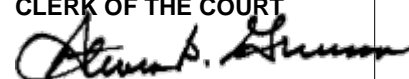


NOAS
BLACK & WADHAMS
Allison R. Schmidt, Esq.
Nevada Bar No. 10743
10777 West Twain Avenue, 3rd Floor
Las Vegas, Nevada 89135
Telephone: (702) 869-8801
Facsimile: (702) 869-2669
E-mail: aschmidt@blackwadhamslaw
Attorneys for Defendants/Counterclaimants

Electronically Filed
5/6/2022 4:00 PM
Steven D. Grierson
CLERK OF THE COURT



Electronically Filed
May 12 2022 10:57 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

DISTRICT COURT
CLARK COUNTY, NEVADA

<p>AAL-JAY, INC., a Nevada corporation,</p> <p>Plaintiff,</p> <p>v.</p> <p>PHILLIP J. FAGAN, JR., an individual, and as Trustee of the PHILIP J. FAGAN, JR. 2001 TRUST,</p> <p>Defendants.</p>	<p>Case No. A-21-832379-C Dept. No.: 24</p> <p>NOTICE OF APPEAL</p>
<p>PHILLIP J. FAGAN, JR., as Trustee of the PHILIP J. FAGAN, JR. 2001 TRUST,</p> <p>Counterclaimant,</p> <p>v.</p> <p>AAL-JAY, INC., a Nevada corporation; CHRISTIANO DE CARLO, an individual; and LAIL LEONARD, an individual,</p> <p>Counter-Defendants.</p>	

PLEASE TAKE NOTICE that Defendants hereby appeal to the Nevada Supreme Court,
pursuant to NRAP 3A(b)(3) the Order Denying Defendants' Motion for Preliminary Injunction,

entered in this action May 6, 2022. Notice of Entry of the Order was also served on May 6, 2022.

Dated May 6, 2022

BLACK & WADHAMS

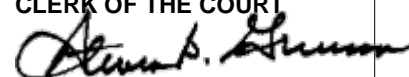
By /s/ Allison R. Schmidt
Allison R. Schmidt, Esq.
10777 West Twain Avenue, Ste 300
Las Vegas, NV 89135
aschmidt@blackwadhams.law
Attorneys for Defendants

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am employee of Black & Wadhams, and that on the 6th day of May, 2022, I served the above and foregoing NOTICE OF APPEAL on the following parties in compliance with the Nevada Electronic Filing and Conversion Rules:

Ogonna Brown, Esq.
LEWIS ROCA ROTHERGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Ste. 600
Las Vegas, NV 89169
OBrown@lewisroca.com

/s/ Marsha Stallsworth
An Employee of Black & Wadhams



ASTA
BLACK & WADHAMS
Allison R. Schmidt, Esq.
Nevada Bar No. 10743
10777 West Twain Avenue, 3rd Floor
Las Vegas, Nevada 89135
Telephone: (702) 869-8801
Facsimile: (702) 869-2669
E-mail: aschmidt@blackwadhams.law
Attorneys for Defendants/Counterclaimants

DISTRICT COURT
CLARK COUNTY, NEVADA

<p>AAL-JAY, INC., a Nevada corporation,</p> <p>Plaintiff,</p> <p>v.</p> <p>PHILLIP J. FAGAN, JR., an individual, and as Trustee of the PHILIP J. FAGAN, JR. 2001 TRUST,</p> <p>Defendants.</p>	<p>Case No. A-21-832379-C Dept. No.: 24</p> <p>CASE APPEAL STATEMENT</p>
<p>PHILLIP J. FAGAN, JR., as Trustee of the PHILIP J. FAGAN, JR. 2001 TRUST,</p> <p>Counterclaimant,</p> <p>v.</p> <p>AAL-JAY, INC., a Nevada corporation; CHRISTIANO DE CARLO, an individual; and LAIL LEONARD, an individual,</p> <p>Counter-Defendants.</p>	

COMES NOW, Defendants PHILLIP J. FAGAN, JR., an individual, and as Trustee of the
PHILIP J. FAGAN, JR. 2001 TRUST (hereinafter, the “Defendants”), by and through their

attorney of record, Allison R. Schmidt, Esq. of the law firm Black & Wadhams, hereby submits their Case Appeal Statement pursuant to Nevada Rule of Appellate Procedure 3(f) as follows:

CASE APPEAL STATEMENT

(A) The Party Filing this Case Appeal Statement:

PHILLIP J. FAGAN, JR., an individual, and as Trustee of the PHILIP J. FAGAN, JR. 2001 TRUST

(B) The name of the judge who entered the order or judgment being appealed:

The Honorable Erika Ballou, Department 24 of the Eighth Judicial District Court.

(C) The name of each appellant and the name and address of counsel for each appellant:

Plaintiff/Appellant:

PHILLIP J. FAGAN, JR., an individual, and as Trustee of the PHILIP J. FAGAN, JR. 2001 TRUST

Counsel for the Defendants/Appellants:

Allison R. Schmidt, Esq.
Nevada Bar No. 10743
BLACK & WADHAMS
10777 W. Twain Ave., 3rd Fl.
Las Vegas, Nevada 89135

(D) The name of each respondent and the name and address of appellate counsel, if known, for each respondent, but if the name of a respondent's appellate counsel is not known, then the name and address of that respondent's trial counsel:

Plaintiffs/Respondents:

AAL-JAY, INC., a Nevada corporation, CHRISTIANO DE CARLO, an individual;
and LAIL LEONARD, an individual

Counsel for the Plaintiffs/Respondents:

Ogonna M. Brown, Esq.

Nevada Bar No. 7589
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169
Tel: 702.949.8200
Fax: 702.949.8398
Email: obrown@lewisroca.com

(E) Whether an attorney identified in response to subparagraph (D) is not licensed to practice law in Nevada, and if so, whether the district court granted that attorney permission to appear under SCR 42, including a copy of any district court order granting that permission:

N/A

(F) Whether the appellant was represented by appointed counsel in the district court, and whether the appellant is represented by appointed counsel on appeal:

Appellant was represented by Christopher V. Yergensen, Esq. and Allison R. Schmidt, Esq. of the firm Black & Wadhams in the district court and on appeal, and Black & Wadhams was personally retained and not appointed.

(G) Whether the district court granted the appellant leave to proceed in forma pauperis, and if so, the date of the district court's order granting that leave:

N/A

(H) The date that the proceedings commenced in the district court:

Plaintiff initiated the proceedings when they filed their Complaint on April 6, 2021.

