24 continues that needless frustration and delay.

25 Mr. Townley requests the Court DENY Ms. Mezzano's Specially Appearing  
26 Defendant's Motion to Quash Service of Summons and Complaint, ORDER Ms.  
27 Mezzano to bear all legal costs occasioned by her motion practice from her separate  
28



1 property and/or her post-divorce share of the parties' community estate, and GRANT  
2 him further and additional relief deemed necessary and just.

3 This Opposition is made and based on the points and authorities herein, the  
4 attachments hereto, and the file in this matter and the file in the related action DV19-  
5 01564.

### 6 POINTS AND AUTHORITIES

7 The law contemplates persons like Ms. Mezzano who refuse to act reasonably and  
8 attempt to avoid service and makes allowances to avoid absurd results: "where facts  
9 occur which would convince a reasonable man that personal service of process is being  
10 attempted, service cannot be avoided by denying service and moving away without  
11 consenting to take the document in hand; and service may be effected by depositing the  
12 paper in some appropriate place in his presence where it will be most likely to come into  
13 his possession." 72 C.J.S., *Process* § 43(b) (1987). "Even though a defendant refuses  
14 physical acceptance of a summons, service is complete if a defendant is in close  
15 proximity to a process server under such circumstances that a reasonable person would  
16 be convinced that personal service of the summons is being attempted. Delivery of a  
17 summons to the person to be served who resists service may be accomplished by leaving  
18 it in his or her general vicinity." 62B Am. Jur. 2d, *Process* § 190 (2005). These rules  
19 have been adopted by federal and state courts.

20 For example, in 2018, the United States District Court for the Southern District of  
21 Mississippi noted that "courts and commentators have consistently concluded under  
22 identical and/or comparable rules for service of process that where a defendant refuses  
23 to accept service of process, "delivery" may be accomplished without physically placing  
24 the documents in the hands of the defendant." Slaieh v. Zeineh , 539 F. Supp. 2d 864,  
25 868 (S.D. Miss. 2008). The Slaieh court then discussed a number of cases concerning  
26  
27  
28

1 situations where a defendant was told service was being attempted but refused to accept  
2 the documents from the process server. Id. at 869-70.

3 Here, there is video of the service of the Summons and Complaint on Ms.  
4 Mezzano, which undersigned counsel filed on Mr. Townley's behalf as Exhibit "2" to the  
5 Proof of Service filed December 10, 2021. In that video, the following events occur:  
6

- 7 1. A gentleman answers the door of Ms. Mezzano's home and calls for Ms. Mezzano.  
(Time 0:01:40).
- 8 2. Ms. Mezzano arrives at the door and is visible through the screen door. (Time  
9 0:04:27).
- 10 3. A second process server comes to the door and announces he has identified Ms.  
11 Mezzano and that she is being served. "Hi Rochelle, you are positively identified.  
12 You are being served, ok, so these papers are for you." (Time 0:04:26 - 0:04:31)
- 13 4. The process server tells Ms. Mezzano she can take the papers or he will leave  
14 them at the door. (Time 0:04:35)
- 15 5. Ms. Mezzano stares at the process server through the screen door. (Time  
16 0:04:33-0:04:44).
- 17 6. Ms. Mezzano closes the door. (Time 0:04:45)
- 18 7. The process server announces he is leaving the service documents. (Time  
19 0:04:45).
- 20 8. The process server tells Ms. Mezzano she has been served. (Time 0:04:49)
- 21 9. The process server leaves the Summons and Complaint on the porch in view of  
22 Ms. Mezzano. (Time 0:04:50)

23 Approximately 25 minutes later, the same gentleman who first answered the door  
24 retrieves the documents from the porch.

25 Ms. Mezzano was in the physical presence of a process server who identified her,  
26 advised her she was being served with legal papers, asked her to accept the documents,  
27 and upon her refusal left the documents in her immediate presence in her view.<sup>1</sup> The  
28 holding of the United States District Court in Slaieh is the appropriate conclusion in this  
case: "what occurred here is that the defendant, being apprised that [the person with the

<sup>1</sup> As the video footage in this case contains audio of the process server addressing himself, in English, to Ms. Mezzano, her assertion the "process server did not speak with" her, (Mot. to Quash 2:5), is extremely confusing.

1 legal documents] was a process server who was attempting to serve him with court  
2 documents from Mississippi, refused to accept the papers and turned away. The court is  
3 convinced that confronted with this situation, the Mississippi courts, as any other court,  
4 would find that this defendant was effectively served with process despite his refusal to  
5 take the papers into his hands." Slaieh v. Zeineh , 539 F. Supp. 2d 864, 870 (S.D. Miss.  
6 2008).

