

Wesley Rusch in Pro Se
BOX 30907
Las Vegas NV 89173
Email dirofcomp@yahoo.com
702 764 0001

FILED

NOV 06 2023

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

Appellant

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

Case No. 85821-COA

Clark County District Court
Case No. A-21-850526-C
(consolidated with A-20-826568-C)

7

WESLEY RUSCH, an individual, and
OLIVER LONGBOY, an individual,
Plaintiffs,

vs.

APPLICATION AND

MOTION FOR DEFAULT JUDGMENT

NO HEARING REQUIRED PER NRCP 55

THE MARTIN CONDOMINIUM UNIT

OWNERS' ASSOCIATION, a domestic
non-profit corporation; DOE Individuals I
through X; and ROE Corporations and
Organizations I through X,
Defendants.

~
)
)

)
)
)

23-36086

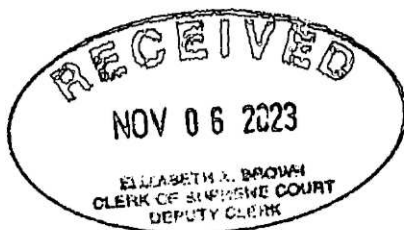
Wesley Rusch in Pro Se
BOX 30907
Las Vegas NV 89173
Email dirofcomp@yahoo.com
7022 764 0001

To Nevada Appeals Court Clerk of Courts

Please be advised that the Respondent The Martin Condominium Unit Owners Association is in Default.

They have failed to answer the complaint and therefore pursuant to NRCP 55 the court must enter a default Judgment.

Wesley Rusch



PREFACE

Appellant Wesley Rusch (hereafter “Rusch”) has filed a civil action against The Martin Condominium Unit Owners Association (hereafter The Martin”) for damages as the result of their wrongful actions.

Rusch has been severely damaged by the actions of The Martin. First the Flood then the wrongful sale without notice or a demand letter as required by **NRS 116.31162** forcing plaintiff to move from hotel to hotel and eat out at restaurants during a Pandemic.

Rusch has requested Entry of Default Judgment against The Martin who have failed to plead or otherwise defend this action, with no further time having been granted by the Court, and with more than 20 days, exclusive of the day of service of process, having expired since service upon the The Martin of the complaint served on December 7, 2021 with Civil Summons.

POINTS AND AUTHORITIES

The applicable Rule is Nevada Rule 55. Default; Default Judgment

Rule 55 - Default; Default Judgment

(a)Entering a Default. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default.

(b)Entering a Default Judgment.

(1)By the Clerk. If the plaintiffs claim is for a sum certain or a sum that can be made certain by computation, the clerk-on the plaintiffs request, with an affidavit showing the amount due-must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an incapacitated person

.

Therefore the Clerk must enter a default judgment against the Martin.

By the Clerk. If the plaintiffs claim is for a **sum certain** or a sum that can be made certain by **computation, the clerk**—on the plaintiffs request, with an **affidavit showing the amount due—must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing**

The Complaint provided a sum certain in the amount of

*For monetary damages as a result of the Flood, in an amount of **\$25,442.92.***

*For monetary damages as a result of Defendant's breach of written contract causing the wrongful eviction in an amount of **\$Four Million Dollars each for a total of \$8 Million Dollars.***

The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred and Forty Two Dollars and Ninety Two Cents on the Complaint

Total \$8,025,442.92

I Wesley Rusch further state:

1. I am the Appellant and Plaintiff in this action.
2. The Respondent and Defendant Martin Condominium Unit Owners Association were duly served with a copy of the Civil Summons and Complaint on December 7 2021, a copy of the proof of service is attached
3. No Defendant named herein is currently engaged in active military service.
4. **For monetary damages as a result of the Flood, in an amount of \$25,442.92.**
5. **For monetary damages as a result of Defendant's breach written contract causing the wrongful eviction in an amount of \$Four Million Dollars each for a total of \$Eight Million Dollars.**
6. **The following amount is due and owing on Plaintiff's claim as of this date. Eight Million Twenty Five Thousand Four Hundred Forty Two Dollars and Ninety Two Cents on the Complaint.**
7. **Total \$8,025,442.92**

Respectfully submitted

/s/ Wesley Rusch
Wesley Rusch

WESLEY RUSCH, an individual,

Appellant

THE APPEALS COURT OF THE STATE OF NEVADA

Supreme Court No. 85821-COA

Clark County District Court

Case No. A-21-850526-C

(consolidated with A-20-826568-C)

**AFFIDAVIT IN
SUPPORT OF
JUDGEMENT BY DEFAULT**

vs

THE MARTIN CONDOMINIUM UNIT

OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X; and ROE Corporations and Organizations I through X,

Respondent

I do solemnly swear or affirm that the facts set out below are true to the best of my knowledge and belief following diligent inquiry, and I request a default judgment

Respondent, Martin Unit Owners Association, having been regularly served with Summons and Complaint, and having failed to appear, plead or answer thereto; the legal time therefore having expired, and not having been extended, the Default of the said Defendants having been duly entered according to law, upon application of said Plaintiffs to the Clerk of the Court for the entry of judgment in accordance with the prayer of the Complaint and the Affidavit of the Plaintiffs on file herein, and good cause appearing, it is hereby