(I) A brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

Defendant/Respondent filed a motion to enforce the Decree of Divorce between the Parties with respect to an alleged marital debt listed on an exhibit attached to the Decree of Divorce. Defendant/Respondent alleged that Plaintiff/Appellant had failed to pay the alleged debt to a third

1 party as provided in the Decree of Divorce. The Decree of Divorce was entered by the Court in
2 2003. The Court granted the motion to enforce.

3 **(J) Whether the case has previously been the subject of an appeal to or original writ**
4 **proceeding in the Supreme Court or Court of Appeals and, if so, the caption and docket**
5 **number of the prior proceeding:**

6 The case was previously the subject of a writ petition to the Nevada Supreme Court, NVSC
7 Case No. 83442.

9 **(K) Whether the appeal involves child custody or visitation:**

10 No.

11 **(L) Whether the appeal involves the possibility of settlement:**

12 The Defendants do not believe there is the possibility of settlement.

13 Dated May 6, 2022

14
15 **BLACK & WADHAMS**

16
17 By /s/ Allison R. Schmidt
18 Allison R. Schmidt, Esq.
19 10777 West Twain Avenue, Ste 300
20 Las Vegas, NV 89135
21 aschmidt@blackwadhams.law
22 Attorneys for Defendants
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am employee of Black & Wadhams, and that on the 6th day of May, 2022, I served the above and foregoing CASE APPEAL STATEMENT on the following parties in compliance with the Nevada Electronic Filing and Conversion Rules:

Ogonna Brown, Esq.
LEWIS ROCA ROTHERGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Ste. 600
Las Vegas, NV 89169
OBrown@lewisroca.com

/s/ Marsha Stallsworth
An Employee of Black & Wadhams

CASE SUMMARY**CASE NO. A-21-832379-C**

AAL-JAY, INC., Plaintiff(s)
 vs.
 Philip Fagan, Jr., Defendant(s)

§
 §
 §
 §
 §

Location: **Department 24**
 Judicial Officer: **Ballou, Erika**
 Filed on: **04/06/2021**
 Cross-Reference Case Number: **A832379**

CASE INFORMATIONCase Type: **Other Contract**

Case
 Status: **04/06/2021 Open**

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number A-21-832379-C
 Court Department 24
 Date Assigned 04/06/2021
 Judicial Officer Ballou, Erika

PARTY INFORMATION

Plaintiff	AAL-JAY, INC.,	<i>Lead Attorneys</i> Brown, Ogonna M. <i>Retained</i> 702-949-8200(W)
Defendant	Fagan, Philip, Jr.	Yergensen, Christopher V. <i>Retained</i> 702-869-8801(W)
	Philip J. Fagan Jr. 2001 Trust	Yergensen, Christopher V. <i>Retained</i> 702-869-8801(W)
Counter Claimant	Fagan, Philip, Jr.	Yergensen, Christopher V. <i>Retained</i> 702-869-8801(W)
Counter Defendant	AAL-JAY, INC.,	Brown, Ogonna M. <i>Retained</i> 702-949-8200(W)
	De Carlo, Christiano	
	Leonard, Lail	
Trustee	Fagan, Philip, Jr.	Yergensen, Christopher V. <i>Retained</i> 702-869-8801(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

04/06/2021



Complaint

Filed By: Counter Defendant AAL-JAY, INC.,
 [1] Verified Complaint














04/06/2021



Initial Appearance Fee Disclosure

CASE SUMMARY

CASE NO. A-21-832379-C

	<p>Filed By: Counter Defendant AAL-JAY, INC., <i>[2] Initial Appearance Fee Disclosure</i></p>
04/06/2021	<p> Summons Electronically Issued - Service Pending Party: Counter Defendant AAL-JAY, INC., <i>[3] Summons - Phillip Fagan Jr.</i></p>
04/06/2021	<p> Summons Electronically Issued - Service Pending Party: Counter Defendant AAL-JAY, INC., <i>[4] Summons - Phillip Fagan Jr Trust</i></p>
05/03/2021	<p> First Amended Complaint Filed By: Counter Defendant AAL-JAY, INC., <i>[5] First Amended Complaint</i></p>
05/04/2021	<p> Affidavit of Service Filed By: Counter Defendant AAL-JAY, INC., Party Served: Counter Claimant Fagan, Philip, Jr. <i>[6] Affidavit of Service - Phillip Fagan Jr</i></p>
05/04/2021	<p> Affidavit of Service Filed By: Counter Defendant AAL-JAY, INC., Party Served: Defendant Philip J. Fagan Jr. 2001 Trust <i>[7] Affidavit of Service - Phillip Fagan Jr Trust</i></p>
05/18/2021	<p> Answer Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust <i>[8] Answer to Plaintiff's Amended Complaint and Counterclaim</i></p>
05/18/2021	<p> Exhibits Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust <i>[9] Exhibits 1 - 13</i></p>
05/18/2021	<p> Initial Appearance Fee Disclosure Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust <i>[10] Initial Appearance Fee Disclosures</i></p>
05/18/2021	<p> Motion Filed By: Counter Defendant AAL-JAY, INC., <i>[11] Emergency Motion for Specific Performance of Purchase Agreement, on An Order Shortening Time</i></p>
05/28/2021	<p> Stipulation and Order <i>[12] Stipulation and Order to Continue Hearing</i></p>
06/01/2021	<p> Notice of Entry of Stipulation and Order Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust <i>[13] Notice of Entry of Stipulation and Order to Continue Hearing</i></p>
06/08/2021	<p> Opposition to Motion Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust <i>[14] Opposition to Motion for Specific Performance</i></p>
06/09/2021	<p> Exhibits</p>

CASE SUMMARY

CASE NO. A-21-832379-C

Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust
[15] Exhibits 1 through 5 to Defendant's Opposition to Plaintiff's Motion for Specific Performance of Purchase Agreement

06/15/2021



Reply

Filed by: Counter Defendant AAL-JAY, INC.,
[16] Reply In Support Of Emergency Motion For Specific Performance Of Purchase Agreement, On An Order Shortening Time

06/30/2021



Demand for Jury Trial

Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust
[17] Demand for Jury Trial

06/30/2021



Recorders Transcript of Hearing

[18] Recorder' Transcript of Hearing: Emergency Motion for Specific Performance of Purchase Agreement, on an Order Shortening Time 6.22.21

07/12/2021



Objection

Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust
[19] Objection to Draft Order for Emergency Motion for Specific Performance of Purchase Agreement, On An Order Shortening Time

