

IN THE SUPREME COURT OF NEVADA

JENNY RISH,

Appellant,

vs.

WILLIAM JAY SIMAO, individually; and
CHERYL ANN SIMAO, individually and as
husband and wife,

Respondents.

Electronically Filed
May 07 2014 10:03 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

SUPPLEMENTAL AUTHORITIES

Appellant Jenny Rish submits the following cases in support of the arguments raised in her opening brief. NRAP 31(e).

- A. In support of her argument that there are two distinct lines of authority from this Court about (1) “discovery” sanctions for conduct that thwarts the truth-finding process through destroying, altering or concealing evidence and (2) “trial” sanctions for misconduct that may delay proceedings, show disrespect for the trial judge’s authority or necessitate a new trial (AOB at 26-33), Rish submits these cases:

1) *GNLV Corp. v. Serv. Control Corp.*, 111 Nev. 866, 869, 900 P.2d 323, 325 (1995) (discovery sanctions are appropriate for the destruction of evidence or refusal to participate in discovery because “the adversary process has been halted by the actions of the unresponsive party”).

2) *Clark County Sch. Dist. v. Richardson Const., Inc.*, 123 Nev. 382, 168 P.3d 87 (2007) (although district court struck defendant's affirmative defense during the course of trial, the sanction was imposed for the failure to produce documents during discovery).

B. In support of her argument that the district court's tools to discipline and deter recalcitrant conduct during trial include reprimanding the attorney or imposing fines and contempt citations (AOB at 33), Rish submits these cases:

1) *Gunderson v. D.R Horton, Inc.*, 130 Nev. ___, ___, 319 P.3d 606, 611-612 (2014) ("When an attorney commits misconduct, and an opposing party objects, the district court should sustain the objection and admonish the jury and counsel, respectively, by advising the jury about the impropriety of counsel's conduct and reprimanding or cautioning counsel against such misconduct.").

2) *Emerson v. District Court*, 127 Nev. ___, ___, 263 P.3d 224, 229 (2011) (upholding fine of \$19,330 against attorney whose misconduct¹ required a new trial).

¹ Although the *Emerson* court cites to *Young v. Johnny Ribeiro Building*, 106 Nev. 88, 92, 787 P.2d 777, 779 (1990), it does not suggest that discovery sanctions are appropriate to remedy misconduct at trial. Rather, the *Emerson* opinion quotes *Young* only for the general proposition that the district court has discretion to impose sanctions.

3) *Houston v. District Court*, 122 Nev. 544, 555, 135 P.3d 1269, 1276 (2006) (recognizing the district court's power to hold attorneys in contempt for misconduct in court).

DATED this 7th day of May 2014.

LEWIS ROCA ROTHGERBER LLP

By: /s/ Daniel F. Polsenberg
DANIEL F. POLSENBERG
Nevada Bar No. 2376
JOEL D. HENRIOD
Nevada Bar No. 8492
3993 Howard Hughes Parkway
Suite 600
Las Vegas, Nevada 89169
(702) 949-8200
DPolsenberg@LRRLaw.com
JHenriod@LRRLaw.com

STEPHEN H. ROGERS
Nevada Bar No. 5755
ROGERS MASTRANGELO CARVALHO
& MITCHELL
300 South Fourth Street, Suite 710
Las Vegas, Nevada 89101
(702) 383-3400
SRogers@RMCMLaw.com

Attorneys for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this document was filed electronically with the Nevada Supreme Court on the 7th day of May, 2014. Electronic service of the foregoing **SUPPLEMENTAL AUTHORITIES** shall be made in accordance with the Master Service List as follows:

ROBERT T. EGLET
DAVID T. WALL
ROBERT ADAMS
EGLET WALL
400 South Seventh Street, Box 1, Suite 400
Las Vegas, Nevada 89101

/s/ Jessie M. Helm
An Employee of Lewis Roca Rothgerber LLP