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**IN THE COURT OF APPEAL
OF THE STATE OF FLORIDA
FIRST DISTRICT**

NICHOLAS J. AND JULIANNE L. KOSTELNY,
Husband and Wife
Appellant-Defendant

First District Case No. 1D21-0714

v.

L.T. Case No. 2015 CA 003417 F

BLUEWATER BAY RESORT, LLC,
and EUROPCO MANAGEMENT CO.
OF AMERICA, LLC, Appellee-Plaintiffs

AMENDED NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Defendants Nicholas J. Kostelny and Julianne L. Kostelny (“Kostelnys”) hereby appeal the Order of the First Circuit Court, rendered by Hon. Judge John T. Brown on February 10, 2021. (Filing # 121160472)

A certified copy of the Order Denying Defendants’ Amended Motion to Find Void and/or Vacate, Set Aside, Reconsider and/or Rehear Final Summary Judgment and Two Post-Judgment Orders Per Fla. R. Jud. Admin 2.330(h), and Defendants’ Motion to Withdraw and/or Amend Pleadings is attached hereto as Exhibit “A.”

On February 9, 2021, Kostelnys filed a Petition for Writ of Prohibition against Judge Brown entering this Order. (Case 1D21-0436) The Order under appeal denies Kostelnys' motion to vacate prejudicial and legally erroneous rulings made by a now-recused judge. Kostelnys do not agree that the Order under appeal is immediately valid, considering the Petition for Writ of Prohibition regarding it. However, in an abundance of caution, Kostelnys appeal this Order, together with the Petition for Writ. Kostelnys also appeal a simultaneous Order Denying Kostelnys' Fla. R. Civ. P. 1.540(b) Motion for Relief filed November 11, 2018. (Case No. ID21-0714)

Judge Brown had already granted disqualification before entering the Order under appeal. Judge Brown presided over no hearing, only a case management conference in which he raised the question of whether the court could rule on oral pronouncements of now-recused Hon. Michael A. Flowers who did not allow evidence, testimony, or argument by Kostelnys regarding this motion during a properly-noticed hearing on July 22, 2020. Judge Flowers was the second judge with judicial labor in this case. The first judge, Hon. William F. Stone, sua sponte recused himself from this case after presiding four and a half years, six days after discovery in the related case *Kostelny v. Bluewater Bay Resort* 2019 CA 618F showed

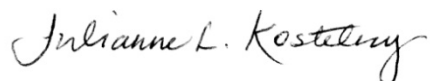
fraud on the court in *this* case. Judge Stone recused himself from both cases.

All six Okaloosa County Circuit Court judges are now either recused or disqualified from this case. The case is currently assigned in County Court to Hon. Jim Ward.

Signed and sealed,

A handwritten signature in black ink, appearing to read "Nicholas J. Kostelny", written in a cursive style.

Nicholas J Kostelny

A handwritten signature in black ink, appearing to read "Julianne L. Kostelny", written in a cursive style.

Julianne L Kostelny

Defendant/Appellant, pro se
J.Kostelny@gmail.com
750 Prestwick Cove
Niceville FL 32578
850-200-0261



Electronically Certified Court Record

This is to certify that this is a true and correct copy of the original document, which may have redactions as required by law.

DOCUMENT INFORMATION

Agency Name:	Okaloosa County Clerk of Circuit Court and Comptroller
Clerk of the Circuit Court:	The Honorable JD PEACOCK II
Date Issued:	3/6/2021 11:04:54 PM
Unique Reference Number:	CAA-BAA-BCAJB-HBADCCGE-BGECJD-I
Case Number:	462015CA003417FXXXXX
Case Docket:	ORDER DENYING DEFENDANTS' AMENDED MOTION TO FIND VOID AND/OR VACATE, SET ASIDE, RECONSIDER, AND/OR R
Requesting Party Code:	100
Requesting Party Reference:	30646943

CERTIFICATION

Pursuant to Sections 90.955(1) and 90.902(1), Florida Statutes, and Federal Rules of Evidence 901(a), 901(b)(7), and 902(1), the attached document is electronically certified by The Honorable JD Peacock II, Okaloosa County Clerk of the Circuit Court and Comptroller, to be a true and correct copy of an official record or document authorized by law to be recorded or filed and actually recorded or filed in the office of the Okaloosa Clerk of the Circuit Court. The document may have redactions as required by law.