07/22/2021



Motion to Stay

[20] Defendants/Counterclaimants' Motion For Stay Pending Adjudication of Defendants/Counterclaimant's Writ of Mandamus and/or In The Alternative, Writ of Prohibition

07/28/2021



Notice of Lis Pendens

Filed by: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust
[21] Notice of Pendency of Action (Lis Pendens)

07/29/2021



Stipulation and Order

Filed by: Counter Defendant AAL-JAY, INC.,
[22] Stipulation and Order to Continue Hearing on Defendants/ Counterclaimants' Motion For Stay Pending Adjudication of Defendants/ Counterclaimants' Writ of Mandamus and/or in The Alternative, Writ of Prohibition Motion for Stay Pending Adjudication of Writ of Mandamus

07/30/2021



Notice of Entry of Order

Filed By: Counter Defendant AAL-JAY, INC.,
[23] Notice of Entry of Stipulation and Order to Continue Hearing on Defendants/Counterclaimants' Motion for Stay Pending Adjudication of Defendants' Writ of Mandamus and/or in the Alternative, Writ of Prohibition

08/05/2021



Opposition to Motion

Filed By: Counter Defendant AAL-JAY, INC.,
[24] Plaintiff AAL-Jay, Inc.'s Opposition to Defendants/Counterclaimants' Motion for Stay Pending Adjudication of Defendants/Counterclaimants' Writ of Mandamus and/or in the Alternative, Writ of Prohibition

08/26/2021



Order Granting Motion

Filed By: Counter Defendant AAL-JAY, INC.,
[25] Order Granting Emergency Motion for Specific Performance of Purchase Agreement on an Order Shortening Time

08/26/2021



Notice of Entry of Order

CASE SUMMARY

CASE NO. A-21-832379-C

Filed By: Counter Defendant AAL-JAY, INC.,
[26] Notice of Entry of Order Granting Emergency Motion for Specific Performance of Purchase Agreement, on an Order Shortening Time

09/01/2021



Declaration

[27] Declaration of Ogonna M. Brown, Esq. in Support of Order Granting Emergency Motion for Specific Performance of Purchase Agreement, On an Order Shortening Time

09/03/2021



Order Shortening Time

Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust
[28] Defendants/Counterclaimants' Motion for Stay Pending Adjudication of Defendants/Counterclaimants' Writ of Mandamus and/or in the Alternative, Writ of Prohibition

09/08/2021



Stipulation and Order

Filed by: Counter Defendant AAL-JAY, INC.,
[29] Stipulation and Order to Continue Hearing on Defendants/Counterclaimants' Motion for Stay Pending Adjudication of Defendants/Counterclaimants' Writ of Mandamus and/or in the Alternative, Writ of Prohibition

09/08/2021



Notice of Entry of Order

[30] Notice of Entry of Stipulation and Order to Continue Hearing on Defendants/Counterclaimants' Motion for Stay Pending Adjudication of Defendants/Counterclaimants' Writ of Mandamus and/or in the Alternative, Writ of Prohibition

09/09/2021



Opposition to Motion

[31] Plaintiff AAL-JAY, Inc.'s Opposition to Defendants'/Counterclaimants' Motion for Stay Pending Adjudication of Defendants'/Counterclaimants' Writ of Mandamus and/or in the Alternative, Writ of Prohibition

09/14/2021



Reply to Opposition

Filed by: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust
[32] Defendants/Counterclaimants' Reply to Plaintiff/Counterdefendant's Opposition to Motion for Stay Pending Adjudication of Defendants/Counterclaimants' Writ of Mandamus and/or in the Alternative, Writ of Prohibition

09/30/2021



Order

Filed By: Counter Defendant AAL-JAY, INC.,
[33] Order Denying Defendants'/Counterclaimants' Motion for Stay Pending Adjudication of Defendants/Counterclaimants' Writ of Mandamus and/or in the Alternative, Writ of Prohibition on an Order Shortening Time

09/30/2021



Notice of Entry of Order

Filed By: Counter Defendant AAL-JAY, INC.,
[34] Notice of Entry of Order Denying Defendants'/Counterclaimants' Motion for Stay Pending Adjudication of Defendants/Counterclaimants' Writ of Mandamus and/or in the Alternative, Writ of Prohibition on an Order Shortening Time

01/13/2022



Answer to Counterclaim

[35] Plaintiff/Counterdefendant's Answer to Counterclaim

01/13/2022



Joint Case Conference Report

[36] Joint Case Conference Report

01/18/2022



Mandatory Rule 16 Conference Order

CASE SUMMARY

CASE NO. A-21-832379-C

[37] Order to Appear for Mandatory Discovery Conference

01/20/2022



Notice of Compliance

Party: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust

[38] Notice of Compliance

01/22/2022



Notice of Rescheduling

[39] Notice of Rescheduling Hearing

02/02/2022



Scheduling and Trial Order

[40] Scheduling Order and Order Setting Civil Jury Trial and Calendar Call

03/15/2022



Notice of Appearance

Party: Counter Claimant Fagan, Philip, Jr.

[41] Notice of Appearance

03/15/2022



Order Shortening Time

Filed By: Counter Defendant AAL-JAY, INC.,

[42] Plaintiff's (1) Emergency Motion For First American Title Insurance Company to Turnover Funds in Escrow to the Buyer Aaljay, LLC and (2) Motion for Order to Show Cause Why This Court Should Not Hold Philip J. Fagan, Jr., As Trustee of the Philip J. Fagan, Jr. 2001 Trust In Contempt For Violating This Court's Sale Order on Order Shortened Time

03/15/2022



Errata

[43] Errata to Plaintiff's (1) Emergency Motion for First American Title Insurance Company to Turnover Funds in Escrow to the Buyer AAL-Jay, Inc. and (2) Motion for Order to Show Cause Why This Court Should Not Hold Philip J. Fagan, Jr., as Trustee of the Philip J. Fagan, Jr., as Trustee of the Philip J. Fagan, Jr. 2001 Trust in Contempt for Violating this Court's Sale Order on Order Shortened Time

03/21/2022



Certificate of Service

Filed by: Counter Defendant AAL-JAY, INC.,

[44] Certificate of Service

03/23/2022



Opposition and Countermotion

Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust

[45] Opposition to Plaintiff's Emergency Motion for First American Title Company to Turnover [sic] Funds in Escrow to the Buyer AAL-Jay, LLC and Motion for Order to Show Cause as to Why This Court Should Not Hold Philip J. Fagan Jr, as Trustee of the Philip J. Fagan Jr. 2001 Trust In Contempt for Violating This Court's Sale Order on Order Shortened [sic] Time; and Defendant/Counterclaimant's Countermotion for Preliminary Injunction and Countermotion to Clarify Order

