

Client(s) Cannabis Equity and Inclusion Community (CEIC), a domestic nonprofit corporation; and Antoine Poole, an individual

4. Nature of disposition below (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Other (specify): |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Grant/Denial of injunction | <input checked="" type="checkbox"/> Other disposition (specify): |
| <input type="checkbox"/> Grant/Denial of declaratory relief | Order granting attorney fees and costs |
| <input type="checkbox"/> Review of agency determination | |
| <input type="checkbox"/> Dismissal: | |
| <input type="checkbox"/> Lack of jurisdiction | |

5. Does this appeal raise issues concerning any of the following?

- N/A
- Child Custody
- Venue
- Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Case No. 85756 - The Nevada State Board of Pharmacy, a public entity of the State of Nevada v. Cannabis Equity and Inclusion Community (CEIC); a domestic nonprofit corporation; and Antoine Poole, an individual,

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

State of Nevada Eighth Judicial District Court Case No. A-22-851232-W Dept. XV- Cannabis Equity and Inclusion Community (CEIC); a domestic nonprofit corporation; and Antoine Poole, an individual v. The Nevada State Board of Pharmacy, a public entity of the

8. Nature of the action. Briefly describe the nature of the action and the result below:

On February 8, 2023, the District Court in Case No. A-22-851232-W, entered an Order Granting Petitioners' Motion for Attorney's Fees and Costs.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Did the District Court correctly determine that NRS chapter 34 applies to the facts and legal issues as presented below, i.e. whether Appellants were entitled to writ relief? If so, did the District Court err as a matter of law in ruling that NRS 34.270 authorizes the recovery of attorneys' fees as a cost of litigation?

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

None

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

- N/A
- No
- Yes

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

- N/A
- Reversal of well-settled Nevada precedent (identify the case(s))
- An issue arising under the United States and/or Nevada Constitutions
- A substantial issue of first impression
- An issue of public policy
- An issue where en banc consideration is necessary to maintain uniformity of this court's decisions
- A ballot question

If so, explain:

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

The related appeal, specifically case no. 85756, has been assigned to the Supreme Court as it concerns the merits of the judgment below. This appeal challenges the District Court’s post-judgment order awarding costs and attorneys’ fees to Appellants. Insofar as the present appeal raises as a principal issue a question of first impression involving the common law—specifically whether NRS 34.270 supersedes the common law regarding the recovery of attorneys’ fees—the appeal is retained by the Supreme Court pursuant to NRAP 17(a)(11).

14. Trial. If this action proceeded to trial, how many days did the trial last? N/A
Was it a bench or jury trial? _____

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

No

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from February 8, 2023
If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served N/A
Was service by:

- Delivery
- Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

- | | | |
|-------------------------------------|----------------|------------|
| <input type="checkbox"/> NRCP 50(b) | Date of filing | <u>N/A</u> |
| <input type="checkbox"/> NRCP 52(b) | Date of filing | <u>N/A</u> |
| <input type="checkbox"/> NRCP 59 | Date of filing | <u>N/A</u> |

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. __, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion

(c) Date written notice of entry of order resolving tolling motion was served

Was service by:

- Delivery
- Mail

19. Date notice of appeal filed February 15, 2023

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

N/A

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|--|---------------------------------------|
| <input type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| X Other (specify) NRAP 3A(b)(8) | |

(b) Explain how each authority provides a basis for appeal from the judgment or order: NRAP 3A(b)(8) permits an appeal to be taken from a post-judgment order awarding costs and attorney's fees.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Cannabis Equity and Inclusion Community (CEIC), a domestic nonprofit corporation; and Antoine Poole, an individual - Petitioners/Plaintiffs

Nevada State Board of Pharmacy - Respondent/Defendant

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

N/A

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Petition for Writ of Mandamus and Request for Declaratory Relief granted by Judgment and Order entered by the District Court on October 26, 2022.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

- Yes
- No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

- Yes
- No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

- Yes
- No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, crossclaims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Nevada State Board of Pharmacy
Name of Appellant

Gregory Zunino
Name of counsel of record

March 13, 2023
Date

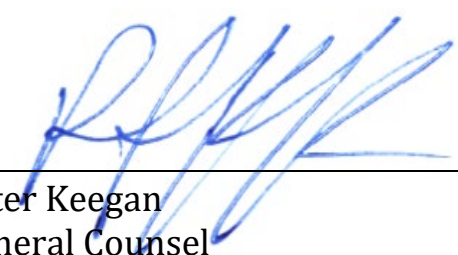
/s/ Gregory Zunino
Signature of counsel of record

State of Nevada, Washoe County
State and county where signed

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Board of Pharmacy, and that on the 13th day of March 2023 I filed the foregoing Docketing Statement with the Nevada Supreme Court Electronic-Filing System. Parties are registered users and will be served via this Court's Electronic Filing System.

