

APPENDIX A

Steven D. Grierson

1 **NOEJ**
2 Law Offices of ERIC R. LARSEN
3 Reed J. Werner, Esq.
4 Nevada Bar No.: 9221
5 9275 W. Russell Rd., Ste. 205
6 Las Vegas, NV 89148
7 Telephone: (702) 387-8070
8 Facsimile: (877) 369-5819
9 Reed.Werner@thehartford.com
10 Attorney for Defendant
11 LINDEN GITTINGS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

8 CHARLES BELSSNER, an individual;
9
10 Plaintiff,

Case No.: A-18-769908-C
Dept. No.: 29

10 —vs—

11 LINDEN GITTINGS, an individual; DOES I
12 through X, inclusive; ROE CORPORATIONS
13 I through X, inclusive;
14 Defendants.

**NOTICE OF ENTRY OF ORDER
GRANTING PLAINTIFF'S MOTION
FOR ADA VIOLATIONS**

14 TO: ALL PARTIES AND COUNSEL OF RECORD.

15 PLEASE TAKE NOTICE that an Order was entered on October 14, 2019, in the above-
16 captioned matter, a copy of which is attached hereto.

17 DATED this 16th day of October, 2019.

18 Law Offices of ERIC R. LARSEN

19
20 : /s/ Reed J. Werner

21 Reed J. Werner, Esq.
22 Nevada Bar No.: 9221
23 9275 W. Russell Rd., Ste. 205
24 Las Vegas, NV 89148
25 Telephone: (702) 387-8070
26 Attorney for Defendant
27 LINDEN GITTINGS
28

Law Offices of
ERIC R. LARSEN
9275 W. Russell Rd., Ste. 205
Las Vegas, NV 89148
Telephone: (702) 387-8070
Facsimile: (877) 369-5819

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Law Offices of ERIC R. LARSEN and that service of a true and correct copy of the above and foregoing NOTICE OF ENTRY OF ORDER was served on the 16th day of October 2019, to the following addressed parties by:

- ☒ First Class Mail, postage prepaid from Las Vegas, NV pursuant to N.R.C.P. 5(b)
☐ Facsimile, pursuant to EDCR 7.26 (as amended)
☒ Electronic Mail / Electronic Transmission
☐ Hand Delivered to the addressee(s) indicated
☐ Receipt of Copy of the foregoing on this ____ day of _____, 2019,
acknowledged by, _____

Via U.S. Mail
CHARLES BELSSNER
P.O. Box 46154
Las Vegas, NV 89114

/s/ Debra M. Watson
An employee of Law Offices of
ERIC R. LARSEN

Law Offices of
ERIC R. LARSEN
3737 W. Russell Blvd., Ste 205
Las Vegas, NV 89114
Telephone: (702) 873-0100
Facsimile: (702) 873-0100

Steven D. Grierson

1 **OPPS**
2 Law Offices of ERIC R. LARSEN
3 Reed J. Werner, Esq.
4 Nevada Bar No.: 9221
5 9275 W. Russell Road
6 Suite 205
7 Las Vegas, Nevada 89148
8 Telephone: (702) 387-8070
9 Facsimile: (877) 369-5819
10 Reed.Werner@thehartford.com
11 Attorney for Defendant
12 LINDEN GITTINGS
13

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 CHARLES BELSSNER, an individual;

17 Plaintiff,

18 —vs—

19 LINDEN GITTINGS, an individual; DOES I
20 through X, inclusive; ROE CORPORATIONS
21 I through X, inclusive;

22 Defendants.

Case No.: A-18-769908-C
Dept. No.: 29

**ORDER GRANTING PLAINTIFF'S
MOTION FOR ADA VIOLATIONS**

23 On September 4, 2019, Plaintiff's Motion to Reopen Case for ADA violations came
24 before the Court. Charles Belssner appeared pro se and Reed Werner, Esq. appeared for
25 Defendant Linden Gittings. The Court having reviewed the pleadings and listened to oral
26 arguments took the case under advisement to review the dates of things and the docket. While
27 the Court did not have new evidence and did not violate the ADA rules, in an effort to allow
28 matters to be heard on their merits, the Court considered the motion as one for reconsideration
and grants the motion reopening the case and referring it to the short trial program. Wherefore;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the instant case be
reopened to allow the Plaintiff to have his case heard before a jury and not decided on his and
his former attorney's failure to timely appear at the arbitration hearing, file a brief or otherwise
participate in the arbitration process. The Court wishes the case to be heard on the merits and
refers the case to the short trial program where it can be heard and a final determination can be

Law Offices of
ERIC R. LARSEN
9275 W. Russell Road
Suite 205
Las Vegas, NV 89148
Telephone: (702) 387-8070
Facsimile: (877) 369-5819

1 made on the facts presented by the Plaintiff.

2 DATED this 14 day of October, 2019.

3
4
5 DISTRICT COURT JUDGE
6 83

7 Respectfully submitted by:

8 Law Offices of ERIC R. LARSEN

9
10 *EWL 9423 for*
11 Reed J. Werner, Esq.

12 Nevada Bar No.: 9221

13 Law Offices of ERIC R. LARSEN

14 9275 W. Russell Road

15 Suite 205

16 Las Vegas, Nevada 89148

17 Attorney for Defendant

18 LINDEN GITTINGS

19
20
21
22
23
24
25 Law Offices of
ERIC R. LARSEN
26 175 W. Russell Road
Suite 205
27 Las Vegas, NV 89148
Telephone: (702) 367-8070
28 Facsimile: (702) 369-5819

APPENDIX B



1 **STORD**

2 Peter M. Angulo, Esq.

3 Nevada Bar No. 3672

4 LAW OFFICES OF CORY J. HILTON

(702) 384-8000

DISTRICT COURT

CLARK COUNTY, NEVADA

7 **CHARLES N. BELSSNER,**

8 Plaintiff,

9 vs.