03/24/2022



Notice of Lis Pendens

Filed by: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust

[46] Amended Notice of Pendency of Action (Lis Pendens)

03/28/2022



Declaration

Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust

[47] Declaration of Philip J. Fagan, Jr. in Support of Defendant's Countermotion for Preliminary Injunction

03/30/2022



Reply to Opposition

[48] Reply to Opposition to Plaintiff's (1) Emergency Motion for First American Title Insurance Company to Turnover Funds in Escrow to the Buyer AAL-JAY, Inc. and (2) Motion for Order to Show Cause Why this Court Should Not Hold Philip J. Fagan, Jr., as Trustee of

CASE SUMMARY

CASE NO. A-21-832379-C

the Philip J. Fagan, Jr. 2001 Trust in Contempt for Violating this Court's Sale Order on Order Shortened Time

04/08/2022



Objection

Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust
[49] *Objection to Draft Order Granting Plaintiff's (1) Emergency Motion for First American Title Insurance Company to Turnover Funds in Escrow to The Buyer AAL-Jay, Inc.; (2) Continuing Hearing on Motion for Order to Show Cause Why This Court Should Not Hold Philip J. Fagan, Jr., as Trustee of The Philip J. Fagan, Jr. 2001 Trust In Contempt for Violating This Court's Sale Order; and (3) Denying Defendants' Motion for Injunctive Relief and Request For Relief From Specific Performance Order*

04/14/2022



Court Recorders Invoice for Transcript

[50] *Transcriber's Billing Information Hearing Date 4-5-22*

04/14/2022



Recorders Transcript of Hearing

[51] *Recorder's Transcript of Hearing Re: All Pending Motions 4.5.22*

04/15/2022



Response

[52] *Response to Defendants' Objection to Draft Order Granting (1) Emergency Motion for First American Title Insurance Company to Turnover Funds in Escrow to the Buyer AAL-JAY, Inc. (2) Continuing Hearing on Motion for Order to Show Cause by Court Should Not Hold Philip J. Fagan, Jr. 2001 Trust in Contempt for Violating Court's Sale Order on Order Shortening Time and (3) Denying Defendants' Motion for Injunctive Relief and Request for Relief from Specific Performance Order*

05/06/2022



Order Granting Motion

[53] *Order Granting Plaintiff's (1) Emergency Motion for First American Title Insurance Company to Turnover Funds in Escrow to the Buyer AAL-JAY, INC.; (2) Continuing Hearing on Motion for Order to Show Cause Why This Court Should Not Hold Philip J. Fagan, JR., as Trustee of the Philip J. Fagan, JR. 2001 Trust in Contempt for Violating This Court's Sale Order; and (3) Denying Defendants' Motion For Injunctive Relief and Request for Relief From Specific Performance Order*

05/06/2022



Notice of Entry of Order

[54] *Notice of Entry of Order Granting Plaintiffs (1) Emergency Motion for First American Title Insurance Company to Turnover Funds in Escrow to the Buyer AAL-Jay, Inc.; (2) Continuing Hearing on Motion for Order to Show Cause Why This Court Should Not Hold Philip J. Fagan, Jr., as Trustee of The Philip J. Fagan, Jr. 2001 Trust In Contempt For Violating This Courts Sale Order; and (3) Denying Defendants Motion for Injunctive Relief and Request for Relief from Specific Performance Order*

05/06/2022



Notice of Appeal

Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust
[55] *Notice of Appeal*

05/06/2022



Case Appeal Statement

Filed By: Counter Claimant Fagan, Philip, Jr.; Defendant Philip J. Fagan Jr. 2001 Trust
[56] *Fagan - Case Appeal Statement*

HEARINGS

06/22/2021



Motion (9:00 AM) (Judicial Officer: Ballou, Erika)

Emergency Motion for Specific Performance of Purchase Agreement, on An Order Shortening Time

Continued per Stip and order to Continue Hearing.




Granted;

Journal Entry Details:

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-21-832379-C

	<i>Christopher Yergensen, Esq. present via Bluejeans video conference. Arguments by counsel regarding original contract. Following arguments, COURT ORDERED, Emergency Motion for Specific Performance of Purchase Agreement, on An Order Shortening Time GRANTED; advised Ms. Brown to prepare the order. ;</i>
08/24/2021	 Motion For Stay (9:00 AM) (Judicial Officer: Ballou, Erika) <i>Defendants/Counterclaimants Motion for Stay Pending Adjudication</i> Denied; Journal Entry Details: <i>Christopher Yergensen, Esq. present via Bluejeans video conference. COURT ORDERED, Motion for Stay Pending Adjudication DENIED.;</i>
09/14/2021	CANCELED Motion For Stay (9:00 AM) (Judicial Officer: Ballou, Erika) <i>Vacated - per Stipulation and Order</i>
09/21/2021	 Motion For Stay (9:00 AM) (Judicial Officer: Ballou, Erika) Denied; Journal Entry Details: <i>Christopher Yergensen, Esq. present via Bluejeans video conference. Mr. Yergensen argued Motion for Stay protected the real property. Ms. Brown argued property had lis pendis. COURT ORDERED, Motion for Stay DENIED; advised Ms. Brown to prepare order.;</i>
02/01/2022	 Mandatory Rule 16 Conference (9:00 AM) (Judicial Officer: Ballou, Erika) The Court cannot find coverage for the Civil Calendar while in Trial. Trial Date Set; Journal Entry Details: <i>Ogonna Brown, Esq. and Christopher Yergensen, Esq. present via Bluejeans video conference. The Court reviewed the Joint Case Conference Report (JCCR). Counsel anticipated 3 to 5 days to try. Colloquy regarding Show Cause Hearing against Fidelity. Following colloquy, COURT ORDERED, trial date SET; advised Ms. Brown to file Order to Show Cause on an Order Shortening Time. 08.22.2023 9:00 AM CALENDAR CALL 09.05.2023 1:00 PM JURY TRIAL;</i>
04/05/2022	All Pending Motions (9:00 AM) (Judicial Officer: Ballou, Erika) <i>OST</i> Matter Heard;
04/05/2022	Motion (9:00 AM) (Judicial Officer: Ballou, Erika) 04/05/2022, 06/14/2022 <i>Plaintiff's (1) Emergency Motion For First American Title Insurance Company to Turnover Funds in Escrow to the Buyer Aaljay, LLC and (2) Motion for Order to Show Cause Why This Court Should Not Hold Philip J. Fagan, Jr., As Trustee of the Philip J. Fagan, Jr. 2001 Trust In Contempt For Violating This Court's Sale Order on Order Shortened Time</i> Granted;
04/05/2022	Opposition and Countermotion (9:00 AM) (Judicial Officer: Ballou, Erika) <i>Opposition to Plaintiff's Emergency Motion for First American Title Company to Turnover [sic] Funds in Escrow to the Buyer AAL-Jay, LLC and Motion for Order to Show Cause as to Why This Court Should Not Hold Philip J. Fagan Jr, as Trustee of the Philip J. Fagan Jr. 2001 Trust In Contempt for Violating This Court's Sale Order on Order Shortened [sic] Time; and Defendant/Counterclaimant's Countermotion for Preliminary Injunction and Countermotion to Clarify Order</i> Denied;
05/17/2022	Status Check: Compliance (9:00 AM) (Judicial Officer: Ballou, Erika) <i>STATUS CHECK: COMPLIANCE/OSC</i>
08/22/2023	Calendar Call (9:00 AM) (Judicial Officer: Ballou, Erika)
09/05/2023	Jury Trial (1:00 PM) (Judicial Officer: Ballou, Erika)

