

ORIGINAL

FILED **FILED**
NOV 16 2021 11/19/2021
Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA
Case Number: DA 21-0398

IN THE SUPREME COURT OF THE STATE OF MONTANA
CASE NO DA 21-0398

ZACHARY RUSK,

Petitioner and Appellant,

and

THOMAS ROSEEN, CINDY ROSEEN, AND SHAWN ROSEEN,

Respondents and Appellees.

FILED

NOV 19 2021

Bowen Greenwood
Clerk of Supreme Court
State of Montana

On Appeal from the Montana Eighteenth Judicial District Court, Gallatin County, The Honorable Rienne H. McElyea, Presiding District Court Cause No. DV 21-432B

**APPELLANT'S REPLY TO APPELLEES RESPONSE TO APPELLANT'S
OPENING BRIEF**

APPERANCES

Zachary Rusk
211 N 10th Ave
Bozeman, MT 59715
Ph. (435) 557-1570
zachrusk5@gmail.com
Pro Se

Jason Armstrong
Cormwell Law, PLLC
1871 S 22nd Ave., Ste. 2
Bozeman, MT 59715
Ph. (406) 570-7652
jason@cromwellpllc.com
On Behalf of the Roseens

Zachary Rusk
211 N 10th Ave Unit B
Bozeman MT 59715
435-557-1570
zachrusk5@gmail.com
Petitioner, Pro Se

IN THE SUPREME COURT OF THE STATE OF MONTANA
215 N. Sanders, Room 323
P.O. Box 2030003
Helena, MT 59601
(406)444-3859

ZACHARY RUSK,
Petitioner/Appellant.

**APPELLANT'S REPLY TO
APPELLEE'S RESPONSE
TO APPELLANT'S
OPENING BRIEF**

DA 21-0398

vs.

Thomas Roseen, et al.
Respondents/Appellees.

INTRODUCTION:

Appellant hereby files his Reply to Appellee's Response to Appellants
Opening Brief.

STATEMENT OF FACTS:

1. Appellant filed his opening brief on October 4th 2021.
2. Appellee's Response was due on November 4th, 2021.
3. Appellees filed their Appellee Response on November 8th 2021.
4. Appellant hereby files his Appellant Reply to Appellee's Response.

ARGUMENT:

First, Appellant filed his opening brief on October 4th 2021. Appellee's Response was due on November 4th, 2021. Appellees filed their Appellee Response on November 8th 2021. Appellant hereby files his Appellant Reply to Appellee's Response. Appellees response is late. Therefore, Appellees brief must be stricken or disregarded with judgement entered in favor Appellant.

Second, while the Appellee's response must be disregarded, out of an abundance of caution, Appellant is compelled to clarify a statement made in the Appellee's responsive pleading. In their response, Appellee's appear to make some kind of statement about damages. It is unclear what exactly they are referring to let alone how it is even relevant to a 'Petition' (as opposed to a "Complaint").

That said, the following should be noted: A petition does not require one to show damages, even though it can include damages. In this case, if that is

considered, the C&D's disclaimer should duly noted. The disclaimer in the C&D's served upon the Appellee's stated in verbatim, the following:


*“THEREFORE, you are hereby requested to immediately CEASE and DESIST the illegal defamation, slander and/or libel and within 10 business days, return the signed written assurance below affirming that you will refrain from any further acts of said defamation, slander and/or libel with regards to my character and/or reputation. **Failure to comply with this cease and desist request, and/or return the signed assurance within the stipulated time, will leave me no other alternative but to pursue all available legal remedies, including, but not limited to, filing a motion for injunctive relief, monetary damages, filing fees, court costs and/or attorney fees.**”*

As to the last quoted sentence above in bold and underlined, as to “compensatory” damages, the Court need note that Appellant’s “costs of suit” in this action exceed \$2,000.

CONCLUSION:

Appellees response is late. Therefore, Appellees brief must be stricken or disregarded with judgement entered in favor Appellant.¹

Dated Noy 13th 2021.


/s/ Zachary Rusk
in propria persona

CERTIFICATE OF SERVICE

I hereby certify that by December 1st, 2021, a copy of the foregoing **Appellant's Reply To Appellee's Response To Appellant's Opening Brief**.will have been served on Jason Armstrong, Attorney for Appellees.

Jason Armstrong

Cromwell Law, PLLC

P.O. Box 6692

Bozeman, MT 59771


/s/ Zachary Rusk

in propria persona

Page 4 of 4

¹ It also has fairly recently come to the Appellant's attention that Attorney Jason Armstrong for Appellee's has not been practicing law in good standing until October of this year, dating back to 2011 as to Jason Armstrong failing to fulfill his plea requirements since then. Appellant had to send an additional C&D to the Appellee's in June 2021 requesting that they cease and desist from contacting Appellant absent through a "***qualified, licensed attorney in good standing***" or a "***third party process server***". Appellee's have each violated these limited contact C&D's several times since, through Jason Armstrong, but also by just themselves individually. Moreover, the District Court should never have even recognized Jason Armstrong's pleadings on behalf of the Appellees in this case for which this appeal stems from.

CERTIFICATE OF SERVICE

I certify that I filed this

Petition

Motion

Reply Brief-

Other

[Name of document]

with the Clerk of the Montana Supreme Court and that I have mailed or hand delivered a copy to each attorney of record and any other party not represented by counsel as follows:

[Name of opposing counsel] Jason Armstrong
Cromwell Law, PLLC
1871 S 22nd Ave., Ste. 2
Bozeman, MT 59715
Ph. (406) 570-7652
jason@cromwellpllc.com
On Behalf of the Roseens

[Address]

Counsel for Appellees _____

[Other party representing himself or herself] Zachary Rusk
211 N 10th Ave
Bozeman, MT 59715
Ph. (435) 557-1570
zachrusk5@gmail.com

[Address]

DATED this _____ day of _____, 20____.

[Signature]

Zach Rusk

[Print name]



Invoice of Services

Remit To:
Valley Process Service
1627 W. Main St. #441
Bozeman, MT 59715

Phone:
406.539.6084

Invoice No: RUS-111721

To: Zach Rusk
zachrusk5@gmail.com

Case # DA-21-0398

Court Supreme Ct. of MT.

Plaintiff: Zachary Rusk

VS.

Defendant: Thomas Roseen, Cindy Roseen, and Shawn Roseen

Served to: Jason Armstrong

Date served: 11/17/21

Type of documents: Summons & Complaint \$ 50.00

Attempt (\$10.00/attempt): \$

Mileage (.60 cents/mile outside of serving radius): \$

Rush Serve: \$ 30.00

Additional Expenses: \$

Total: 80.00

Note: Paid in full. Thank you for your business!