

IN THE SUPREME COURT
OF THE STATE OF NEVADA

MMV INVESTMENTS LLC, A
DELAWARE LIMITED LIABILITY
COMPANY,

Appellant,

v.

DRIBBLE DUNK LLC, A NEVADA
LIMITED-LIABILITY COMPANY;
ALL NET, LLC, A NEVADA
LIMITED-LIABILITY COMPANY;
AND JACKIE L. ROBINSON, AN
INDIVIDUAL

Respondents.

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District Court Case A-21-844680-B

**RESPONDENTS' OPPOSITION TO APPELLANT'S MOTION FOR
RECONSIDERATION**

Renee M. Finch, Esq.
Nevada Bar No. 13118
M. Caleb Meyer, Esq.
Nevada Bar No. 13379
Jason G. Martinez, Esq.
Nevada Bar No. 13375
MESSNER REEVES, LLP
8945 West Russell Road, Suite 300
Las Vegas, Nevada 89148
Telephone: (702) 363-5100
Facsimile: (702) 363-5101
Email: rfinch@messner.com
cmeyer@messner.com
jgmartinez@messner.com
Attorneys for Respondents

RESPONDENTS' OPPOSITION TO APPELLANT'S MOTION FOR RECONSIDERATION

COMES NOW Respondents DRIBBLE DUNK, LLC, ALL NET, LLC, AND JACKIE L. ROBINSON ("Respondents"), by and through their attorneys of record MESSNER REEVES, LLP, hereby submits their Opposition to Appellant's Motion for Reconsideration.

This Opposition is based upon the pleadings and papers on file in this action, the Memorandum of Points and Authorities set forth herein, and any argument the court may entertain at the time of hearing.

DATED this 11th day of October, 2022.

MESSNER REEVES LLP

/s/ Jason G. Martinez
Renee M. Finch, Esq.
Nevada Bar No. 13118
M. Caleb Meyer, Esq.
Nevada Bar No. 13379
Jason G. Martinez, Esq.
Nevada Bar No. 13375
8945 W. Russell Road, Suite 300
Las Vegas, Nevada 89148
Attorneys for Respondents

I. INTRODUCTION

Appellant, MMV INVESTMENTS, LLC (hereafter, “Appellant”) filed its Notice of Appeal on September 14, 2022 in Nevada Eighth Judicial District Court on September 6, 2022. The Notice of Appeal was docketed in the Nevada Supreme Court on September 14, 2022. On September 14, 2022, the Nevada Supreme Court issued a Notice to File Case Appeal Statement (Dkt. 22-28850) which ordered Appellant to file their Case Appeal Statement within 7 days. The Notice also explained that failure to comply may result in sanctions, including the dismissal of this appeal.

The same day, the Nevada Supreme Court issued a Notice of Potential Dismissal for Failure to Pay Supreme Court Filing Fee (Dkt. 22-28852) which ordered Appellant to remit the \$250 filing fee within 7 days. That Notice explained that failure to comply will result in the dismissal of this appeal. More than two weeks later, the Nevada Supreme Court issued an Order Dismissing Appeal pursuant to NRAP 3(a)(2). The Notice explained that electronic and paper notifications were served to Appellant’s counsel (Kirton McConkie). **Based on Mr. Pruitt’s affidavit, Mr. D. Andrew Lajoie, also counsel for Appellants, was receiving these notifications without issue.** (Dkt. 22-31349, pg. 3, ¶ 6).

On September 30, 2022, the Nevada Supreme Court issued an Order Dismissing Appeal (Dkt. 22-31003) for failure to pay the required filing fee or

otherwise respond to the Court's notice. On October 3, 2022, Appellant filed their Case Appeal Statement (Dkt. 22-21114) 19 days after the initial filing of their Notice of Appeal). On October 4, 2022, Appellant filed their Motion for Reconsideration (Dkt. 22-31349). Appellant claims that the failure to pay the required filing fee was due to Appellant's counsel changing of law firms (at least 5 months prior to filing Appellant's Notice of Appeal), and their "mistaken belief that the District Court would forward all counsel's current contact information for this case upon filing the Notice of Appeal." (Dkt. 22-31349, 4:5-8). However, Appellant provides no explanation as to why Mr. Lajoie equally failed to comply, despite concession he was receiving the relevant notices.

II. LEGAL ARGUMENT

Appellant's counsel argues that their Motion for Reconsideration should be granted pursuant to NRCP 60(b)(1), (6) and NRAP 27(b). However, relief under those conditions should not be granted. As noted above and conceded by Mr. Pruitt in his affidavit, Mr. D. Andrew Lajoie was receiving this Court's notifications without issue, which would include the notice issued on September 14, 2022. (Dkt. 22-28852). In fact, the Notice indicates it was provided to Mr. Lajoie via Paper:

Paper
Kirton & McConkie \ David A. Lajoie

Mr. Pruitt's failure to receive and respond to the notices may potentially qualify for reconsideration. However, there is zero explanation why Mr. Lajoie failed to comply, despite being counsel for Appellant and who Mr. Pruitt concedes was receiving the relevant notices. This is fatal to Appellant's instant Motion.

Regardless of when Appellant's counsel was informed the Appeal was dismissed, Appellant still did not timely remit the \$250 filing fee. The Nevada Rules of Appellate Procedure are quite clear as to when a filing fee is to be paid (NRAP 3(e)). Despite Mr. Lajoie's notification of the requirement to pay the fee and pending dismissal for failure to do so, Appellant did not meet the requisite deadline, and any argument about not being aware of the filing fee deadline is a red herring.

III. CONCLUSION

For these reasons, Respondents' respectfully asserts that Appellant's Motion for Reconsideration must be denied.

DATED this 11th day of October, 2022.

MESSNER REEVES LLP

/s/ Jason G. Martinez
Renee M. Finch, Esq.
Nevada Bar No. 13118
M. Caleb Meyer, Esq.
Nevada Bar No. 13379
Jason G. Martinez, Esq.
Nevada Bar No. 13375
8945 W. Russell Road, Suite 300
Las Vegas, Nevada 89148
Attorneys for Respondents

CERTIFICATE OF SERVICE

On this 11th day of October, 2022, I caused the foregoing **RESPONDENTS' OPPOSITION TO APPELLANT'S MOTION FOR RECONSIDERATION** to be transmitted to the person(s) identified in the E-Service List for this captioned case in the Supreme Court of Nevada. A service transmission report reported service as complete and a copy of the service transmission report will be maintained with the document(s) in this office.

/s/ Nicholas Nelson

Employee of MESSNER REEVES LLP