DATE

FINANCIAL INFORMATION

CASE SUMMARY

CASE NO. A-21-832379-C

Counter Claimant Fagan, Philip, Jr.

Total Charges 388.19

Total Payments and Credits 388.19

Balance Due as of 5/10/2022 0.00

Counter Defendant AAL-JAY, INC.,

Total Charges 330.50

Total Payments and Credits 330.50

Balance Due as of 5/10/2022 0.00

DISTRICT COURT CIVIL COVER SHEET

County, Nevada
Case No. _____
(Assigned by Clerk's Office)

CASE NO: A-21-832379-C
Department 24

I. Party Information *(provide both home and mailing addresses if different)*

Plaintiff(s) (name/address/phone): <p style="text-align: center;">AAL-JAY, INC., a Nevada Corporation.</p>	Defendant(s) (name/address/phone): <p style="text-align: center;">PHILIP J. FAGAN, JR., an individual, and as Trustee of the PHILIP J. FAGAN, JR. 2001 TRUST; DOES I through X, inclusive, and ROE CORPORATIONS I through X, inclusive,</p>
Attorney (name/address/phone): <p style="text-align: center;">Ogonna M. Brown, Esq. Lewis Roca Rothgerber Christie LLP 3993 Howard Hughes Parkway, Suite 600 Las Vegas, NV 89169</p>	Attorney (name/address/phone):

II. Nature of Controversy *(please select the one most applicable filing type below)*

Civil Case Filing Types

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate <i>(select case type and estate value)</i> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input checked="" type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

04/06/2021

Date

/s/ Ogonna Brown

Signature of initiating party or representative

See other side for family-related case filings.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

AAL-JAY, INC., a Nevada Corporation.

Plaintiff,

v.

PHILIP J. FAGAN, JR., an individual, and
as Trustee of the PHILIP J. FAGAN, JR.
2001 TRUST; DOES I through X, inclusive,
and ROE CORPORATIONS I through X,
inclusive,

Defendants.

CASE NO: **A-21-832379-C**

DEPT NO: **XXIV**

**ORDER GRANTING PLAINTIFF'S (1) EMERGENCY MOTION FOR FIRST
AMERICAN TITLE INSURANCE COMPANY TO TURNOVER FUNDS IN
ESCROW TO THE BUYER AAL-JAY, INC.; (2) CONTINUING HEARING ON
MOTION FOR ORDER TO SHOW CAUSE WHY THIS COURT SHOULD NOT
HOLD PHILIP J. FAGAN, JR., AS TRUSTEE OF THE PHILIP J. FAGAN, JR. 2001
TRUST IN CONTEMPT FOR VIOLATING THIS COURT'S SALE
ORDER; AND (3) DENYING DEFENDANTS' MOTION FOR INJUNCTIVE
RELIEF AND REQUEST FOR RELIEF FROM SPECIFIC PERFORMANCE
ORDER**

DATE OF HEARING: **April 5, 2022**

TIME OF HEARING: **9:00am**

An Emergency Motion for First American Title Insurance Company to Turnover Funds in Escrow to the Buyer AAL-Jay, Inc. ("Motion for Turnover") and Motion for Order to Show Cause Why This Court Should Not Hold Philip J. Fagan, Jr., as Trustee of the Philip J. Fagan, Jr. 2001 Trust in Contempt for Violating This Court's Sale Order, On Order Shortened Time ("Motion for Order to Show Cause"), having been duly made by Plaintiff AAL-JAY, INC. ("Plaintiff", "AAL-JAY" or "Buyer"), by and through its counsel, Ogonna M. Brown, Esq. of the law firm of Lewis Roca Rothgerber Christie LLP against Phillip J. Fagan, Jr. and Trustee of the PHILIP J. FAGAN, JR. 2001 TRUST ("Defendants" or "Seller"), by and through its counsel, Allison R. Schmidt, Esq. of the law firm of Black & Wadhams, being

1 scheduled for hearing on shortened time on April 5, 2022, at 9:00 a.m. before
2 Department XXIV of the Eighth Judicial District Court, in and for Clark County,
3 Nevada, with Judge Erika Ballou presiding, and good cause appearing therefore,

4 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Turnover is
5 **GRANTED** in its entirety.

6 **IT IS FURTHER ORDERED** that First American Title Insurance
7 Company ("First American") is directed to turn over funds currently held in escrow
8 in the amount of \$170,000, that was deposited in connection with the purchase of
9 real property parcel located at the address 1 Grand Anacapi, Henderson, Nevada
10 89011, Assessor Parcel Number 160-22-810-011, to the accounts of the depositors
11 as directed by, Lail Leonard.

12 **IT IS FURTHER ORDERED** that First American is hereby discharged
13 from further liability with respect to the funds turned over to the Buyer in
14 compliance with this Court's Order Granting Buyer's Emergency Motion for
15 Specific Performance of Purchase Agreement, on an Order Shortening Time,
16 entered by this Court on August 26, 2021.