10 **LINDEN GITTINGS,**

11 Defendant

Case No.: A-18-7699087-C

Dept No.: 29

STP

**ORDER SETTING HEARING ON
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

16 Defendant has filed a potentially dispositive Motion for Summary Judgment for which
17 this Court has determined a hearing should be conducted. Originally, the hearing was scheduled
18 to be heard, telephonically or by Zoom conferencing, on Friday, November 6, 2020. However,
19 on November 4, 2020, Plaintiff sent an email which appeared to indicate his unavailability to
20 attend telephonically on that date.

22 As an accommodation, the Court rescheduled the hearing to Monday, November 9th at
23 2:00 p.m. In response, Plaintiff sent another email on November 4th addressed to my secretary
24 which again appears to raise reasons why a hearing cannot be conducted on Monday. Having
25 considered these arguments, I find they are without merit.

28 ORDER SETTING HEARING ON DEFENDANT'S MOTION FOR SUMMARY JUDGMENT - 1

1 Having considered the filings in this matter, and the numerous emails which have been
2 repeatedly sent by Plaintiff, the Court DENIES the Motion for Summary Judgment. While the
3 arguments raised by Defendant are persuasive and appropriate, after the Arbitration Award was
4 entered on January 16, 2019, Plaintiff raised before Judge David Jones a motion which
5 essentially sought to have the award vacated. On October 16, 2019, Judge Jones issued an order
6 which held "in an effort to allow matters to be heard on their merits, the Court considered the
7 motion as one for reconsideration and grants the motion reopening the case and referring it the
8 short trial program." He specifically ordered the "case be reopened to allow the Plaintiff to have
9 his case heard before a jury and not decided on his and his former attorney's failure to timely
10 appear at the arbitration hearing, file a brief or otherwise participate in the arbitration process."

11 While this Court may not have so ruled on those issues, this decision would seem to the
12 law of the case at this point and this Court is leery of overturning that decision based on the
13 filings before it. This Court is aware NAR 18(B) indicates the 30-day period for filing is
14 jurisdictional and, after its expiration, the order is deemed final. NAR 19. However, even final
15 orders are subject to being revisited under NRCP 60, for good cause shown. In this case, it
16 seems Judge Jones essentially granted a 60(b) motion and vacated the entry of the arbitration
17 award. In other words, it is as though he set aside a default judgment. Clearly, he was
18 empowered to do so.

19 As to Plaintiff's non-payment of the arbitrator's fees and those of the short trial judge, it
20 is the Court's understanding Plaintiff has been granted *in forma pauperis* status. Such fees may
21 not be required of him.

22 Plaintiff has also raised an issue in his Opposition that this matter should be removed
23 from the Short Trial Program. That matter has been heard and considered by the Arbitration
24 ORDER REGARDING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT - 2

1 Commissioner and the Court. It has been rejected. Plaintiff is advised to continue to raise that
2 issue with this Court will result in the possible imposition of Rule 11 sanctions going forward as
3 it has been deemed without merit. This matter will stay in this program and the recovery will be
4 limited to \$50,000.00.

5
6 Defendant has also raised the issue of Plaintiff's failure to comply with NRCP 16.1
7 disclosure obligations. The Court is very concerned about the time that has been wasted by
8 Plaintiff in having meaningful discovery conducted—especially since the early case conference
9 was conducted on October 1, 2020 and, under NRCP 16.1(a)(1)(C), these should have been
10 properly disclosed within 14 days thereafter. Given that Plaintiff is *pro se*, the Court will excuse
11 his failure to this point but will require he provide full and complete disclosures as required by
12 NRCP 16.1 no later than November 19, 2020 to Defendant, in the appropriate pleading format.
13 To be clear, this means Plaintiff is required to provide “the name and, if known, the address and
14 telephone number of each individual likely to have information discoverable under Rule 26(b),
15 including for impeachment or rebuttal, identifying the subjects of the information; a copy — or a
16 description by category and location — of all documents, electronically stored information, and
17 tangible things that the disclosing party has in its possession, custody, or control and may use to
18 support its claims or defenses, including for impeachment or rebuttal, and, unless privileged or
19 protected from disclosure, any record, report, or witness statement, in any form, concerning the
20 incident that gives rise to the lawsuit; . . . the identity of each relevant medical provider so that
21 the opposing party may prepare an appropriate medical authorization for signature to obtain
22 medical records from each provider; a computation of each category of damages claimed by the
23 disclosing party — who must make available for inspection and copying as under Rule 34 the
24 documents or other evidentiary material, unless privileged or protected from disclosure, on
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ORDER REGARDING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT - 3

1 which each computation is based, including materials bearing on the nature and extent of injuries
2 suffered . . .” NRCP 16.1(a)(1)(A)(i)-(iv)(emphasis added).

3 Plaintiff is not excused from this obligation. NRCP 16.1(g). This means Plaintiff must
4 provide, at a minimum, a complete list of all known witnesses—with the identifying information
5 for each; either a copy or description and location of all relevant documentary materials
6 supporting Plaintiff’s claim; a specific identification of all Plaintiff’s medical providers related to
7 the injuries arising from this incident and a clear and comprehensive computation of his alleged
8 damages. Should a full and complete disclosure not be received at the time specified, the Court
9 will consider appropriate sanctions under NRCP 16.1(e).
10

11 To ensure the litigation is proceeding properly towards the established trial date, upon
12 receipt of the designation of medical providers, Defendant may choose to have Plaintiff sign
13 HIPAA authorizations. Plaintiff will have seven (7) days in which to return those authorizations
14 properly signed and executed, after he has been served with a copy and a request by Defendant.
15 The failure to comply will be deemed a violation of Plaintiff’s duty to engage in proper
16 discovery and may expose him to sanctions under NRCP 37.
17

18 Finally, this Court has repeatedly warned Plaintiff of using emails to communicate with
19 this Court or to use them as attempts to obtain rulings from this Court. Plaintiff has nevertheless
20 continued in this inappropriate method of communication. The parties are accordingly informed
21 the Court will not entertain any direct communications from any party—whether by email, letter,
22 text, or telephone—regarding issues in this case. The lone exception is if the parties jointly agree
23 the Court needs to be contacted to schedule a hearing or discuss a matter requiring immediate
24 resolution and jointly extend that communication to the Court. All other concerns need to be
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ORDER REGARDING DEFENDANT’S MOTION FOR SUMMARY JUDGMENT - 4

1 placed as a proper motion. The continued failure to comply with this Court's direct order will
2 result in the dismissal of this suit for vexatious conduct.