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CANNABIS EQUITY AND INCLUSION
COMMUNITY (CEIC), a domestic nonprofit
corporation; ANTOINE POOLE, an individual,

Petitioners/Plaintiffs,

vs.

STATE OF NEVADA ex rel. BOARD OF
PHARMACY, a public entity of the State of
Nevada,

Respondent/Defendant.

Case No.: A-22-851232-W

Department: 15

**ORDER GRANTING
PETITIONERS' MOTION FOR
ATTORNEY FEES AND COSTS**

This matter having come before this court on January 9, 2023, on Petitioners' Motion for Attorney's Fees and Costs; Sadmira Ramic, Esq., and Christopher Peterson, Esq., of the American Civil Liberties Union of Nevada, appearing on behalf of Petitioners/Plaintiffs, Cannabis Equity and Inclusion Community (CEIC) and Antoine Poole; Brett Kandt, Esq., and Peter Keegan, Esq., of the Nevada Board of Pharmacy appearing on behalf of the State of Nevada; the Court having reviewed the papers and pleadings on file herein, having heard the oral arguments of counsel, and with good cause appearing, the Court hereby finds, concludes, and orders as follows.

1 **FINDING OF FACT**

2 On April 15, 2022, Petitioners filed their petition for writ of mandamus, in which
3 Petitioners requested that the Court prevent the Nevada Board of Pharmacy from (1) scheduling
4 cannabis as a Schedule I substance in violation of the Nevada Constitution and (2) cease regulating
5 cannabis as, following the passage of NRS Title 56, cannabis now falls outside the Board’s
6 authority. Petitioners also requested an award of reasonable attorney fees and costs incurred in this
7 action. As required under Nevada law, Petitioners served the petition on the Board of Pharmacy
8 and the Attorney General for the State of Nevada.

9 On October 26, 2022, this Court found that the Board’s regulation of cannabis as a
10 Schedule I substance violated the Nevada Constitution and that the Board did not have the
11 authority to regulate substances regulated pursuant the NRS Title 56, which necessarily included
12 cannabis, effectively granting Petitioner’s petition.

13 Regarding attorney fees and costs, during the course of this litigation, counsel for
14 Petitioner:

- 15 • Researched, drafted, and filed Petitioner’s petition for writ of mandamus and replied to the
16 Respondent’s answer;
- 17 • Researched, drafted, and filed Petitioner’s Opposition to Respondent’s Motion to Dismiss;
- 18 • Researched, drafted, and submitted proposed orders based on the Court’s rulings on the
19 Respondent’s Motion to Dismiss and Petitioner’s petition while engaging in necessary
20 correspondence with opposing counsel; and
- 21 • Attended three separate court hearings related to the petition.

22 The value of these services as of November 16, 2022, was \$47,463.18. Petitioners had spent
23 \$684.20 in other costs as of that date.

24 On November 16, 2022, Petitioners filed a Motion for Attorney Fees and Costs requesting
25 \$47,463.18 in attorney fees and \$684.20 in other costs. Petitioners filed the necessary affidavits
26 and documentation to support their request. On November 23, 2022, Respondent/Defendant
27 Nevada Board of Pharmacy (hereafter “the Board”) filed its opposition to Petitioners Motion for

1 Attorney Fees and Costs. On December 31, 2022, Petitioners filed a reply to the opposition. A
2 hearing on the matter was held on January 9, 2023.

3 As necessary, this order incorporates by reference the factual findings of the Judgment and
4 Order Granting Petition for Writ of Mandamus and Request for Declaratory Relief issued by the
5 Court on October 26, 2022.

6 **CONCLUSIONS OF LAW REGARDING IMMEDIATE RULING**

7 Pursuant to their Motion for Attorney Fees and Costs, Petitioners requested that this Court
8 award \$47,463.18 in attorney fees and \$684.20 in other costs. The Board objected to Petitioners’
9 request for attorney fees, arguing that Petitioners were not entitled to attorney fees as either a “cost
10 of litigation” or as special damages. The Board did not dispute ((1) the factual basis for Petitioners’
11 request for attorney fees or other costs, or (2) Petitioners’ application of the factors described in
12 *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