17 **IT IS FURTHER ORDERED** that in response to Defendants' request for
18 clarification of the Specific Performance Order, that Phillip J. Fagan, Jr. and Trustee
19 of the PHILIP J. FAGAN, JR. 2001 TRUST is compelled to comply with this
20 Court's Specific Performance Order, and is compelled to satisfy all lien payoffs for
21 liens existing at the time the Purchase Agreement was executed by Plaintiff as the
22 Buyer, and execute and shall execute all documents presented by Plaintiff or a title
23 company, to the extent applicable, in furtherance of closing the sale of the Property
24 to Plaintiff as the Buyer no later than thirty (30) days from the issuance of this order,
25 which compliance from Defendants is ordered by this Court no later than June 6,
26 2022, which documents include, but are not limited to, the following to effectuate
27 the transfer of title of the Property to Buyer in compliance with this Court's Specific
28 Performance Order:

1. Seller Document Package,
2. Statement of Information,
3. RPA Addendum One 1 Grand Anacapri Dr. Henderson, NV 89011;
- and
4. Request for Seller Information.

IT IS FURTHER ORDERED that the hearing on the Motion for Phillip J. Fagan, Jr. as Trustee of the PHILIP J. FAGAN, JR. 2001 TRUST for an order to show cause why Defendants should not be held in contempt for violating this Court's Order, and why Defendants should not be sanctioned and their Answer and Counterclaim stricken for contempt of this Court's Specific Performance Order entered on August 26, 2021, is continued from April 5, 2022, at 9:00 a.m. to **June 14, 2022, at 9:00 a.m** due to the Court having taken additional time to review Defendant's Objection to the proposed order and Plaintiff's Response.

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1 **IT IS FURTHER ORDERED** that Defendants' Motion for Injunctive
2 Relief is hereby **DENIED** as there is no likelihood of success on the merits, and
3 Defendants' mortgage payments and any other payments made in connection with
4 the Property are a result of Defendants' refusal to comply with this Court's Specific
5 Performance Order.

6 **IT IS FURTHER ORDERED** that Defendants' request for relief from this
7 Court's Specific Performance Order pursuant to NRCP 60 is **DENIED** in its
8 entirety.

9 **IT IS SO ORDERED.**

10
11 DATED this _____ day of May, 2022.

Dated this 6th day of May, 2022



DISTRICT JUDGE

77A 966 91DE D837
Erika Ballou
District Court Judge

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 AAL-JAY, INC., Plaintiff(s)

CASE NO: A-21-832379-C

7 vs.

DEPT. NO. Department 24

8 Philip Fagan, Jr., Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

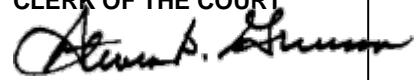
14 Service Date: 5/6/2022

15 Ogonna Brown	obrown@lewisroca.com
16 Diane Meeter	dmeeter@blackwadham.s.law
17 Chris Yergensen	cyergensen@blackwadham.s.law
18 Jerri Hunsaker	jhunsaker@blackwadham.s.law
19 Jennifer Hess	jhess@lewisroca.com
20 Nicole Lord	nlord@lewisroca.com
21 Dibora Berhanu	dberhanu@lewisroca.com
22 Kim Lopez	klopez@lewisroca.com
23 OMB Calendar	ombcalendar@lewisroca.com
24 Allison Schmidt	aschmidt@blackwadham.s.law
25 Allison Schmidt	aschmidt@blackwadham.s.law
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Allison Schmidt

aschmidt@blackwadhams.law



NEOJ
Ogonna M. Brown, Esq.
Nevada Bar No. 7589
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169
Tel: 702.949.8200
Fax: 702.949.8398
Email: obrown@lewisroca.com

Attorneys for Plaintiff AAL-JAY, Inc.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

AAL-JAY, INC., a Nevada Corporation.

Plaintiff,

v.

PHILIP J. FAGAN, JR., an individual, and as
Trustee of the PHILIP J. FAGAN, JR. 2001
TRUST; DOES I through X, inclusive, and
ROE CORPORATIONS I through X,
inclusive,

Defendants.

Case No. A-21-832379-C

Dept. No. 24

**NOTICE OF ENTRY OF ORDER
GRANTING PLAINTIFF'S (1)
EMERGENCY MOTION FOR FIRST
AMERICAN TITLE INSURANCE
COMPANY TO TURNOVER FUNDS IN
ESCROW TO THE BUYER AAL-JAY,
INC.; (2) CONTINUING HEARING ON
MOTION FOR ORDER TO SHOW
CAUSE WHY THIS COURT SHOULD
NOT HOLD PHILIP J. FAGAN, JR., AS
TRUSTEE OF THE PHILIP J. FAGAN,
JR. 2001 TRUST IN CONTEMPT FOR
VIOLATING THIS COURT'S SALE
ORDER; AND (3) DENYING
DEFENDANTS' MOTION FOR
INJUNCTIVE RELIEF AND REQUEST
FOR RELIEF FROM SPECIFIC
PERFORMANCE ORDER** Date of

Hearing: April 5, 2022
Time of Hearing: 9:00 a.m.

Judge: Hon. Erika Ballou

DATED this 6th day of May, 2022.

By: /s/ Ogonna Brown
Ogonna Brown, Bar No. 7589
OBrown@lewisroca.com
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169
Tel.: 702.949.8200
Fax: 702.949.8398

Attorneys for Plaintiff AAL-JAY, Inc.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and EDCR 7.6, I certify that I am an employee of Lewis Roca Rothgerber Christie LLP, and that on this 6th day of May, 2022, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S (1) EMERGENCY MOTION FOR FIRST AMERICAN TITLE INSURANCE COMPANY TO TURNOVER FUNDS IN ESCROW TO THE BUYER AAL-JAY, INC.; (2) CONTINUING HEARING ON MOTION FOR ORDER TO SHOW CAUSE WHY THIS COURT SHOULD NOT HOLD PHILIP J. FAGAN, JR., AS TRUSTEE OF THE PHILIP J. FAGAN, JR. 2001 TRUST IN CONTEMPT FOR VIOLATING THIS COURT'S SALE ORDER; AND (3) DENYING DEFENDANTS' MOTION FOR INJUNCTIVE RELIEF AND REQUEST FOR RELIEF FROM SPECIFIC PERFORMANCE ORDER** to be served on all parties via the Court's electronic service portal, Odyssey E-File and E-Serve to all registered parties in this matter, including the following contacts:

Jerri Hunsaker	jhunsaker@blackwadham s.law
Diane Meeter	dmeeter@blackwadham s.law
Allison R. Schmidt	aschmidt@blackwadham s.law
Chris V. Yergensen	cyergensen@blackwadham s.law
Dibora Berhanu	dberhanu@lewisroca.com
Ogonna M. Brown	obrown@lewisroca.com
OMB Calendar	ombcalendar@lewisroca.com
Jennifer Hess	jhess@lewisroca.com
Kirn Lopez	klopez@lewisroca.com
Nicole Lord	nlord@lewisroca.com

I caused a true and correct copy of the foregoing document, described above, to be served on the following parties via electronic mail at the following email addresses:

First American Title Insurance Company
Rachael Carter
Vice Pres. Southern Nevada
Branch Manager/Escrow Officer
2500 N Buffalo Drive., #120
Las Vegas, NV 89128
rmcarter@firstam.com

/s/ Nicole N. Lord
An employee of
Lewis Roca Rothgerber Christie LLP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

AAL-JAY, INC., a Nevada Corporation.

