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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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10 THE GALINA SUDAI 2009
11 IRREVOCABLE TRUST FOR THE
12 BENEFIT OF HER HANDICAPPED
13 SON, MICHAEL KUBRAK,

Plaintiff,

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v.

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ROBB EVANS, *et al.*,

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Defendants.

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Case No. 2:09-cv-2181-LDG (RJJ)

ORDER

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The plaintiff, The Galina Sudai 2009 Irrevocable Trust for the Benefit of her Handicapped Son, Michael Kubrak, moves for relief from the order dismissing its amended complaint (#70). The Court will deny this motion, without prejudice, and not require that, at this time, defendants incur any further costs or fees arising from the dismissal of plaintiff's amended complaint.

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The Trust is now represented by Randal DeShazer, the Trust's fourth counsel in this matter. DeShazer asks this court to set aside the order dismissing the complaint, asserting that the dismissal was the result of both the Trust's second and third counsel's "fail[ure] to meet their professional obligations" and their failure to engage in any effort to litigate this

1 matter. The Trust ignores, however, that the record establishes that it terminated its
2 original counsel just days prior to the due date for opposing the original motion to dismiss.
3 The Trust further ignores that the record establishes that its second counsel filed a
4 declaration stating that he had reached an impasse with the Trust concerning the litigation.
5 Finally, the Trust seeks to place the entire blame for dismissal of its amended complaint on
6 two of its prior counsel, asserting that both utterly failed to perform any work on this
7 litigation. The Trust has not, however, filed any waiver of its attorney-client privilege as to
8 either Bunker or LaMadrid that would allow the defendants to oppose the Trust's motion on
9 the grounds that the Trust has raised and placed into issue.

10 Accordingly, the court will deny the motion without prejudice. The Trust may renew
11 its motion if it files waivers of the attorney-client privilege as to both Ben Bunker and Joslyn
12 LaMadrid.

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14 DATED this 3 day of September, 2010.

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17 Lloyd D. George
18 United States District Judge
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