**It should be ordered that the Appellant have judgment against the Respondent in the sum of
\$8,025,442.92 with statutory interest from the date of Judgment.**

/s/ Wesley Rusch

Wesley Rusch

Your Name: Wesley Rusch
Address: PO Box 30907
City, State, Zip Las Vegas NV 89173
Telephone: 7027640001
Email Address: Dirofcomp@yahoo.com
Self-Represented

*****IN THE APPEALS COURT OF THE STATE OF NEVADA

Supreme Court No. 85821-COA

Clark County District Court

Case No. A-21-850526-C

(consolidated with A-20-826568-C)

WESLEY RUSCH, an individual,

Appellant

ENTRY OF

vs

JUDGEMENT BY DEFAULT

THE MARTIN CONDOMINIUM UNIT

OWNERS' ASSOCIATION, a domestic non-profit corporation; DOE Individuals I through X; and ROE Corporations and Organizations I through X,

Respondent Martin Unit Owners Association, having been regularly served with Summons and Complaint, and having failed to appear, plead or answer thereto; the legal time therefore having expired, and not having been extended, the Default of the said Respondent having been duly entered according to law, upon application of said Appellant to the Clerk of the Court for the entry of judgment in accordance with the prayer of the Complaint and the Affidavit of the Appellant on file herein, and good cause appearing, it is hereby ORDERED that the Appellant have judgment against the Respondent in the sum of \$8,025,442.92 with statutory interest from the date of Judgment.

APPEALS COURT

By: _____ Date _____

APPEALS COURT

APPLICATION FOR ENTRY OF DEFAULT

Wesley Rusch requests that the Clerk of this Court enter the default of Defendant Martin Condominium Unit Owners Association pursuant to Rule 55 of the Nevada Rules of Civil Procedure ("Nev. R. Civ. P.") for the reason that Respondent has failed to plead or otherwise defend this action as required by Rule 12 of the Nev. R. Civ. P.

Appellant served Respondent with the Complaint, Summons, and Notice via personal service on December 7, 2021 by personally leaving copies with Respondent. Respondent has not filed an Answer to the Complaint as of December 31, 2021, as required by Rule 12(a)(1)(A)(i) of the Nevada Rules of Civil Procedure. This Application for Entry of Default is supported by the accompanying Affidavit of Default.

In compliance with the provisions of Nev. R. Civ. P. 55(a)(1), Plaintiff has mailed a copy of an Application and accompanying Affidavit in Support of Entry of Default to Defendant at the following known address: Martin Condominium Unit Owners Association 4471 Dean Martin Drive Las Vegas NV 80103

If Defendant fails to file a responsive pleading or otherwise defend this action within ten (10) days of the filing of this Application, a default judgment will be requested in favor of the Plaintiff.

In light of the foregoing, Appellant respectfully requests that at the expiration of ten (10) days following the filing of this Application, the Court enter Judgment by default in favor of Appellant including an award of Appellant's costs and attorney's fees associated with prosecuting this matter.

DATED this 25th day of January , 2022.

Respectfully submitted,

By
/S/ Wesley Rusch
Wesley Rusch Plaintiffs

Your Name: Wesley Rusch and Oliver Longboy
Address: PO Box 30907
City, State, Zip: Las Vegas NV 89173
Telephone: 7027640001
Email Address: Dirofcomp@yahoo.com
Self-Represented

DISTRICT COURT CLARK **COUNTY, NEVADA** case No. A-21-840526-
COA

CLARK **COUNTY, NEVADA**

Dept 27

AFFIDAVIT OF SERVICE

(this form is to be completed by the person who serves the document)

I, *(name of person who served the documents)* J Jones Clark County Sheriffs Deptatment, declare
(complete EVERY SECTION below):

I am not a party to or interested in this action and I am over 18 years of age.

9. ***What Documents You Served.*** I served a copy of the
Complaintfor Compensation and Court Issued Summons

10. ***Who You Served.*** I served the Defendant Martin Condominium Unit Owners Association by serving First
Residential Financial

11. ***When You Served.*** I personally served the documents on 12:00 hour of
(time)(day) December 7, 2021

12. ***Where You Served.*** I personally delivered and left the documents with

The Party to the Case. I served the documents on the party at the location below.
(complete the details below)

Name of Person M Mendo First Residential Financial Services

Address Where Served 8290 Arville Street Las Vegas, NV 89139

I am not required to be licensed under Chapter 648 of the Nevada Revised Statutes or another provision of law because I am not engaged in the business of serving legal process within the state of Nevada.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA THAT THE FOREGOING IS TRUE AND CORRECT.

DATED (month) December (day) 7, 2021.

Server's Signature: /S/ J Jones Clark County Sheriffs Department

Server's Printed Name: J J o n e s

C o u n t y S h e r i f f s D e p a r t m e n t

Residential / Business Address: 301 E Clark Ave #100, Las Vegas, NV 89101

Server's Phone Number (702) 455-5400

Proof of service

Wesley Rusch being duly sworn and deposed and say that at all times herein affiant was and is a citizen of the United States and over 18 years of age

On October 28, 2023 I served attached document to the following address .

MARC S. CWIK. ESQ.

LEWIS BRISBOIS BISGAARD & SMITH LLP

6385 S. Rainbow Boulevard, Suite 600

Las Vegas, Nevada 89118

/S/ Wesley Rusch

Wesley Rusch