13 **I. NRS 34.270 authorizes the recovery of attorney fees.**

14 Under Nevada law, “[a]ttorney fees may be awarded as either (1) fees as a cost of litigation
15 or (2) fees as an element of damages.” *Mitchell v. Nype*, No. 80693, 2022 Nev. Unpub. LEXIS 694
16 *7 (Sept. 23, 2022)(unpublished)(citing *Sandy Valley Assocs. v. Sky Ranch Estates Owners Ass’n*,
17 117 Nev. 948, 955, 35 P.3d 964, 968–69 (2001)). A party can recover attorney fees as a litigation
18 cost if recovery is “authorized by statute, rule, or agreement”. *Pardee Homes v. Wolfram*, 135 Nev.
19 Adv. Rep. 22, 444 P.3d 423, 426 (2019). Petitioners argue that (1) NRS 34.270 applies to this
20 matter and authorizes the recovery of attorney fees or, in the alternative, (2) they may recover
21 attorney fees as special damages. As this Court finds it has the authority to award attorney fees
22 pursuant to NRS 34.270, it does not reach the issue of special damages.

23 NRS 34.270 states that when a judgment is issued in favor of a petitioner that has applied
24 for a petition for writ of mandamus, the “applicant” is entitled to “recover the damages which the
25 applicant shall have sustained as found by the jury, or as determined by the court or master, upon
26 a reference to be ordered, together with costs.” NRS 34.270 does not explicitly use the term
27 “attorney fees,” and the Nevada Supreme Court has never directly determined whether NRS

1 34.270 includes the recovery of attorney fees. While the dicta of *Gulbranson v. Sparks*, 89 Nev 93
2 (1973), suggests that the district court in that matter may have granted an award of attorney fees
3 pursuant to NRS 34.270, the issue as to whether that award was proper did not come before the
4 Court.

5 Nevada has, however, recognized that analogous Nevada statutes, rules, and agreements
6 authorizing the recovery of damages and costs without explicitly using the term “attorney fees”
7 also authorize the recovery of attorney fees. and neighboring states with provisions either identical
8 to NRS 34.270 or practically identical recognize the recovery of attorney fees under those statutes.
9 Nevada recognizes that NRCP 65(c)¹ and NRS 17.130(1)² both allow for the recovery related to
10 attorney fees without explicitly including the term “attorney fees” in their provisions. *Sandy Valley*
11 *Assocs. v. Sky Ranch Estates Owners Ass’n*, 117 Nev. 948, 968–69 n.6 (2001) (“The following
12 cases involved the award of attorney fees as a cost of litigation pursuant to a rule, statute or
13 agreement” and “[a]ny language suggesting the fees were awarded as damages is hereby
14 disapproved.”) (citing *Artistic Hairdressers, Inc. v. Levy*, 87 Nev. 313, 486 P.2d 482 (1971)
15 (granting attorney fees pursuant to NRCP 65(c)); *Waddle v. L.V.R.V.*, 122 Nev. 15, 26 – 27 (2006)
16 (determining that term “any debt, damages or costs” as used in NRS 17.130(1) included attorney
17 fees in the context of the award of post-judgment interest awards even though the term “attorney
18 fees” did not appear in that statute). In the context of agreements, Nevada granted attorney fees as
19 a cost of litigation based upon contractual provisions that only guaranteed reimbursement for
20 “damage to and loss of equipment for any cause” and “loss, damage, liability, cost of expense, of
21

22 ¹ “Security. The court may issue a preliminary injunction or a temporary restraining order only if
23 the movant gives security in an amount that the court considers proper to pay the costs and damages
24 sustained by any party found to have been wrongfully enjoined or restrained. The State, its officers,
and its agencies are not required to give security.” NRCP 65(c).

25 ² “In all judgments and decrees, rendered by any court of justice, for any debt, damages or costs,
26 and in all executions issued thereon, the amount must be computed, as near as may be, in dollars
27 and cents, rejecting smaller fractions, and no judgment, or other proceedings, may be considered
erroneous for that omission.” NRS 17.130(1).

1 whatsoever nature or cause, arising out of [defendant]’s use or possession of equipment.” *See*
2 *James Hardie Gypsum, Inc. v. Inquipco*, 112 Nev. 1397, 1405–07 (1996) (cited by *Sandy Valley*
3 *Assocs.*, 117 Nev. at 968–69 n.6). Finally, states neighboring Nevada, in reviewing statutes
4 identical to NRS 34.270, have found that such provisions include the recovery of attorney fees
5 despite not explicitly using the language “attorney fees”. *See Kadillak v. Anaconda Co.*, 184 Mont.
6 127, 144, 602 P.2d 147, 157 (1979) (holding that Mont. Code. Ann. § 27-26-4023 allowed for the
7 recovery of attorney fees); *Colorado Dev. Co. v. Creer*, 96 Utah 1, 17–18 (1938) (determining that
8 Utah Code Ann. § 78B-6-6094 included the recovery of attorney fees if supported by sufficient
9 evidence). By comparison, the Board fails to offer any instances where a Nevada statutory
10 provisions analogous to NRS 34.270 did not authorize the recovery of attorney fees or explain why
11 NRS 34.270 should be treated differently than its counterparts in Montana or Utah.