3 IT IS SO ORDERED this 9th day of November, 2020.
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JUDGE PRO TEMPORE

ORDER REGARDING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT - 5

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10 day of November, 2020, I served a copy of the foregoing ORDER REGARDING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT via Wiznet to the following counsel of record:

Charles N. Belssner
P.O. Box 46154
Las Vegas, Nevada 89114
Plaintiff in Proper Person

Reed J. Warner, Esq.
750 E. Warm Springs Road, Suite 320, Box 19
Las Vegas, Nevada 89119
Attorney for Defendant


An Employee of the Law Firm of Cory J. Hilton

ORDER REGARDING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT - 6

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APPENDIX C

Steven D. Grierson

1 **STORD**

2 Peter M. Angulo, Esq.

3 Nevada Bar No. 3672

4 **LAW OFFICES OF CORY J. HILTON**

(702) 384-8000

5 **DISTRICT COURT**

6 **CLARK COUNTY, NEVADA**

7 **CHARLES N. BELSSNER,**

8 **Plaintiff,**

9 **vs.**

10 **LINDEN GITTINGS,**

11 **Defendant**

Case No.: A-18-769908-C

Dept No.: 29

12 **STP**

13 **ORDER DISMISSING LITIGATION ON**
14 **SUMMARY JUDGMENT AND AS A**
15 **SANCTION**

16
17 On December 16, 2020, Defendant filed a potentially dispositive Motion for Summary
18 Judgment with the Court. On December 21, 2020, the Court entered a briefing order indicating
19 any Opposition to the filed Motion was due by December 30, 2020. Additionally, in that Order,
20 the parties were informed of the hearing of the motion would be held on January 20, 2021 at
21 10:00 a.m. and the parties were required to provide valid contact phone numbers to the Court by
22 December 30, 2020.

23
24 On January 20, 2021, at 10:05 a.m., the Court conducted its hearing on the pending
25 Motion for Summary Judgment filed by Defendant. In advance of the hearing, this Court sent an
26 email to the parties identifying the contact telephone numbers it had for them and seeking to
27 ensure those numbers were the best to be able to contact them for the scheduled hearing.
28

ORDER DISMISSING LITIGATION ON SUMMARY JUDGMENT AND AS A SANCTION - 1

1 Defendant's counsel responded, providing a direct number. Plaintiff never responded with a
2 better number. At the time scheduled, the Court called the listed/provided numbers. The number
3 for Plaintiff went directly to voicemail. The Court left a detailed message indicating it would
4 wait another 5 minutes before starting the hearing on the Motion for Summary Judgment to give
5 Plaintiff the opportunity to call the court directly or to respond with a better number. After
6 waiting the indicated time, this Court called Plaintiff again and again went directly to voicemail.
7 Again, the Court informed Plaintiff he was welcome to call the office directly while the hearing
8 was being conducted if he wished to participate, otherwise, the Court would consider any filings
9 he had properly submitted and rule accordingly.
10

11
12 At approximately 10:11 a.m., the Court conducted its hearing of the pending Motion. In
13 attendance was Reed J. Werner, Esq., of the Law Offices of ERIC R. LARSEN, on behalf of
14 Defendant. Plaintiff did not attend and did not place a phone call during the time of the hearing.
15

16 In considering the filings in this matter, the Court notes Plaintiff did not file an
17 Opposition to the Motion for Summary Judgment by December 30, 2020. He did not ask for an
18 enlargement of time to file an Opposition based on some good cause or excuse. The Court does
19 note the filing of an *"Update Opposition to Defendant's Motion for Summary*
20 *Judgment/Sanctions imposed for Defendant's Falsehoods & Accepted Liability of Damages.*
21 *Motion to Be ; Strike"* which was filed yesterday, January 19, 2021 at 11:14 a.m. Although this
22 document is fugitive as it is filed outside the required time, it has been read and considered by
23 this Court. It is noted, however, this "Opposition" fails to meet the appropriate standards for
24 opposing summary judgment. Plaintiff, because he is in proper person, was previously sent an
25 order from this Court on October 12, 2020 which, in light of the Nevada Supreme Court's
26 guidance in Bonnell v. Lawrence, 128 Nev. 394, 403-04, 282 P.3d 712, 718 (2012), set forth in
27
28

ORDER DISMISSING LITIGATION ON SUMMARY JUDGMENT AND AS A SANCTION - 2

1 painstaking detail Plaintiff's obligations in opposing summary judgment.. Thus, this late-filed
2
3 Opposition is even more repugnant since there was no adherence to these standards in that
4 Opposition.

