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## Yu v. Yu, 133 Nev. Adv. Op. 90 (Nov. 22, 2017)

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## FAMILY LAW: UNAPPEALABLE DETERMINATIONS

### **Summary**

Though vexatious litigant determinations are not independently appealable, they may be considered on appeal when included in an otherwise appealable order.

### **Background**

Brian Yu and Rourong Yu were divorced in 2015 via a divorce decree. Shortly thereafter, Brian filed several motions to reopen the decree and alter its terms. The district court entered an order denying Brian's motions, granting Rourong an additional \$88,000 from certain accounts, and declaring both Brian and Rourong to be vexatious litigants. Brian appealed from this order.

Brian was directed by the Court to show cause as to why his appeal should not be dismissed for lack of jurisdiction. No court rule or statute appeared to authorize Brian to appeal a vexatious litigant determination. Brian argued that when post-judgment orders resolve a mixed bag of issues, some of which are independently appealable and some of which are reviewable through a writ petition, all issues should be reviewable in their entirety through an appeal. Doing so promotes judicial economy by avoiding piecemeal review.

### **Discussion**

Vexatious litigant determinations are not appealable and may only be challenged via an original writ petition.<sup>2</sup> Brian argued that filing a notice of appeal and an original writ petition challenging different sections of the same order individually would be inconsistent and would fail to produce judicial economy. The Court agreed, ruling that when litigants wish to appeal a vexatious litigant determination that is not appealable, they may do so when contained within an otherwise appealable order. Such a ruling will prevent unnecessary confusion for lawyers and pro se litigants who wish to seek the Court's review and will simplify the review process.

Further, such a ruling is consistent with the Court's order in *Vaile v. Vaile*, where the Court determined that contempt orders which are not independently appealable may be included in an appeal from an otherwise appealable order.<sup>3</sup> Treating non-appealable contempt orders and non-appealable vexatious litigant orders similarly will lessen confusion for those seeking review.

### **Conclusion**

A post-judgment order making a vexatious litigant determination may be considered if contained within an otherwise appealable order. Therefore, the appeal may proceed, and the Court will consider the vexatious litigant determination. Brian will have 30 days to file either a brief that complies with the appellate rules<sup>4</sup> or an "Informal Brief Form for Pro Se Parties."

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<sup>1</sup> By Samantha Scofield.

<sup>2</sup> *Peck v. Crouser*, 129 Nev. 120, 124, 295 P.3d 586, 588 (2013).

<sup>3</sup> *Vaile v. Vaile*, 133 Nev. Adv. Op. 30, 396 P.3d 791 (2017).

<sup>4</sup> NEV. R. APP. P. 28(a); NEV. R. APP. P. 32.