12 Considering that statutes, rules, and agreements with language analogous to NRS 34.270
13 as well as statutes practically identical to NRS 34.270 from neighboring statutes have authorized
14 the recovery of attorney fees, this Court finds that Petitioners may recover attorney fees pursuant
15 to NRS 34.270 as a cost of litigation.

16 The Court finds that NRS 34.270 authorizes this Court to grant an award of attorney fees.
17 The Court grants the Petitioners’ request of \$47,463.18. As the Court grants the Petitioners’ request
18 for attorney fees pursuant to NRS 34.270, it is unnecessary for this Court to determine whether
19 Petitioners are entitled to attorney fees as special damages. However, this Court does find that the
20 positions taken by the Board prior to and during the course of litigation in this matter were made
21 in good faith.

22 **II. Application of the *Brunzell* factors to Petitioners’ request for attorney fees**

23 While the Board did not dispute the Petitioners’ application of *Brunzell* to this matter, this
24 Court is required to apply the factors prescribed by *Brunzell* in determining an award of attorney
25 fees. *Gunderson v. D.R. Horton, Inc.*, 130 Nev. 67, 82 (2014) (finding that the district court abused
26 its discretion when it failed to apply the *Brunzell* factors in ordering an award of attorney fees). In
27 evaluating an award of attorney fees, this Court must consider “(1) *the qualities of the advocate:*

1 his ability, his training, education, experience, professional standing and skill; (2) *the character of*
2 *the work to be done*: its difficulty, its intricacy, its importance, time and skill required, the
3 responsibility imposed and the prominence and character of the parties where they affect the
4 importance of the litigation; (3) *the work actually performed by the lawyer*: the skill, time and
5 attention given to the work; (4) *the result*: whether the attorney was successful and what benefits
6 were derived.” *Brunzell*, 85 Nev. at 349, 455 P.2d at 33.

7 Petitioners are requesting the following fee rates for the attorneys that worked on this
8 matter:

- 9 • \$388 per hour prior to October 1, 2022, and \$400 per hour after October 1, 2022, for
10 Christopher Peterson;
- 11 • \$388 per hour for Sophia Romero;
- 12 • \$369 per hour for Sadmira Ramic.

13 Applying the *Brunzell* factors, these rates first reflect the qualities of the advocates involved in this
14 case. As attorneys for the ACLU of Nevada, all three attorneys specialize in constitutional law
15 issues. The difference in fee rates reflects each attorneys’ experience as an attorney in general and
16 their specific talents, which were reflected in affidavits attached to Petitioners’ Motion for
17 Attorney Fees and Costs. Second, the work here was particularly challenging in that it required an
18 understanding of constitutional law related to cannabis, the limits of agency delegation, and the
19 interplay between criminal law and executive agency rule-making authority. The issues in this
20 matter were also important in that they had a state-wide impact, the regulation of an emerging
21 market here in Nevada, and long-standing legal inconsistencies. Third, the attorneys have billed
22 for services actually performed and necessary to this matter, primarily for researching, drafting,
23 and arguing filings that ultimately determined the outcome of this matter, as reflected in the records
24 offered to this Court in exhibits attached to Petitioners’ Motion for Attorney Fees and Costs.
25 Finally, the Petitioners were successful in achieving all objectives stated in their original petition
26 for writ of mandamus.

ORDER

THEREFORE, IT IS HEREBY ORDERED:

1. Attorney fees are recoverable pursuant to NRS 34.270 as a cost of litigation.
2. Petitioners are entitled to their attorney fees as a cost of litigation pursuant to NRS 34.270 as they applied for a writ of mandamus, and this Court granted judgment in their favor.
3. As it is undisputed by the parties, Petitioners are entitled to recover their requested costs other than attorney fees pursuant the NRS 34.270.
4. As Petitioner’s application of the *Brunzell* factors is undisputed by the parties, Petitioners shall be awarded their attorney fees incurred prior to November 16, 2022, in the amount of \$47,463.18.
5. Petitioners shall be awarded their other costs incurred prior to November 16, 2022, in the amount of \$684.20.
6. Pursuant to the foregoing, in total, the Petitioners are hereby awarded \$48,147.38 in reasonable attorney fees and other costs.