5 The Court is also mindful of several improper emails which were sent on January 5-7,
6 2021 in derogation of this Court's clear order of November 10,2020 wherein this Court
7 specifically stated: *"Finally, this Court has repeatedly warned Plaintiff of using emails to*
8 *communicate with this Court or to use them as attempts to obtain rulings from this Court.*
9 *Plaintiff has nevertheless continued in this inappropriate method of communication. The parties*
10 *are accordingly informed the Court will not entertain any direct communications from any*
11 *party—whether by email, letter, text, or telephone—regarding issues in this case. The lone*
12 *exception is if the parties jointly agree the Court needs to be contacted to schedule a hearing or*
13 *discuss a matter requiring immediate resolution and jointly extend that communication to the*
14 *Court. All other concerns need to be placed as a proper motion. The continued failure to*
15 *comply with this Court's direct order will result in the dismissal of this suit for vexatious*
16 *conduct."*¹ The emails sent by (or on behalf of) Plaintiff sought to disparage the Courts, Judge
17 David M. Jones, while making observations or statements which were not relevant to matters
18 before this Court. Indeed, Judge Jones' law clerk responded in email at one point to defend the
19 proper actions of her judge. In a subsequent brief conversation held with this law clerk, she
20 confirmed Plaintiff had sent of number of disparaging, and even threatening, emails to Judge
21 Jones and his staff on prior occasions.
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28 ¹ In addition, the Court has already issued an order dated November 6, 2020, indicating the improper use of emails and specifically indicating future emails would not receive a response from the Court.

1 With all this in mind, Defendant's Motion for Summary Judgment is considered and
2 deemed worthy of being GRANTED. In seeking dismissal of the matter, Defendant raises
3 several arguments which will be addressed in turn.
4

5 **I. NRCP 16.1 VIOLATIONS**

6 Initially, Defendant notes this Court, in its November 10, 2020 order, clearly ordered
7 Plaintiff to provide proper NRCP 16.1 disclosures to Defendant by November 19, 2020 or he
8 would be subject to sanctions under NRCP 16.1(e). Among the available sanctions are those
9 found in NRCP 37(b) and (f). These sanctions include "prohibiting the disobedient party from
10 supporting or opposing designated claims or defenses, or from introducing designated matters in
11 evidence; striking pleadings in whole or in part; . . dismissing the action or proceeding in whole
12 or in part; . . rendering a default judgment against the disobedient party; or treating as contempt
13 of court the failure to obey any order . . ." NRCP 37(b)(1)(B)-(G). Utilizing any of these
14 sanction (all of which are deemed appropriate in this matter) would have the practical effect of
15 dismissing Plaintiff's case.
16
17

18 A review of the filings in this matter reveal Plaintiff failed to comport with this Court's
19 clear directive without good cause. No enlargement of time was sought by Plaintiff to ensure
20 compliance. Not even a pallid response was submitted by Plaintiff. Accordingly, this Court
21 finds Plaintiff has chosen to willfully and intentionally disobey and derogate this Court's
22 directive and, by implication, its authority. Accordingly, this Court deems the severe sanction of
23 dismissal in whole is appropriate. In reaching this decision, the Court has weighed the
24 possibility of some lesser sanction catching Plaintiff's attention and ensuring future compliance.
25 However, given the past history in this case with Plaintiff, I have determined lesser sanctions
26 will not be effective.
27
28

ORDER DISMISSING LITIGATION ON SUMMARY JUDGMENT AND AS A SANCTION - 4

1 **II. FAILURE TO RESPOND TO DISCOVERY**

2 The second argument raised deals with the fact Defendant served on Plaintiff
3
4 Interrogatories and Requests for Admissions to which no response has ever been received.
5 While Defendant argues the failure to respond to the Interrogatories warrants dismissal as a
6 sanction under NRCP 37, inasmuch as I do not have any evidence of an EDCR 2.34 conference
7 being conducted between the parties, I do not give this request any credence.
8

9 As to the Request for Admissions, however, a 2.34 conference need not be held. NRCP
10 36(a)(1) provides parties to litigation with discovery device whereby they "may serve on any
11 other party a written request to admit . . . the truth any matters . . . relating to [] facts, the
12 application of law to any fact, or opinions about either[.]" Parties have a limited time period in
13 which to respond to the Requests for Admission. NRCP 36(a)(3) mandates "[a] matter is
14 admitted unless, within 30 days after being served, the party to whom the request is directed
15 serves on the requesting party a written answer or objection addressed to the matter and signed
16 by the party or its attorney." NRCP 36(b) further notes "[a] matter admitted under this rule is
17 conclusively established unless the court, on motion, permits the admission to be withdrawn or
18 amended."
19

20 In this case, Plaintiff was served with a copy of Defendant's Request for Admissions.
21 Plaintiff failed to answer to Requests within the mandated 30 days and has not sought an
22 enlargement of time nor asked for judicial relief from this inaction. Accordingly, by operation of
23 the Rule, each of the requested Admissions are deemed to have been answered affirmatively by
24 Plaintiff. "The sanction for failure to serve timely answers or objections to requests for
25 admissions is that all matters in the request are deemed admitted." Wagner v. Carex
26 Investigations & Sec. Inc., 93 Nev. 627, 630, 572 P.2d 921, 923 (1977).
27
28

ORDER DISMISSING LITIGATION ON SUMMARY JUDGMENT AND AS A SANCTION - 5

1 Failure to respond to such admissions “properly [serves] as the basis for summary
2 judgment against the party who has failed to serve a timely response.” Id.; see also Graham v.
3 Carson-Tahoe Hosp., 91 Nev. 609, 540 P.2d 105 (1975). The Nevada Supreme Court has stated
4 this function of NRCP 36 “is comparable to an admission in pleadings or a stipulation drafted by
5 counsel for use at trial, rather than to an evidentiary admission of a party, and therefore is not
6 rebuttable by contradictory testimony of the admitting party.” Wagner, 93 Nev. at 631-32
7 (describing the legislative history of NRCP 36(b)).
8
9

10 Given this, Plaintiff is deemed to have admitted to have caused the subject automobile
11 accident of March 8, 2016 through his own negligence. He admits he was not injured by the
12 accident. He admits Defendant violated or breached no duty owed to Plaintiff. These
13 admissions render the instant litigation a nullity and warrant the grant of summary judgment in
14 Defendant’s favor with prejudice—consistent with the arbitration award which has already been
15 received.
16