Plaintiff,

v.

PHILIP J. FAGAN, JR., an individual, and
as Trustee of the PHILIP J. FAGAN, JR.
2001 TRUST; DOES I through X, inclusive,
and ROE CORPORATIONS I through X,
inclusive,

Defendants.

CASE NO: **A-21-832379-C**

DEPT NO: **XXIV**

**ORDER GRANTING PLAINTIFF'S (1) EMERGENCY MOTION FOR FIRST
AMERICAN TITLE INSURANCE COMPANY TO TURNOVER FUNDS IN
ESCROW TO THE BUYER AAL-JAY, INC.; (2) CONTINUING HEARING ON
MOTION FOR ORDER TO SHOW CAUSE WHY THIS COURT SHOULD NOT
HOLD PHILIP J. FAGAN, JR., AS TRUSTEE OF THE PHILIP J. FAGAN, JR. 2001
TRUST IN CONTEMPT FOR VIOLATING THIS COURT'S SALE
ORDER; AND (3) DENYING DEFENDANTS' MOTION FOR INJUNCTIVE
RELIEF AND REQUEST FOR RELIEF FROM SPECIFIC PERFORMANCE
ORDER**

DATE OF HEARING: **April 5, 2022**

TIME OF HEARING: **9:00am**

An Emergency Motion for First American Title Insurance Company to Turnover Funds in Escrow to the Buyer AAL-Jay, Inc. ("Motion for Turnover") and Motion for Order to Show Cause Why This Court Should Not Hold Philip J. Fagan, Jr., as Trustee of the Philip J. Fagan, Jr. 2001 Trust in Contempt for Violating This Court's Sale Order, On Order Shortened Time ("Motion for Order to Show Cause"), having been duly made by Plaintiff AAL-JAY, INC. ("Plaintiff", "AAL-JAY" or "Buyer"), by and through its counsel, Ogonna M. Brown, Esq. of the law firm of Lewis Roca Rothgerber Christie LLP against Phillip J. Fagan, Jr. and Trustee of the PHILIP J. FAGAN, JR. 2001 TRUST ("Defendants" or "Seller"), by and through its counsel, Allison R. Schmidt, Esq. of the law firm of Black & Wadhams, being

1 scheduled for hearing on shortened time on April 5, 2022, at 9:00 a.m. before
2 Department XXIV of the Eighth Judicial District Court, in and for Clark County,
3 Nevada, with Judge Erika Ballou presiding, and good cause appearing therefore,

4 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Turnover is
5 **GRANTED** in its entirety.

6 **IT IS FURTHER ORDERED** that First American Title Insurance
7 Company ("First American") is directed to turn over funds currently held in escrow
8 in the amount of \$170,000, that was deposited in connection with the purchase of
9 real property parcel located at the address 1 Grand Anacapi, Henderson, Nevada
10 89011, Assessor Parcel Number 160-22-810-011, to the accounts of the depositors
11 as directed by, Lail Leonard.

12 **IT IS FURTHER ORDERED** that First American is hereby discharged
13 from further liability with respect to the funds turned over to the Buyer in
14 compliance with this Court's Order Granting Buyer's Emergency Motion for
15 Specific Performance of Purchase Agreement, on an Order Shortening Time,
16 entered by this Court on August 26, 2021.

17 **IT IS FURTHER ORDERED** that in response to Defendants' request for
18 clarification of the Specific Performance Order, that Phillip J. Fagan, Jr. and Trustee
19 of the PHILIP J. FAGAN, JR. 2001 TRUST is compelled to comply with this
20 Court's Specific Performance Order, and is compelled to satisfy all lien payoffs for
21 liens existing at the time the Purchase Agreement was executed by Plaintiff as the
22 Buyer, and execute and shall execute all documents presented by Plaintiff or a title
23 company, to the extent applicable, in furtherance of closing the sale of the Property
24 to Plaintiff as the Buyer no later than thirty (30) days from the issuance of this order,
25 which compliance from Defendants is ordered by this Court no later than June 6,
26 2022, which documents include, but are not limited to, the following to effectuate
27 the transfer of title of the Property to Buyer in compliance with this Court's Specific
28 Performance Order:

1. Seller Document Package,
2. Statement of Information,
3. RPA Addendum One 1 Grand Anacapri Dr. Henderson, NV 89011;
- 4 and
4. Request for Seller Information.

IT IS FURTHER ORDERED that the hearing on the Motion for Phillip J. Fagan, Jr. as Trustee of the PHILIP J. FAGAN, JR. 2001 TRUST for an order to show cause why Defendants should not be held in contempt for violating this Court's Order, and why Defendants should not be sanctioned and their Answer and Counterclaim stricken for contempt of this Court's Specific Performance Order entered on August 26, 2021, is continued from April 5, 2022, at 9:00 a.m. to **June 14, 2022, at 9:00 a.m** due to the Court having taken additional time to review Defendant's Objection to the proposed order and Plaintiff's Response.

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1 **IT IS FURTHER ORDERED** that Defendants' Motion for Injunctive
2 Relief is hereby **DENIED** as there is no likelihood of success on the merits, and
3 Defendants' mortgage payments and any other payments made in connection with
4 the Property are a result of Defendants' refusal to comply with this Court's Specific
5 Performance Order.

6 **IT IS FURTHER ORDERED** that Defendants' request for relief from this
7 Court's Specific Performance Order pursuant to NRCP 60 is **DENIED** in its
8 entirety.

9 **IT IS SO ORDERED.**

10
11 DATED this _____ day of May, 2022.

Dated this 6th day of May, 2022



DISTRICT JUDGE

77A 966 91DE D837
Erika Ballou
District Court Judge

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 AAL-JAY, INC., Plaintiff(s)

CASE NO: A-21-832379-C

7 vs.