### 8 CONCLUSION

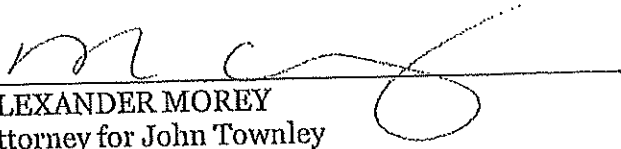
9 Based upon the foregoing, the Court should enter its order denying Ms.  
10 Mezzano's Specially Appearing Defendant's Motion to Quash Service of Summons and  
11 Complaint, order that Ms. Mezzano pay all legal costs occasioned by her motion practice  
12 from her separate property and/or her post-divorce share of the parties' community  
13 estate, and grant Mr. Townley further and additional relief deemed necessary and just.

### 14 AFFIRMATION

15 The undersigned affirms this Opposition contains no personal information as  
16 defined in NRS 239B.030.

17 Dated this 10<sup>th</sup> day of January 2022.

18  
19 SILVERMAN KATTELMAN SPRINGGATE, CHTD.

20  
21  
22   
23 ALEXANDER MOREY  
24 Attorney for John Townley  
25  
26  
27  
28

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 Quash 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 ☒ Electronically, using Second Judicial District Court's Eflex system.

11 ☐ Email:

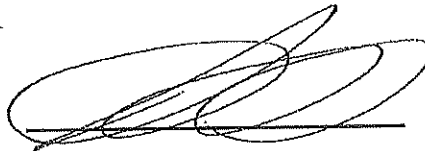
12 addressed to:

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 10 day of July 2021.

22  
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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 Tawney )  
 )  
 )  
Rodolfo Merzario )  
et al )  
 )

FAMILY DIVISION MOTION/OPPOSITION NOTICE (REQUIRED)
CASE NO. <u>DV21-01640</u>
DEPT. NO. <u>5</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.		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.		
	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: 1/10, 2022

Signature:

Print Name:

Print Address:

Telephone Number:

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

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. DV21-01640

Dept. 13

**SPECIALY APPEARING  
DEFENDANT'S REPLY IN SUPPORT OF  
THE MOTION TO QUASH SERVICE OF  
SUMMONS AND COMPLAINT**

16 Rochelle Mezzano, by and through her counsel, David C. O'Mara, Esq. and The O'Mara  
17 Law Firm, P.C. files this reply in support of her motion to Quash the Service of Summons and  
18 Complaint. This reply is made in good faith and based upon the Memorandum of Points and  
19 Authorities, any and all papers and pleadings filed herein.

**MEMORANDUM OF POINTS AND AUTHORITIES**

20 On December 28, 2021, Specially Appearing Defendant, Ms. Rochelle Mezzano filed a  
21 motion to quash the service and complaint because it was not properly and personally served upon  
22 her. Indeed, NRCP 4.2(a)(1) requires that "[u]nless otherwise provided by these rules, service may  
23 be made on an individual: (1) by delivering a copy of the summons and complaint to the individual  
24 personally." In this case, service of leaving the documents, as Townley claims, did not meet the  
25 requirements of NRCP 4.2(a).

26 On January 10, 2022, Mr. Townley filed his opposition to motion to quash claiming that  
27 service was proper. Mr. Townley supported his claim not by using cases cited by Nevada Courts,  
28 but instead cited to Federal Court case in the Southern District of Mississippi, *Slaieh v. Zeineh*, 539  
F. Supp. 2d. 864 (2008).

1 In the Mississippi case, the defendant specifically communicated with the process server.  
2 *Slaieh v. Zeineh*, 539 S. Supp. 2d at 867 (“Who are you?”). In this case, there was no  
3 communication between Ms. Mezzano and any claimed agent of Mr. Townley.

4 In the Mississippi case, the communication occurred outside the home while the defendant  
5 exited his vehicle and was headed toward a gate leading towards a side entry of the home. *Id.*  
6 Again, different circumstances than what Mr. Townley is alleging happened in this case.