17 **III. FAILURE TO PAY SHORT TRIAL DEPOSIT**

18 The third argument raised by Defendant deals with the payment of short trial fees. While
19 it is true Plaintiff has never paid same, the Court will decline using this as a basis for dismissal.
20

21 **IV. PLAINTIFF’S CONDUCT WARRANTS DISMISSAL**

22 Although not raised in the Motion, this Court has determined another ground exists for
23 dismissing this case with prejudice. Specifically, Plaintiff has repeatedly ignored the direct
24 orders of this Court. He has not filed appropriate, timely motions/oppositions, he has not
25 participated in the scheduled hearings, he has harassed the district court and has continued
26 sending emails in direct derogation of this Court’s clear directions. While Plaintiff is in proper
27 person, that alone is not a sufficient justification for such behavior. Plaintiff has a checkered past
28

ORDER DISMISSING LITIGATION ON SUMMARY JUDGMENT AND AS A SANCTION - 6

1 when it comes to litigation practices. A review of his litigation practices in both state and federal
2 court have revealed this pattern of misconduct is not unique to this suit.

3
4 In Belssner v. Guild Mortg., Case No. 2:17-CV-01650-KJD-PAL, (D. Nev., January 30,
5 2019), it was noted Plaintiff was “warned that continued motion practice requesting relief that
6 has already been denied or making frivolous, unsupported requests may result in the imposition
7 of sanctions, including dismissal of this case.” In Belssner v. Bank of America, Case No. 2:17-
8 cv-01666-APG-NJK (D. Nev. November 2, 2017), the Court noted it had warned Plaintiff of the
9 consequences of failing to comply with the Court’s order regarding amending his Complaint. In
10 response, he ignored the Court’s directions and, instead of clarifying his claims and the factual
11 allegations supporting them, Plaintiff instead added even more claims based on the same basic
12 recitation of his factual allegations. Accordingly, his case was dismissed. More importantly, in
13 Belssner v. Gittings, Case No. 2:19-CV-02034-APG-VCF (D. Nev. March 19, 2020), Judge
14 Gordon declared Plaintiff to be a vexatious litigant based on his behavior before the Court.
15

16
17 A review of state court filings reveals Plaintiff has been involved in numerous lawsuits
18 over the years. Thus, he is no novice to the legal system. As recently as last year, it appears at
19 least one court treated him as a vexatious litigant. Belssner v. ATT, Case No. 19A003631 (LV
20 Justice Court, March 3, 2020). While none of this is dispositive on the topic, it does appear that
21 Plaintiff has engaged in a pattern similar to that which has unfolded before this Court.
22

23 The right of access to the courts is neither absolute nor unconditional. In re Green, 669
24 F.2d 779, 785 (D.C. Cir. 1981). “[N]o one, rich or poor, is entitled to abuse the judicial
25 process.” Hardwick v. Brinson, 523 F.2d 798, 800 (5th Cir. 1975). “Although there is a
26 constitutional right to access to the courts, there is ‘no constitutional right of access to the courts
27 to prosecute an action that is frivolous or malicious.’” Colorado Ex Rel. Colorado Judicial Dept.
28

ORDER DISMISSING LITIGATION ON SUMMARY JUDGMENT AND AS A SANCTION - 7

1 v. Fleming, 726 F. Supp. 1216, 1217 (D. Colo. 1989)(citing Phillips v. Carey, 638 F.2d 207, 208
2 (10th Cir.), cert. denied, 450 U.S. 985 (1981).
3

4 The most apparent effect of excessive litigation is the imposition of unnecessary
5 burdens on, and the useless consumption of, court resources. As caseloads
6 increase, courts have less time to devote to each case. A lack of adequate time for
7 reflection threatens the quality of justice. Second, long delays in adjudication
8 create public dissatisfaction and frustration with the courts, such delays also result
9 in the unfortunate continuation of wrongs and injustices while cases that would
correct them set on court calendars. Third, abuse of litigation results in long,
repetitive harassment of defendants, causing frustration and often extraordinary
and unreasonable expenditures of time and money defending them against
unfounded claims.

10 Colorado v. Carter, 678 F. Supp. 1484, 1486 (D. Colo. 1986).
11

12 In this case, it is clear to this Court Plaintiff has intentionally abused the judicial process.
13 He has filed at least one frivolous appeal without justification. He repeatedly submits filings
14 which are deemed to be groundless. He has failed to comply with clear orders from this court
15 and has continually sought to disparage Judge Jones. The behavior noted in this case seems to
16 parallel that undertaken in other cases. Thus, it appears clear the courts are being used as a
17 vehicle of harassment by a knowledgeable and experienced pro-se litigant who follows the same
18 abusive pattern in all his litigations.
19

20 Vexatious litigants are those "who repeatedly file[] frivolous lawsuits." Peck v. Crouser,
21 129 Nev. 120, 122, 295 P.3d 586, 587 (2013)(internal quotation marks omitted). As such, orders
22 may properly issue to limit their access to the courts as a sanction to deter such conduct. Id.
23

24 "Inherent in courts is the power to dismiss a case for failure to prosecute or to comply
25 with its orders. To prevent undue delays and to control their calendars, courts may exercise this
26 power within the bounds of sound judicial discretion, independent of any authority granted under
27 statutes or court rules." Moore v. Cherry, 90 Nev. 390, 393, 528 P.2d 1018, 1020 (1974).
28

"Where a party has been accurately notified of the time and place of a hearing, his failure to
ORDER DISMISSING LITIGATION ON SUMMARY JUDGMENT AND AS A SANCTION - 8

1 appear amounts to failure to prosecute, and is a proper ground for dismissal." Id., 90 Nev. at
2 394.
3

4 In this case, as detailed, Plaintiff has repeatedly refused to obey this Court's orders. He
5 has failed to follow the Rules of Civil Procedure. He has failed to meaningfully participate in
6 discovery. He has failed to attend at least two separate hearings set by this Court. Given the
7 totality of these circumstances, I find it appropriate to dismiss this case with prejudice on these
8 grounds also.
9