Dated this 8th day of February, 2023

~~IT IS SO ORDERED this ___ day of January 2023.~~



HONORABLE JUDGE JOE HARDY JR.

Respectfully submitted by:

**AMERICAN CIVIL LIBERTIES
UNION OF NEVADA**

Approved as to form and content by:
Joe Hardy
District Court Judge
NEVADA BOARD OF PHARMACY

/s/ Christopher Peterson
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/s/ Peter K. Keegan
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Attorneys for Respondent/Defendant

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Cannabis Equity and Inclusion
7 Community, Plaintiff(s)

CASE NO: A-22-851232-W

8 vs.

DEPT. NO. Department 15

9 Nevada ex reL. Board of
10 Pharmacy, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order Granting Motion was served via the court's electronic eFile
15 system to all recipients registered for e-Service on the above entitled case as listed below:

16 Service Date: 2/8/2023

17 Luke Rath

lrath@ag.nv.gov

18 Emily Bordelove

ebordelove@ag.nv.gov

19 Peter Keegan

p.keegan@pharmacy.nv.gov

20 William Kandt

bkandt@pharmacy.nv.gov

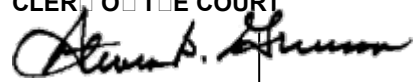
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MATF

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Attorneys for Petitioners/Plaintiffs

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CANNABIS EQUITY AND INCLUSION
COMMUNITY (CEIC), a domestic nonprofit
corporation; ANTOINE POOLE, an individual,

Petitioners/Plaintiffs,

vs.

STATE OF NEVADA ex rel. BOARD OF
PHARMACY, a public entity of the State of
Nevada,

Respondent/Defendant.

Case No.: A-22-851232-W

Department: 15

Hearing Requested

Petitioner's Motion for Attorney Fees and Costs

The Petitioners, by and through counsel, pursuant to NRS 34.270 and in compliance with NRCP 54(d), hereby submit this motion for attorney fees in the amount of \$47,463.18 and costs in the amount of \$684.20.

///

///

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Petitioners offer the following points and authorities in support of their Motion for Attorney
3 Fees and Costs.

4 **STATEMENT OF RELEVANT FACTS AND PROCEDURAL HISTORY**

5 On April 15, 2022, Petitioners filed their petition for writ of mandamus, in which
6 Petitioners requested that the Court prevent the Nevada Board of Pharmacy from (1) scheduling
7 cannabis as a Schedule I substance in violation of the Nevada Constitution and (2) cease regulating
8 cannabis as, following the passage of NRS Title 56, cannabis now falls outside the Board's
9 authority. Petitioners also requested an award of reasonable attorney fees and costs incurred in this
10 action. As required under Nevada law, Petitioners served the petition on the Board of Pharmacy
11 and the Attorney General for the State of Nevada.

12 On October 26, 2022, this Court found that the Board's regulation of cannabis as a
13 Schedule I substance violated the Nevada Constitution and that the Board did not have the
14 authority to regulate substances regulated pursuant the NRS Title 56, which necessarily included
15 cannabis, effectively granting Petitioner's petition.

16 In regard to attorney fees, during the course of this litigation, counsel for Petitioner has,
17 among other services:

- 18 • Researched, drafted, and filed Petitioner's petition for writ of mandamus and replied to the
19 Respondent's answer;
- 20 • Researched, drafted, and filed Petitioner's Opposition to Respondent's Motion to Dismiss;
- 21 • Researched, drafted, and submitted proposed orders based on the Court's rulings on the
22 Respondent's Motion to Dismiss and Petitioner's petition while engaging in necessary
23 correspondence with opposing counsel; and
- 24 • Attended three separate court hearings related to the petition.

25 The declarations of counsel, completed pursuant to NRS 53.045 in lieu of affidavits, in support of
26 this motion are attached hereto as **EXHIBIT 1**, **EXHIBIT 2**, and **EXHIBIT 3**. Invoice
27 documenting services rendered is attached hereto as **EXHIBIT 4**.

1
2 **ARGUMENT**

3 Under Nevada law, “[a]ttorney fees may awarded as either (1) fees as a cost of litigation
4 or (2) fees as an element of damages.” *Mitchell v. Nype*, No. 80693, 2022 Nev. Unpub. LEXIS 694
5 *7 (Sept. 23, 2022)(unpublished)(citing *Sandy Valley Assocs. v. Sky Ranch Estates Owners Ass’n*,
6 117 Nev. 948, 955, 35 P.3d 964, 968–69 (2001)).

