

IN THE SUPREME COURT OF THE STATE OF NEVADA

R. CLAY HENDRIX,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK, AND THE HONORABLE  
KATHY A. HARDCASTLE, DISTRICT  
JUDGE,

Respondents,

and

FITZGERALDS LAS VEGAS, INC., A  
NEVADA CORPORATION, D/B/A  
FITZGERALDS CASINO & HOLIDAY  
INNS, INC., A DELAWARE  
CORPORATION, D/B/A FITZGERALDS  
CASINO & HOLIDAY INN; LODGE  
MASONIC #32; HOLIDAY  
HOSPITALITY FRANCHISING, INC.;  
AND RICHARD MCKNIGHT,  
Real Parties in Interest.

No. 43795

FILED

DEC 03 2004

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS


This original petition for a writ of mandamus or prohibition challenges a judgment on an attorney's lien. On August 20, 2004, we granted a temporary stay and directed the real parties in interest to file an answer, which they have done.


Petitioner asserts several arguments in support of his position that the attorney's lien judgment in favor of real party in interest Richard McKnight must be set aside. We find it necessary to address only one, that the lien was not perfected because it was not properly served. Specifically, NRS 18.015(2) states that "[a]n attorney perfects his lien by

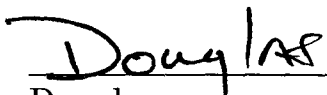
serving notice in writing, in person or by certified mail, return receipt requested, upon his client and upon the party against whom his client has a cause of action, claiming the lien and stating the interest which he has in any cause of action.” McKnight served his notice of attorney’s lien on Kathy Benoy, but not on Thomas Benoy, who was also a client and a plaintiff in the underlying case. In addition, while McKnight served a representative of one defendant, Fitzgerald’s, he did not serve the other two defendants. Thus, the lien was not perfected and should not have been enforced.<sup>1</sup>

Accordingly, we grant the petition and direct the clerk to issue a writ of mandamus directing the district court to vacate the attorney’s lien judgment.

It is so ORDERED.<sup>2</sup>

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Douglas

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<sup>1</sup>We do not comment on the availability of any other remedy McKnight may have to seek payment of any attorney fees to which he may be entitled. We simply conclude that the attorney’s lien was not enforceable.

<sup>2</sup>In light of this order, we vacate the temporary stay entered on August 20, 2004.

cc: Hon. Kathy A. Hardcastle, District Judge  
Lavelle & Johnson, P.C.  
Perry & Spann/Las Vegas  
Raleigh, Hunt & McGarry, P.C.  
Clark County Clerk