10 CONCLUSION

11 For these reasons, the Court GRANTS Defendant's Motion for Summary Judgment on
12 the grounds of Plaintiff's deemed admissions and his failure to cooperate in discovery. Further,
13 the Court finds independent grounds to dismiss this lawsuit based on Plaintiff's repeated acts of
14 misconduct. Accordingly, this litigation is DISMISSED WITH PREJUDICE.
15

16 IT IS SO ORDERED this 20th day of January, 2021

17
18 
19 JUDGE PRO TEMPORE
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ORDER DISMISSING LITIGATION ON SUMMARY JUDGMENT AND AS A SANCTION - 9

APPENDIX D

1494
SUPREME COURT OF NEVADA
OFFICE OF THE CLERK
201 S. Carson Street, Suite 201
Carson City, Nevada 89701
Address Service Requested

*Order of
H. H. Romanze*

CHARLES N. BELSSNER
725 N. ROYAL CREST CIRCLE, STE. 217
LAS VEGAS NV 89169

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Sunday
10/27/21*

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10/27/2021
US POSTAGE



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IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHARLES N. BELSSNER,
Appellant,
vs.
LINDEN GITTINGS,
Respondent.

No. 82470-COA

FILED

OCT 26 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Charles N. Belssner appeals from an order granting summary judgment in a tort action. Eighth Judicial District Court, Clark County; David M. Jones, Judge.¹

Belssner filed a personal injury claim against respondent Linden Gittings as a result of a motor vehicle accident where Belssner claims that Gittings crossed several lanes of traffic, entered the wrong side of a parking lot entrance, and struck Belssner's vehicle while he was waiting to exit the parking lot.

Following court annexed arbitration proceedings, the district court referred this case to the short trial program where, as relevant here, Gittings propounded discovery and served Belssner with interrogatories, requests for production of documents, and requests for admissions. Although these documents were properly served on Belssner on November 11, 2020, Belssner (proceeding pro se) responded only to Gittings' requests

¹Peter M. Angulo, Pro Tempore Judge, served as the short trial judge in this case.

for production of documents and did not respond to Gittings' requests for admission or interrogatories.

Consequently, on December 16, Gittings filed a motion for summary judgment, primarily arguing that (1) summary judgment should be granted under NRCP 36 as Belssner failed to timely respond to his requests for admissions, thereby admitting he was at fault for the accident and suffered no damages; (2) Belssner failed to produce proper NRCP 16.1 disclosures despite a previous court order instructing him to do so; and (3) Belssner could not prove his case at trial as he failed to timely and properly disclose witnesses and treating doctors in support of his case.

Although the short trial judge entered an order indicating that Belssner's opposition to the motion would be due by December 30, and informing the parties that a telephonic hearing would be held on the motion on January 20, 2021, Belssner did not file a written opposition to the motion until January 19, and did not answer the phone when called by the short trial judge. Nevertheless, the short trial judge considered Belssner's late opposition and decided the motion on the pleadings without argument.

Following the hearing, the short trial judge entered an order granting summary judgment based on Belssner's failure to respond to Gittings' requests for admission; and as an alternative, also dismissed Belssner's complaint as a sanction for his failure to properly complete his NRCP 16.1 disclosures as previously ordered by the court, and as a sanction for Belssner's conduct during the litigation, which included sending multiple inappropriate emails to the court and ignoring court orders. The district court entered judgment on the short trial judge's order, and

following several unsuccessful post-judgment motions, Belssner now appeals.²

As an initial matter, on appeal, Belssner fails to adequately challenge the district court's alternative grounds for resolving the case—dismissing the matter for failing to comply with NRCP 16.1's disclosure requirements and as a sanction for abusive litigation practices. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that issues not raised on appeal are deemed waived); *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (stating that this court need not consider claims that are not cogently argued). Thus, the challenged order can be affirmed on this basis alone. *Id.*; *see also Hillis v. Heineman*, 626 F.3d 1014, 1019 n.1 (9th Cir. 2010) (affirming a dismissal where the appellants failed to challenge the alternative ground that the district court provided for it). Nevertheless, we also address below the district court's grant of summary judgment based on Belssner's failure to respond to requests for admission under NRCP 36.

A district court's decision to grant summary judgment is reviewed de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine issue of material fact exists “and that the moving party is entitled to a judgment as a matter of law.” *Id.* (internal quotation marks omitted).

Under NRCP 36(a)(3), once a request for admission is served, “[a] matter is [deemed] admitted unless, within 30 days after being served,

²We note that Belssner filed a second notice of appeal in this case on March 5, 2021. Because that notice of appeal fails to identify an appealable order under NRAP 3A, we take no action as to that filing.

the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party” Courts consider any matter admitted under NRCP 36 to be “conclusively established unless the court, on motion, permits the admission to be withdrawn or amended.” NRCP 36(b). Moreover, “[i]t is well-settled that unanswered requests for admission may be properly relied upon as a basis for granting summary judgment.” *Estate of Adams v. Fallini*, 132 Nev. 814, 820, 386 P.3d 621, 625 (2016).

Here, Gittings properly served his requests for admission, asking Belssner to admit liability and that he suffered no damages on November 11, 2020, and Belssner had until December 14, 2020 to respond.³ On appeal, Belssner contends that he properly responded to the requests for admission, but our review of the record demonstrates that he only responded to Gittings’ requests for production of documents—which is a separate and distinct form of discovery permitted under NRCP 26 and NRCP 34. Accordingly, Belssner’s timely response to Gittings’ requests for production of documents does not cure his failure to respond to the requests for admission under NRCP 36.