7 **I. Petitioners are entitled to attorney fees as “cost of litigation” pursuant to NRS**
8 **34.270.**

9 Attorney fees are only recoverable as “cost of litigation” when “authorized by agreement,
10 statute or rule.” *Sandy Valley Assocs.*, 117 Nev. at 969. However, when a Nevada law explicitly
11 permits the recovery of costs and damages, attorney fees are recoverable. *See* NRCP 65(c)
12 (authorizing “costs and damages” in the context of wrongfully issued injunctions without referring
13 to “attorney fees”); *Artistic Hairdressers v. Levy*, 87 Nev. 313, 316 (1971) (finding that language
14 “costs and damages” as used in NRCP 65(c) included the recovery of attorney fees). Under such
15 circumstances, recovery of attorney fees is considered “as a cost of litigation”, not as “an element
16 of damages”. *See Sandy Valley Assocs.*, 117 Nev. at 968 n. 6 (stating “[t]he following cases
17 involved the award of attorney fees as cost of litigation pursuant to a rule, statute or agreement”
18 and that “[a]ny language suggesting the fees were awarded as damages is hereby disapproved”
19 while referring specifically to *Artistic Hairdressers v. Levy*, 87 Nev. 313 (1971)).

20 Under NRS 34.270, when a judgement is issued in favor of a petitioner that applied for a
21 petition for writ of mandamus, that party is entitled to “*recover the damages which the applicant*
22 *shall have sustained* as found by the jury, or as determined by the court or master, upon a reference
23 to be ordered, *together with costs.*” (emphasis added). NRS 34.270 authorizes a party to recover
24 damages and costs like NRCP 65(c), and by extension, such a party would be eligible for attorney
25 fees as a “cost of litigation”. *See Gulbranson v. Sparks*, 89 Nev. 93 (1973) (reversing lower court
26 for failing to provide petitioner a hearing for damages pursuant NRS 34.270 while leaving court’s
27 award of costs and attorney fees under the provision untouched).

1 In this matter, Petitioners applied for a petition for writ of mandamus. The Court granted a
2 judgment in Petitioners' favor on October 26, 2022. Because Petitioners are an applicant who
3 received a favorable judgment, Petitioners are entitled to damages and costs pursuant to the explicit
4 language of NRS 34.270, and by extension, attorney fees. As the fees are authorized pursuant to a
5 statute, the fees are recoverable as "cost of litigation" and Petitioner is entitled to the fees without
6 further showing.

7 **II. Even if they are not entitled to attorney fees as "cost of litigation", Petitioners are**
8 **entitled to attorney fees as special damages.**

9 Even if in circumstances where attorney fees are not recoverable as "cost of litigation" due
10 to a lack of authorization by an agreement, statute, or rule, a party may still recover attorney fees
11 as damages. *Sandy Valley Assocs.*, 117 Nev. at 956. While attorney fees are not recoverable in
12 every case, fees are recoverable when "due to the defendant's intentional conduct, litigation is
13 absolutely necessary to vindicate the party's rights." *Mitchell*, 2022 Nev. Unpub. LEXIS 694 at
14 *7.

15 Respondent intentionally implemented a regulation that (1) violated Nevada's constitution
16 and (2) engaged in regulation beyond their statutory authority. As established by the litigation
17 surrounding standing, these unconstitutional actions violated Petitioners' rights, and as seen by
18 Respondents position on the matter, litigation was necessary to vindicate these rights. That the
19 Court granted relief through a petition for writ of mandamus, which is only available where there
20 is no plain, speedy and adequate remedy in the ordinary course of law, further establishes that
21 litigation was necessary to vindicate Petitioner's rights.

22 In sum, even if NRS 34.270 did not establish that Petitioner's had a right to attorney fees
23 as a "cost of litigation", Petitioners are entitled to their attorney fees and costs as special damages.

24 **III. The requested fees are reasonable under the *Bruznell* factors.**

25 In granting attorney fees, a court must consider "(1) *the qualities of the advocate*: his
26 ability, his training, education, experience, professional standing and skill; (2) *the character of the*
27 *work to be done*: its difficulty, its intricacy, its importance, time and skill required, the

1 responsibility imposed and the prominence and character of the parties where they affect the
2 importance of the litigation; (3) *the work actually performed by the lawyer*: the skill, time and
3 attention given to the work; (4) *the result*: whether the attorney was successful and what benefits
4 were derived.” *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

5 Petitioners are requesting the following fee rates for the attorneys that worked on this
6 matter:

- 7 • \$388 per hour prior to October 1, 2022, and \$400 per hour after October 1, 2022, for
8 Christopher Peterson;
- 9 • \$388 per hour for Sophia Romero;
- 10 • \$369 per hour for Sadmira Ramic.

