

1 MTN
 2 DANIEL NELL
 3 KELLY NELL
 4 5524 Bentz Rd
 5 Spring Grove, PA 17362
 6 Telephone (717) 465-8517

7 *Plaintiffs in Pro Se*

8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

10 DANIEL NELL, an individual; KELLY NELL,)
 11 an individual;)

12 Plaintiffs,)

13 vs.)

14 FLAMINGO PALMS VILLAS, LLC, a Nevada)
 15 limited liability company, et al.,)

16 Defendant.
 17 _____

Case No.: 2:08-CV-01675-RCJ-RJJ

) **PRO SE PLAINTIFFS' MOTION TO**
) **DISMISS WITH PREJUDICE & PROPOSED**
) **ORDER GRANTING MOTION TO DISMISS**

18 **COMES NOW Daniel and Kelly Nell**, in pro se, and hereby brings this Motion and
 19 Proposed Order before the court. This motion is made and based on the papers and pleadings on
 20 file with this court, the following memorandum of points and authorities and any oral argument
 21 this court may entertain at the time of hearing on this matter.

22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **I.**

24 **STATEMENT OF FACTS**

25 February 2009 – Retained Allen Hyman to assist us with being served foreclosure papers on
 our Cay Club property.

26 February 2009 thru April 2009 – Repeatedly attempted to get some of our questions
 27 answered from Mr. Hyman, but he was never available.

28 April 2009 - Talked to Christine from the law office of Allen Hyman. She informed me at
 that time that they would no longer accept any phone calls from me and all correspondence

1 was to be via email. Emailed Allen Hyman, as instructed by Christine in April 2009...Never
2 received a reply.

3 April 2010 - Retained the law firm of Rosenfeld and Rinato.

4 April 2012 – Recently became apprised of the fact that we are named plaintiffs in this lawsuit
5 despite repeated attempts to contact Mr. Hyman without success.

6 **II.**
7 **ARGUMENT**

8 The Nevada Rules of Civil Procedure provide that an action may be dismissed “upon order of
9 the court and upon such terms and conditions as the court deems proper.” NRCP 41(a)(2). **The**
10 **plaintiffs Daniel and Kelly Nell (the “Nells”), hereby request that based on the statement of**
11 **facts above, this court dismiss the Nells’ claims against all defendants, with prejudice and**
12 **each party bears their own attorneys’ fees and costs.**

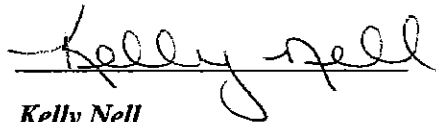
13 **III.**
14 **CONCLUSION**

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16 For the foregoing reasons, the Nells request the court dismiss the Nells’ complaint in its
17 entirety, each party to bear their own costs and fees.

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19 *Respectfully Submitted by:*

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23 **Daniel Nell**

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28 **Kelly Nell**

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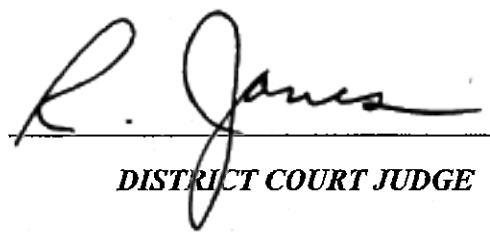
PROPOSED ORDER GRANTING PLAINTIFFS' DANIEL AND KELLY NELL'S MOTION TO DISMISS WITH PREJUDICE

The Court having reviewed Daniel and Kelly Nell's Motion to Dismiss With Prejudice, and good cause appearing:

IT IS HEREBY ORDERED Plaintiffs' Daniel and Kelly Nell's Motion to Dismiss with Prejudice is **GRANTED**.

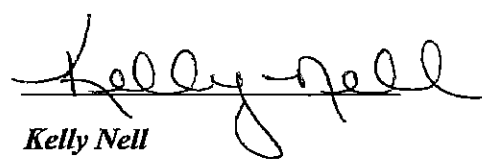
IT IS FURTHER ORDERED That each party pay their own fees and costs.

Dated: This 20th day of July, 2012.


DISTRICT COURT JUDGE

Respectfully Submitted by:


Daniel Nell


Kelly Nell