And because Belssner failed to respond to the requests for admission, the matters contained in those requests—that he admitted liability and that he suffered no damages—are considered conclusively established, “even if the established matters are ultimately untrue.” *Smith v. Emery*, 109 Nev. 737, 742, 856 P.2d 1386, 1390 (1993). Consequently, no

³See NRCP 6(a) (stating that when calculating a period of time stated in days under the NRCP, one must exclude the day of the event that triggers the period, count every day including weekends and legal holidays, and if the last day of the period falls on a weekend or legal holiday, end the computation on the next day that is not a weekend or legal holiday).

genuine issues of fact remained with regard to Belssner's claims given his admissions and, therefore, we perceive no error in the district court's resulting grant of summary judgment in Gittings' favor. *Wood*, 121 Nev. at 729, 121 P.3d at 1029; *see also Estate of Adams*, 132 Nev. at 820, 386 P.3d at 625; *Wagner v. Carex Investigations & Sec. Inc.*, 93 Nev. 627, 631, 572 P.2d 921, 923 (1977) (holding that where admissions left no room for conflicting inferences and were dispositive of the case, summary judgment was appropriate). Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. David M. Jones, District Judge
Peter M. Angulo, Pro Tempore Judge
Charles N. Belssner
Law Offices of Eric R. Larsen
Eighth District Court Clerk

⁴Insofar as Belssner raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.

Electronically Filed
12/18/2021 12:53 PM

Steven D. Grisson

PETITIONER OF THE COURT
CHARLES N. BELSSNER
POST OFFICE BOX 46154
LAS VEGAS, NV. 89114-6154
(612)341-9201 CHANGE

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES N. BELSSNER

APPELLANT,

-vs-

LINDEN GITTINGS

RESPONDENT.

NO. 82470-COA

District Court Case A-18-769908-C

PETITION FOR REVIEW OF
SUPPRESSED EVIDENTIARY*

PETITION TO REMAND FOR TRIAL

EXEMPTION FROM ARBITRATION
EXEMPTION FROM TELEPHONIC OR
VIDEO CONFERENCING HEARINGS
TO ACCOMMODATE ADA SECTION 504

ORAL ARGUMENT HEARING
REQUESTED

PETITION TO REMAND FOR TRIAL

COMES NOW, CHARLES N. BELSSNER, Plaintiff in compliance with Rules of
Civil Proceedings this Order OF Affirmance must be respectfully dismissed for Common
Good and the Improvement of the State of Nevada Judiciary which the Culture relies
heavily on for if the quality of life is ever going to improve in Nevada.

LEGAL POSTURE

I

As inherited with by the challenge by Esq. ADA Expert Suz Thomas (See Exhibit
A) and groomed by the devotion of the late Director of the Center for Public Ethics

*(See *Haines vs Kerner* 404 U.S. 519, 9 Ct. 984, 30 L.Ed.2d 652, 18 Fed R. Serv. 2d) Lose Stringent Standard- Not applied by Pro
Tempore in Order(s)

Walton (See Exhibit B) whom was challenged by the chants of an audience @ this

Case Number: A-18-769908-C

J4
SUPRE. COURT OF NEVADA
OFFICE OF THE CLERK
201 S. Carson Street, Suite 201
Carson City, Nevada 89701


Address Service Requested

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11/30/2021

US POSTAGE



*Received
12/3/21*

CHARLES N. BELSSNER
725 N. ROYAL CREST CIRCLE, STE. 217
LAS VEGAS NV 89169

*Dealing
RC*

JADJS4B 89169



PETITION
CHARLES N. BELSSNER
POST OFFICE BOX 46154
LAS VEGAS, NV. 89114-6154
(612)341-9201 CHANGE

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PLEASE

FILED

NOV 10 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY _____
DEPUTY CLERK

8TH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

CHARLES N. BELSSNER

APPELLANT,

-VS-

LINDEN GITTINGS

RESPONDENT.

NO. 82470-COA

District Court Case A-18-769908-C

PETITION FOR REVIEW OF
SUPPRESSED EVIDENTIARY*

PETITION TO REMAND FOR TRIAL

EXEMPTION FROM ARBITRATION
EXEMPTION FROM TELEPHONIC OR
VIDEO CONFERENCING HEARINGS
TO ACCOMMODATE ADA SECTION 504

ORAL ARGUMENT HEARING
REQUESTED

PETITION TO REMAND FOR TRIAL

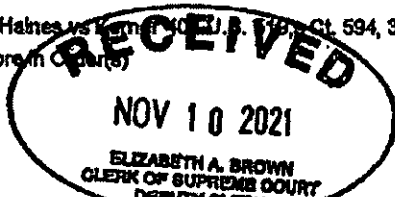
COMES NOW, CHARLES N. BELSSNER, Plaintiff in compliance with Rules of Civil Proceedings this Order OF Affirmance must be respectfully dismissed for Common Good and the Improvement of the State of Nevada Judiciary which the Culture relies heavily on for if the quality of life is ever going to improve in Nevada.

LEGAL POSTURE

I.

As inherited with by the challenge by Esq. ADA Expert Suz Thomas (See Exhibit A) and groomed by the devotion of the late Director of the Center for Public Ethics

*(See Haines vs Kerner 401 U.S. 419, 39 Ct. 594, 30 L.Ed.2d 652, 16 Fed R. Serv. 2d) Less Stringent Standard- Not applied by Pro Tempore in Court(s)



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JUDGE DAVID M. JONES
PRO TEMPORE
CLERK OF 8TH JUDICIAL DISTRICT COURT

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☐ Agent
☐ Addressee

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C. Date of Delivery

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 If YES, enter delivery address below ☐ No

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CLERK OF SUPREME COURT
DEPUTY CLERK

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IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES N. BELSSNER,
Appellant,
vs.
LINDEN GITTINGS,
Respondent.

No. 82470

FILED

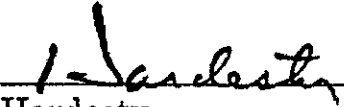
NOV 29 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION FOR REVIEW

Review denied. NRAP 40B.