11 Applying the *Brunzell* factors, these rates first reflect the qualities of the advocates involved in this
12 case. As attorneys for the ACLU of Nevada, all three attorneys specialize in constitutional law
13 issues. The difference in fee rates reflects each attorney experience as an attorney in general and
14 their specific talents, as reflected in their affidavits. *See* Ex. 1, Ex. 2, and Ex. 3. Second, the work
15 here was particularly challenging in that it required an understanding of constitutional law related
16 to cannabis, the limits of agency delegation, and the interplay between criminal law and executive
17 agency rule-making authority. The issues in this matter were also important in that they had a state-
18 wide impact, the regulation of an emerging market here in Nevada, and long-standing legal
19 inconsistencies. Third, the attorneys have billed for services actually performed and necessary to
20 this matter, primarily for researching, drafting, and arguing filings that ultimately determined the
21 outcome of this matter. Finally, the attorneys were successful in achieving all objectives stated in
22 the original petition for writ of mandamus.

1 **CONCLUSION**

2 Based upon the above, ACLU of Nevada is entitled to attorney fees in the amount of
3 \$47,463.18 and costs in the amount of \$684.20.

4
5 Dated this 16th day of November 2022.

6 **ACLU OF NEVADA**

7 /s/ Christopher M. Peterson
8 CHRISTOPHER M. PETERSON, ESQ.
9 Nevada Bar No. 13932
10 SADMIRA RAMIC, ESQ.
11 Nevada Bar No.: 15984
12 SOPHIA A. ROMERO, ESQ.
13 Nevada Bar No. 12446
14 601 South Rancho Drive, Suite B-11
15 Las Vegas, NV 89106
16 Telephone: (702) 366-1902
17 Facsimile: (702) 366-1331
18 Email: peterson@aclunv.org
19 *Counsel for ACLU of Nevada*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 16th day of November 2022, I caused a true and correct copy
3 of the foregoing **ACLU of NEVADA’S MOTION FOR ATTORNEY FEES AND COSTS** to
4 be electronically filed and served to all parties of record via the Court’s electronic filing system
5 to all parties listed on the e-service master list.
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10 /s/Christopher Peterson
11 An employee of ACLU of Nevada
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EXHIBIT 1

1 **DECL**
2 SADMIRA RAMIC, ESQ.
3 Nevada Bar No.: 15984
4 CHRISTOPHER M. PETERSON, ESQ.
5 Nevada Bar No.: 13932
6 SOPHIA A. ROMERO, ESQ.
7 Nevada Bar No.: 12446
8 **AMERICAN CIVIL LIBERTIES**
9 **UNION OF NEVADA**
10 601 South Rancho Drive, Suite B-11
11 Las Vegas, NV 89106
12 Telephone: (702) 366-1226
13 Facsimile: (702) 830-9205
14 Email: ramic@aclunv.org
15 Attorneys for Petitioners/Plaintiffs

16 **EIGHTH JUDICIAL DISTRICT COURT**
17 **CLARK COUNTY, NEVADA**

18 CANNABIS EQUITY AND INCLUSION
19 COMMUNITY (CEIC), a domestic nonprofit
20 corporation; ANTOINE POOLE, an individual,

21 Petitioners/Plaintiffs,

22 vs.

23 STATE OF NEVADA ex rel. BOARD OF
24 PHARMACY, a public entity of the State of
25 Nevada,

26 Respondent/Defendant.

Case No.: A-22-851232-W

Department: 15

27 **DECLARATION OF SADMIRA RAMIC, ESQ.**
28 **IN SUPPORT OF MOTION FOR ATTORNEY FEES**

29 STATE OF NEVADA)
30)ss.
31 COUNTY OF CLARK)

32 Sadmira Ramic, pursuant to NRS 53.045 in lieu of an affidavit, says:

- 33 1. I am an attorney admitted to practice before the courts of the state of Nevada and the state
34 of Kentucky. I am also admitted to practice in the United States District Court for the
35 District of Nevada.

