

IN THE SUPREME COURT OF THE STATE OF NEVADA

FREDERICK FITZGERALD,
INDIVIDUALLY,
Appellant,
vs.
ISLA AT SOUTH SHORES
HOMEOWNERS ASSOCIATION, A
DOMESTIC CORPORATION,
Respondent.

No. 78708

FILED

JUL 11 2019

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

ORDER DISMISSING APPEAL

Appellant has filed notice of withdrawal of appeal in which he moves to voluntarily withdraw this appeal. The verification appended to the motion references NRAP 3C, which governs criminal fast track appeals. Respondent objects to the notice of withdrawal and moves to strike it.

Although appellant's notice tracks the language of NRAP Form 8, which relates to NRCP 3C, *see* NRAP 3C(1), appellant expressly moves to dismiss this appeal. Moreover, the notice itself does not reference NRAP 3C. This court rejects respondent's assertion that the notice is ineffective to withdraw or dismiss this civil appeal and denies the motion to strike.

The motion to voluntarily dismiss this appeal is granted. NRAP 42(b). Respondent's request for leave to file an opposition is denied. However, this dismissal is without prejudice to respondent's ability to file a motion seeking attorney fees and/or costs if deemed warranted.

It is so ORDERED.

 C.J.

cc: Chief Judge, The Eighth Judicial District Court
Hon. David Barker, Senior Judge
Lansford W. Levitt, Settlement Judge
Paternoster Law Group
Wood, Smith, Henning & Berman, LLP/Las Vegas
Eighth District Court Clerk