

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

* * *

THOMAS A. PICKENS, individually, and)
as trustee of the LV Blue Trust,)
)
Appellant,)
vs.)
)
DANKA K. MICHAELS, individually, and)
as trustee of the Mich-Mich Trust,)
)
Respondent.)
_____)

Docket No: 83491-COA
Electronically Filed
Oct 06 2022 08:24 p.m.
D.C. Case No: D-17-560737-P
Elizabeth A. Brown
Clerk of Supreme Court

MOTION TO REISSUE ORDER AS AN OPINION

COMES NOW Respondent, DANKA K. MICHAELS, by and through her attorneys, JENNIFER V. ABRAMS, ESQ., of THE ABRAMS & MAYO LAW FIRM, and SHAWN M. GOLDSTEIN, ESQ., of GOLDSTEIN FLAXMAN, PLLC, and hereby files this *Motion to Reissue Order as an Opinion*.

MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to NRAP 36(f), Respondent, DANKA K. MICHAELS, hereby moves this Court to reissue its *Order of Affirmance*, dated September 22, 2022 (hereinafter “*Order*”), as an Opinion to be published in the Nevada Reports.

Pursuant to NRAP 36(c):

The court will decide a case by published opinion if it:

- (1) Presents an issue of first impression;

- (2) Alters, modifies, or significantly clarifies a rule of law previously announced by the court; or
- (3) Involves an issue of public importance that has application beyond the parties.

This request is made because the *Order of Affirmance* (a) expands on the holding in *Hay v. Hay*, 100 Nev. 196, 678 P.2d 672 (1984) to clarify that when a couple does not pool *all* of their assets or *universally* hold themselves out as husband and wife, community property by analogy does not apply; (b) confirms the holding from over 150 years ago in *Fair v. Howard*, 6 Nev. 304 (1871) that “the question is not whether the consideration is adequate, but whether it is valuable,” and (c) clarifies the applicability of physician-patient and business partner fiduciary relationships and allegations of undue influence, The *Order* also cites additional cases on which the court relies, as well as cases with contrary holdings.

The issues of pooling assets, consideration, fiduciary duties and undue influence are of public importance with application beyond the parties. These are recurring issues in family law cases, both where unmarried parties are involved as well as with regard to married couples (as to consideration, fiduciary duties, and undue influence). Thus, published authority would be useful, both as to matters on appeal and, by analogy, to matters pending in the district courts. Accordingly,

///

///

Respondent respectfully requests that this Court's *Order of Affirmance* reissued as a published Opinion.

DATED Thursday, October 06, 2022.

Respectfully Submitted,

THE ABRAMS & MAYO LAW FIRM

/s/ Jennifer V. Abrams, Esq._____

Jennifer V. Abrams, Esq.

Nevada State Bar Number: 7575

6252 S. Rainbow Blvd., Suite 100

Las Vegas, Nevada 89118

Attorney for Respondent

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Motion to Reissue Order as an Opinion* was filed electronically with the Court of Appeals of the State of Nevada in the above-entitled matter on Thursday, October 06, 2022. Electronic service of the foregoing document shall be made in accordance with the Master Service List, pursuant to NEFCR 9, as follows:

John T. Jones, Esq.
Michelle T. LoBello, Esq.
Attorneys for Appellant

/s/ Chantel Wade
An employee of The Abrams & Mayo Law Firm