7 The Court only has to look to the Nevada Supreme Court case entitled *Mezzano v. Townley*,  
8 497 P.3d 624 (2021) in determining that Ms. Mezzano was not properly served. Indeed, in *Mezzano*,  
9 the Nevada Supreme Court cited to *Wiess v. Glemp*, 792 F. Supp. 215, 223-25 (S.D.N.Y. 1992).  
10 The Wiess Court found that “service was improper where the defendant was not trying to evade  
11 serve because the manner of serve was not reasonably calculated to give notice, and (1) the  
12 defendant did not know that someone was attempting to give him official court papers, (2) the papers  
13 do not give to him and (3) the papers did not touch him.” *Id.*

14 Similar to the *Wiess* case, the process server admits that he did not leave the summons and  
15 complaint with anyone. In *Wiess* the summons was left on an outside windowsill and in this case, it  
16 was left of the porch with the door closed. Just like *Wiess*, the porch service does not comply with  
17 the service of process requirements. The *Wiess* Court went on to state that “failing to come to the  
18 door does not constitute evasion of service” as a person who is to “be served with process are under  
19 no obligation to arrange a time and place for service or to otherwise accommodate the process  
20 server.” *Id. citing Thayer v. Edmonds*, 8 Wash. App 36, 503 P.2d 1110 (1972).

21 “Beyond due process [requirements], statutory service requirements must be complied with  
22 in order for the court to finally adjudicate the dispute between the parties. *Thayer*, 8 Wash. App. At  
23 40, 503 P.2d 1110. Mr. Townley failed to meet the due process and statutory service requirements.

24 Additionally, Ms. Mezzano asserts that this Court should, apply, as Justice Talmadge stated,  
25 strict compliance when it comes to original service of process is required. Since Mr. Townley did not  
26 strictly comply with with the provisions of NRCP 4.2(a)(1), service was not properly accomplished.

27 Finally, Defendant is not entitled to recover an award for attorneys’ fees and costs. In fact, if  
28 anyone is entitled to recover for the unnecessary attorney’s fees and costs, it is Ms. Mezzano.

1 Indeed, Mr. Townley has filed this second divorce action in order to harass Ms. Mezzano. Mr.  
2 Townley continues to litigate his first divorce action in Case No. DV19-01564 as he submitted an *ex*  
3 *parte* motion for a status hearing, which has now been granted. This matter is improper and will  
4 ultimately need to be dismissed because Mr. Townley still has his first (1<sup>st</sup>) divorce action pending  
5 and is currently litigating that matter at the same time. Ms. Mezzano has sought to have this matter  
6 dismissed so that the first case, DV19-01564, could continue, however, Mr. Townley refused and  
7 required Ms. Mezzano to litigate two divorce actions at the same time. As such, if the Court is to  
8 award attorneys fees and costs, it should be an award to Ms. Mezzano and against Mr. Townley.

9 **CONCLUSION**

10 For the foregoing reasons, service of the legal documents, Summons and Complaint, must be  
11 quashed as service was not properly made in this case.

12 **AFFIRMATION**

(Pursuant to NRS 239B.030)

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

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

16 DATED: January 18, 2022

17 /s/ David C. O'Mara

18 DAVID C. O'MARA  
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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

In the Matter of the Marriage of

JOHN TOWNLEY,

Plaintiff,

vs.

ROCHELLE MEZZANO,

Defendant.

Case No. DV21-01640

Dept. No. 5

**ORDER QUASHING SERVICE**

On December 28, 2021, Rochelle Mezzano, through counsel David O'Mara, Esq., filed a Specially Appearing Defendant's Motion to Quash Service of Summons and Complaint. On January 10, 2022, John Townley, through counsel Alexander Morey, Esq., filed an Opposition to Motion to Quash. On January 18, 2022, Ms. Mezzano filed a Reply to Mr. Townley's opposition and submitted this matter to the Court for consideration. Having reviewed the motion, and all related documents, the Court finds and orders as follows.

This action was initiated on November 9, 2021, with the filing of a Complaint seeking an annulment. Mr. Townley argues that Ms. Mezzano was personally served in this matter with the summons and Complaint on November 19, 2021. Ms. Mezzano argues that she was not personally served in accordance with NRCP 4.2(a).

Pursuant to NRCP 4.2(a), states that service may be made on an individual by:

(1) delivering a copy of the summons and complaint to the individual personally;

1 (2) by leaving a copy of the summons and complaint at the individual's dwelling or  
2 usual place of abode with a person of suitable age and discretion who currently  
3 resides therein and is not an adverse party to the individual being served; or  
4 (3) by delivering a copy of the summons and complaint to an agent authorized by  
5 appointment or by law to receive service of process.

6 It is undisputed that a copy of the summons and Complaint were not served on an  
7 agent authorized by Ms. Mezzano.<sup>1</sup> Based on the Declaration of Due Diligence, attached to  
8 the Proof of Service, filed on December 10, 2021, the summons and Complaint were left on  
9 the Ms. Mezzano's front doorstep, while she was inside. As such, Ms. Mezzano was not  
10 personally handed the documents.<sup>2</sup> Nor can the Court find that the summons and  
11 Complaint were left with a person of suitable age and discretion who currently resides  
12 therein.<sup>3</sup> While the process server mentions a man being present, there is no allegation  
13 that the man currently resides with Ms. Mezzano. Nor does the process server state that  
14 the documents were left with the unnamed man. Instead, the man was later observed  
15 picking up the documents.