HOW TO VERIFY THIS DOCUMENT

This document contains a Unique Reference Number for identification purposes and a tamper-evident seal to indicate if the document has been tampered with. To view the tamper-evident seal and verify the certifier's digital signature, open this document with Adobe Reader software. You can also verify this document by scanning the QR code or visiting

<https://Verify.Clerkecertify.com/VerifyImage>

**The web address shown above contains an embedded link to the verification page for this particular document.



IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR OKALOOSA COUNTY, FLORIDA
CIVIL DIVISION

BLUEWATER BAY RESORT, LLC,
a Florida Limited Liability Company, and
EUROPCO MANAGEMENT CO OF
AMERICA, LLC, a Florida Limited
Liability Company,

Plaintiffs,

v.

CASE NO. 2015-CA-003417

NICHOLAS J. and JULIANNE L. KOSTELNY,
Husband and wife,

Defendants.

**ORDER DENYING DEFENDANTS' AMENDED MOTION TO FIND VOID AND/OR
VACATE, SET ASIDE, RECONSIDER AND/OR REHEAR
FINAL SUMMARY JUDGMENT AND TWO POST-JUDGMENT ORDERS
PER FLA. R. JUD. ADMIN. 2.330(H) AND DEFENDANTS'
MOTION TO WITHDRAW AND/OR AMEND PLEADINGS**

THIS MATTER came before the Honorable Michael A. Flowers for hearing held on July 22, 2020, for which Counsel for Plaintiffs and Defendants Julianne and Nicholas Kostelny, pro se, were present via Zoom video conferencing, and for which affidavits were submitted and received. Among the matters heard and determined was Defendants' Amended Motion to Find Void and/or Vacate, Set Aside, Reconsider and/or Rehear Final Summary Judgment and Two Post-Judgment Orders Per Fla. R. Jud. Admin. 2.330(H) and Defendants' Motion to Withdraw and/or Amend Pleadings, filed on April 25, 2020 ("Motion to Void or Vacate").

Following the hearing, Defendants filed a motion to disqualify Judge Flowers and on August 3, 2020, Judge Flowers entered an Order of Recusal before reducing his July 22, 2020 oral pronouncement, denying the Motion to Void or Vacate, to written order. This Court, as successor



to Judge Flowers, determined it was appropriate and the Court was authorized to reduce Judge Flowers' verbal denial of the Motion to Void or Vacate to writing as a ministerial act; which determination was communicated to the parties on February 4, 2020 by email transmission.

ACCORDINGLY, IT IS HEREBY ORDERED:

Defendants' Amended Motion to Find Void and/or Vacate, Set Aside, Reconsider and/or Rehear Final Summary Judgment and Two Post-Judgment Orders Per Fla. R. Jud. Admin. 2.330(H) and Defendants' Motion to Withdraw and/or Amend Pleadings is **DENIED**.

DONE AND ORDERED at Fort Walton Beach, Okaloosa County, Florida.

2/19/21



HONORABLE JOHN T. BROWN
Circuit Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this AMENDED NOTICE OF APPEAL has been served through the Florida Courts e-filing system at myflaccess.com, which will email a copy to:

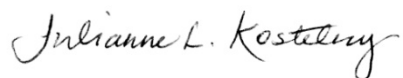
Leslie Sheekley (lsheekley@handfirm.com) and
Jennifer Comella (jcomella@handfirm.com),
Counsel for Appellees at
Hand Arendall Harrison Sale
35008 Emerald Coast Pkwy, Destin, Florida 32541

A copy and via United States Postal Service has been served to the above counsel, and also to:

Appellee Bluewater Bay Resort, LLC
Manager: Tom Hanks (hanksbwb@aol.com)
2000 Bluewater Blvd
Niceville, FL 32578

Appellee Europco Management Company of America, LLC at:
Jerome Zivan (zivanlaw@aol.com)
1329 Windward Circle
Niceville, FL 32578

Signed,



Julianne Kostelny
Appellant, *pro se*
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850-200-0261