DEPT. NO. Department 24

8 Philip Fagan, Jr., Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 5/6/2022

15 Ogonna Brown	obrown@lewisroca.com
16 Diane Meeter	dmeeter@blackwadham.s.law
17 Chris Yergensen	cyergensen@blackwadham.s.law
18 Jerri Hunsaker	jhunsaker@blackwadham.s.law
19 Jennifer Hess	jhess@lewisroca.com
20 Nicole Lord	nlord@lewisroca.com
21 Dibora Berhanu	dberhanu@lewisroca.com
22 Kim Lopez	klopez@lewisroca.com
23 OMB Calendar	ombcalendar@lewisroca.com
24 Allison Schmidt	aschmidt@blackwadham.s.law
25 Allison Schmidt	aschmidt@blackwadham.s.law
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Allison Schmidt

aschmidt@blackwadhams.law

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

June 22, 2021

A-21-832379-C AAL-JAY, INC., Plaintiff(s)
vs.
Philip Fagan, Jr., Defendant(s)

June 22, 2021

9:00 AM

Motion

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT: Brown, Ogonna M. Attorney
Yergensen, Christopher V. Attorney

JOURNAL ENTRIES

- Christopher Yergensen, Esq. present via Bluejeans video conference.

Arguments by counsel regarding original contract. Following arguments, COURT ORDERED, Emergency Motion for Specific Performance of Purchase Agreement, on An Order Shortening Time GRANTED; advised Ms. Brown to prepare the order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

August 24, 2021

A-21-832379-C AAL-JAY, INC., Plaintiff(s)
vs.
Philip Fagan, Jr., Defendant(s)

August 24, 2021 9:00 AM Motion For Stay

HEARD BY: Ballou, Erika **COURTROOM:** RJC Courtroom 12C

COURT CLERK:
Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT: Brown, Ogonna M. Attorney
Yergensen, Christopher V. Attorney

JOURNAL ENTRIES

- Christopher Yergensen, Esq. present via Bluejeans video conference.

COURT ORDERED, Motion for Stay Pending Adjudication DENIED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

September 21, 2021

A-21-832379-C AAL-JAY, INC., Plaintiff(s)
vs.
Philip Fagan, Jr., Defendant(s)

September 21, 2021 9:00 AM Motion For Stay

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK:

Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT: Brown, Ogonna M. Attorney
Yergensen, Christopher V. Attorney

JOURNAL ENTRIES

- Christopher Yergensen, Esq. present via Bluejeans video conference.

Mr. Yergensen argued Motion for Stay protected the real property. Ms. Brown argued property had lis pendis. COURT ORDERED, Motion for Stay DENIED; advised Ms. Brown to prepare order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

February 01, 2022

A-21-832379-C AAL-JAY, INC., Plaintiff(s)
vs.
Philip Fagan, Jr., Defendant(s)

**February 01, 2022 9:00 AM Mandatory Rule 16
Conference**

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT: Brown, Ogonna M. Attorney
Yergensen, Christopher V. Attorney

JOURNAL ENTRIES

- Ogonna Brown, Esq. and Christopher Yergensen, Esq. present via Bluejeans video conference.

The Court reviewed the Joint Case Conference Report (JCCR). Counsel anticipated 3 to 5 days to try. Colloquy regarding Show Cause Hearing against Fidelity. Following colloquy, COURT ORDERED, trial date SET; advised Ms. Brown to file Order to Show Cause on an Order Shortening Time.

08.22.2023 9:00 AM CALENDAR CALL

09.05.2023 1:00 PM JURY TRIAL



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

ALLISON R. SCHMIDT, ESQ.
10777 W. TWAIN AVE., 3RD FLOOR
LAS VEGAS, NV 89135

DATE: May 10, 2022
CASE: A-21-832379-C

RE CASE: AAL-JAY, INC. vs. PHILIP J. FAGAN, JR., an individual and as Trustee of the PHILIP J. FAGAN, JR.
2001 TRUST

NOTICE OF APPEAL FILED: May 6, 2022

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☒ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING PLAINTIFF'S (1) EMERGENCY MOTION FOR FIRST AMERICAN TITLE INSURANCE COMPANY TO TURN OVER FUNDS IN ESCROW TO THE BUYER ALL-JAY INC, (2) CONTINUING HEARING ON MOTION FOR ORDER TO SHOW CAUSE WHY THIS COURT SHOULD NOT HOLD PHILIP J. FAGAN, JR., AS TRUSTEE OF THE PHILIP J. FAGAN, JR. 2001 TRUST IN CONTEMPT FOR VIOLATING THIS COURT'S SALE ORDER, AND (3) DENYING DEFENDANTS' MOTION FOR INJUNCTIVE RELIEF AND REQUEST FOR RELIEF FROM SPECIFIC PERFORMANCE ORDER; NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S (1) EMERGENCY MOTION FOR FIRST AMERICAN TITLE INSURANCE COMPANY TO TURN OVER FUNDS IN ESCROW TO THE BUYER ALL-JAY INC, (2) CONTINUING HEARING ON MOTION FOR ORDER TO SHOW CAUSE WHY THIS COURT SHOULD NOT HOLD PHILIP J. FAGAN, JR., AS TRUSTEE OF THE PHILIP J. FAGAN, JR. 2001 TRUST IN CONTEMPT FOR VIOLATING THIS COURT'S SALE ORDER, AND (3) DENYING DEFENDANTS' MOTION FOR INJUNCTIVE RELIEF AND REQUEST FOR RELIEF FROM SPECIFIC PERFORMANCE ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

AAL-JAY, INC.,

Plaintiff(s),

vs.

PHILIP J. FAGAN, JR., an individual and as
Trustee of the PHILIP J. FAGAN, JR. 2001
TRUST,

Defendant(s),

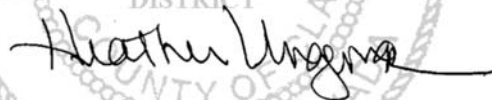
Case No: A-21-832379-C

Dept No: XXIV

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 10 day of May 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk



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

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

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Court Division Administrator

May 10, 2022

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

RE: AAL-JAY, INC. vs. PHILIP J. FAGAN, JR., an individual and as Trustee of the PHILIP J. FAGAN,
JR. 2001 TRUST
D.C. CASE: A-21-832379-C

Dear Ms. Brown:

Please find enclosed a Notice of Appeal packet, filed May 10, 2022. Due to extenuating circumstances minutes from the date(s) listed below have not been included:

April 5, 2022

We do not currently have a time frame for when these minutes will be available.

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

Sincerely,
STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Heather Ungermann
Heather Ungermann, Deputy Clerk