16 Mr. Townley claims that Ms. Mezzano is intentionally avoiding service. As such, Mr.  
17 Townley believes that Ms. Mezzano was personally served by leaving the summons and  
18 Complaint in her general vicinity. In this case, the Court is looking to see if the process  
19 server announced the nature of the documents and left them in close proximity of Ms.  
20 Mezzano.<sup>4</sup> The process server claims that they positively identified Ms. Mezzano through  
21 the screen door and informed her that she was being served with legal documents. The  
22 process server does not state that they clearly identified themselves or indicated the nature  
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24  
25 <sup>1</sup> See NRCP 4.2(a)(3).

26 <sup>2</sup> See NRCP 4.2(a)(1).

27 <sup>3</sup> See NRCP 4.2(a)(2).

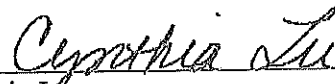
28 <sup>4</sup> See *Norris v. Causey*, 869 F.3d 360, 369-70 (5th Cir. 2017) (holding that a plaintiff properly serves a defendant who is evading service if "the process server announces the nature of the documents and leaves them in close proximity to the defiant defendant"); cf. *Weiss v. Glomp*, 792 F. Supp. 215, 223-25 (S.D.N.Y. 1992) (holding that service was improper where the defendant was not trying to evade service because the manner of service was not reasonably calculated to give notice, and (1) the defendant did not know that someone was attempting to give him official court papers, (2) the papers were not given to him, and (3) the papers did not touch him).

1 of the documents being served. The process server does not state that they attempted to  
2 hand Ms. Mezzano the documents directly. Instead, the process server asked Ms. Mezzano  
3 to come outside to take the documents. Ms. Mezzano was under no obligation to come  
4 outside and the Court does not find that her failure to do so was tantamount to evasion of  
5 service.<sup>5</sup>

6 Therefore, the Court cannot find that Ms. Mezzano was properly served in this  
7 matter in accordance with NRCP 4.2(a) and grants Ms. Mezzano's Motion to Quash Service  
8 of Summons and Complaint. Mr. Townley must endeavor to have Ms. Mezzano served  
9 consistent with NRCP 4.2(a).

10 **IT IS SO ORDERED.**

11 Dated this 2<sup>nd</sup> day of March, 2022.

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14 Cynthia Lu  
15 District Court Judge  
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28 <sup>5</sup> See *Wiess v. Glemp*, 127 Wash. 2d 726, 734, 903 P.2d 455, 459 (1995).

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**ALEXANDER MOREY, ESQ.**

**AS OF OCTOBER 18, 2018**, Electronic Filing is **MANDATORY** for all cases, including Family Law cases.

DATED: March 2, 2022

## Judicial Assistant

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VIDEO RECORDING

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TRANSCRIPT OF PROCEEDINGS

Townley Video

Reno, Nevada

SUNSHINE LITIGATION SERVICES  
TRANSCRIBED FROM RECORDING  
Reporting By: GAIL R. WILLSEY, CSR #359, CA CSR #9748

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2                               RENO, NEVADA

3                               \*\*\*^\*\*\*

4  
5               THE SPEAKER: Today's date is Friday, November  
6 19th, 1:00 o'clock P.M. upon Rochelle Masano.

10:12AM

7               Hi Rochelle, you are positively identified.  
8 You are being served. Okay. So these papers are for  
9 you. You can either take them or we can drop them at  
10 your door. We're not going to play this game. You're  
11 being filmed, okay? So you're positively identified.  
12 Would you like to take these papers or would you like  
13 me to leave them there?

10:17AM

14               Okay, Rochelle, I'm leaving them right here  
15 on your doorstep. It's filmed. You are personally  
16 served.

10:18AM

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18                               (The recording was concluded.)  
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1 STATE OF NEVADA )  
2 ) Ss.  
3 COUNTY OF WASHOE )  
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6 I, GAIL R. WILLSEY, do hereby certify:  
7 That I was provided a recording and that  
8 said recording was transcribed by me, a Certified  
9 Shorthand Reporter, in the matter entitled herein;

10 That said transcript which appears  
11 hereinbefore was taken in stenotype notes by me from  
12 the recording and thereafter transcribed into  
13 typewriting as herein appears to the best of my  
14 knowledge, skill and ability and is a true record  
15 thereof.  
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19 \_\_\_\_\_  
20 GAIL R. WILLSEY, CSR #359  
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