It is so ORDERED.

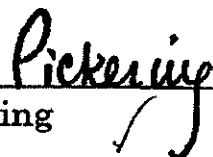
 C.J.
Hardesty


 J.
Parraguirre

 J.
Stiglich

 J.
Cadish

 J.
Silver

 J.
Pickering

 J.
Herndon

cc: Hon. David M. Jones, District Judge
Charles N. Belssner
Law Offices of Eric R. Larsen
Eighth District Court Clerk

APPENDIX E

SUPREME COURT of NEVADA

OFFICE of the CLERK

201 S. CARSON ST.

SUITE 201

CARSON CITY, NV. 89701

BELSSNER

c/o:

725 N. ROYAL CREST CIRCLE

#217

LAS VEGAS, NV. ~~89101~~

89101-8307

12-21-21
J. P. Kelly
12-21-21

50

REHEARING

Las Vegas P&DC 89199
TUE 21 DEC 2021 PM



PETITION
CHARLES N. BELSSNER
C/O:
725 n. Royal Crest Circle
#217
LAS VEGAS, NV. 89169-8307
(612) 341-9201

RETURNED
UNFILED

DEC 20 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

BY DEPUTY CLERK

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES N. BELSSNER

APPELLANT

No. 82470

-VS-

PETITION FOR REHEARING

LINDEN GITTINGS

RESPONDENT

COMES NOW, CHARLES N. BELSSNERR, Appellant whom has been denied
a legal search for Pro Bono Counsel on a referral from the ADR Commissioner to Legal
Aid of Southern Nevada because it being a Personal Injury Litigation according to Rules
of the Supreme Court of the United States the State Supreme Court:

Denied Discretionary Review
Then
Denied a Petition for Rehearing

For the appendices in order

LEGAL POSTURE

I.

REHEARING:

To date the Appellant has proven the indefensible bureaucratic bungling with
deadly malfeasance from the elimination of requests for hearing involving Removal of

DEC 20 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

1 Counsel that was voided by the Department Clerk that ultimately took over a year of
2 Filings to eliminate an Arbitration Award that had no merit to said removal of Counsel
3 which to this date that has the Case Summary (records) appearing to even Senior
4 Litigators that the Attorney Withdrew –tarnishing the Appellant ability to retain counsel.
5 to the State highest court stained with persons that ink a Confirmation Order that is
6 laced with fabrication that can be void with Oral Argument involving a original hearing
7 that never has been provided to date – let alone a rehearing.
8

9 LEGAL ARGUMENT

10 II.

11 SUPPRESSED EVIDENCE

12 The Petition of Review of Suppressed clearly proves just that. The Order
13 Dismissing Litigation Summary Judgment And As a Sanction Page 6, Line 1 Failure to
14 Respond to such Admissions fabricates that the lack of the Pro Tempore Admission that
15 he received the received Discovery along with Defense Counsel with a Request for
16 Confirmation of Receipt (See Exhibit D of the Petition- formerly Exhibit E filed with the
17 The Supreme Court on Feb 28, 2021) along with the statement:
18

19 "ANYTHING ELSE"

20 This was filed with the District Court on 11/16/2020.

21 A Height of Covid

22 This for Admissions that seeks the Appellant to admit to causing the accident
23 although the Defendant Council & Insurer paid for the damages to the Appellant' car
24 in excess of Book Value.

25 CONCLUSION

26 III.

27 No Hearing was ever provided. From total disregard for the then Plaintiff' Section
28

1 504 Accommodations to the constant change in scheduling to the Pro Tempore
2 ultimately calling a wrong number no hearing was ever provided.

3 Rules of the District Court Civil Proceedings were never provided and fabrication
4 by the Pro Tempore that he too received the Discovery that was provided to then
5 Plaintiff and no confirmation as requested was provided to include an answer to
6

7 "ANYTHING ELSE"

8 This can of corruption to our Courts can that be tolerated.

9 A Rehearing must be mandated.

10 This the 17th day of December, 2021

11 

12 CHARLES N. BELSSNER

13 C/O:

14 725 N. Royal Crest Circle

15 #217

16 Las Vegas, Nevada 89169-8307

17 (612)-341-9201

18 E-Mail: chaschrisjingles@live.com

AFFIDAVIT OF MAILING

/s/ state that on this the 18th day of December, 2021 mailed by USPS

In a sealed postage paid Certified mail 7021 0950 0002 2826 2783 Form 3811 a

PETITION FOR REHARING In Belssner vs. Gittings. Supreme Court Case No. 82470

To:

SUPREME COURT OF NEVADA
OFFICE OF THE CLERK
201 S. CARSON ST.
SUITE 201
CARSON CITY, NEVADA 89701

WITH e-filing to:

CLERK OF DISTRICT COURT
DEFENSE COUNSEL
DEPT. 29
5TH PRO TEMPORE

EXHIBIT A - EXHIBITS JILL ROBOLO

(List of Exhibits in Exhibit A)

FOR
EXHIBIT B - OPPOSITION TO DEFENDANT'S MOTION
FOR A WRIT OF HABEAS CORPUS
IN RE: PETITION

EXHIBIT C - ORDER FOR ISSUING WRIT OF HABEAS CORPUS

FOR
ISSUING WRIT OF HABEAS CORPUS

EXHIBIT D - PETITION FOR REVIEW OF SUPPRESSOR
REHEARING

EXHIBIT E -

(S - Exhibit of Petition for Review of Suppress

BELSSNER VS. GITINGS SUPREME COURT CASE NO. 82470

(Showing Petition filed & served on both Parties)

(Case assigned to Temporary Judge - Clerk of Court)

(Court will confirm Receipt of Discovery & Affidavit)

(ALL THIS IS)

EXHIBIT F - COPIES OF ADA SECTION

ACCOMMODATION

EXHIBIT G - DISMISSAL OF CASE