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2. I was first admitted to the bar of the State of Nevada in 2021.
3. My resume is attached.
4. I have expertise in litigating in both civil and criminal courts.
5. I have litigated in both Nevada and Kentucky state courts. I have filed petitions for writs of mandamus and motions before the Nevada Supreme Court.
6. I am a current member of the Las Vegas Nevada Bar Association (LVNBA).
7. I am a staff attorney at the American Civil Liberties Union (ACLU) of Nevada, the Nevada state affiliate of the National ACLU.
8. In my role as an attorney for the Louisville Metro Public Defender’s Office and the ACLU of Nevada I have significant experience litigating issues related to constitutional law and have unique familiarity with the criminal legal system, both relevant to this litigation.
9. In the case at hand, I spent 81.5 hours of reasonable attorney’s services at a rate of \$369.00 for a total of \$30,073.50. These include, but are not limited to, the following services:
 - A. Researching, drafting, and filing the petition for writ of mandamus;
 - B. Communicating with both clients regarding the case;
 - C. Appearing in court to set briefing schedule;
 - D. Reviewing opposing party’s pleadings;
 - E. Communicating with opposing counsel regarding the briefing schedule;
 - F. Researching, drafting, and filing the Opposition to Respondent’s/Defendant’s Motion to Dismiss;
 - G. Preparing for oral argument related to the motion to dismiss;
 - H. Appearing in court to argue against the motion to dismiss; and

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I. Researching, drafting, and communicating with opposing counsel regarding the proposed order following the Court’s ruling on the motion to dismiss.

Dated this 16th day of November, 2022

FURTHER YOUR DECLARANT SAYETH NAUGHT.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

SADMIRA RAMIC, ESQ.

/s/ Sadmira Ramic

SADMIRA RAMIC

EDUCATION

University of Louisville Brandeis School of Law, Louisville, Kentucky

Juris Doctorate, May 2018

GPA: *Cum Laude*

Honors: CALI Award for Highest Grade- Legal Writing, Entrepreneurship Law, and National Security Law

Activities: American Inns of Court, Pupil

International Law Society, Member

Teaching Assistant, Lawyering Skills/Legal Writing

University of Louisville, Louisville, Kentucky

Bachelor of Science in Justice Administration, May 2015

GPA: *Summa Cum Laude*

Honors: Alice Scott Dawson Scholarship

Recognition of Outstanding Achievement in Paralegal Studies

Dean's List: All Semesters

Thesis: *The Effects of International Laws on Modern Day Slavery*

BAR ADMISSION

State of Kentucky (2018); State of Nevada (2021); U.S. District Court for the District of Nevada (2022)

LEGAL EXPERIENCE

American Civil Liberties Union of Nevada, Las Vegas, Nevada

December 2021- Present

Staff Attorney

Litigated cases involving numerous civil rights issues including voting rights, unlawful searches and seizures, and 42 U.S. §1983 claims. Analyzed issues and worked collaboratively with other attorneys on litigation strategy. Presented and argued cases in Nevada state courts resulting in favorable outcomes. Conferred with potential clients and evaluated the strength of their cases. Managed volunteer and policy advocacy projects.

Louisville Metro Public Defender's Office, Louisville, Kentucky

August 2018-April 2021

Assistant Public Defender

Represented indigent clients at all phases in misdemeanor and felony cases, including arraignments, probable cause hearings, pre-trials, bond hearings, and sentencing hearings. Analyzed discovery, statutes, medical records, and other legal documents. Researched, wrote, and argued numerous motions, including motions to suppress, motions for shock probation, motions to sever counts, and motions to reduce bond. Worked closely with prosecutors, police officers, and probation officers to negotiate favorable outcomes for my clients. Consulted and advised clients in jail and in office regarding their cases. Managed a large caseload involving various levels of offenses from minor misdemeanor cases to cases with a potential life sentence. Established good relationships with clients, judges, colleagues, and other attorneys.

Louisville Metro Public Defender's Office, Louisville, Kentucky

May 2017-May 2018

Law Clerk

Conducted research on multiple topics. Drafted memos, briefs, motions, and ethics opinion. Attended courtroom proceedings such as murder trials, probation revocation hearings, and motion hour. Created informational tools for new and incoming public defenders.

SKILLS

Fluent in written and spoken Bosnian (native), excellent legal research and writing skills, strong attention to detail, organized, time management abilities, an ability to communicate across different cultures, and collaborative team work skills.

EXHIBIT 2

1 **DECL**
2 SADMIRA RAMIC, ESQ.
3 Nevada Bar No.: 15984
4 CHRISTOPHER M. PETERSON, ESQ.
5 Nevada Bar No.: 13932
6 SOPHIA A. ROMERO, ESQ.
7 Nevada Bar No.: 12446
8 **AMERICAN CIVIL LIBERTIES**
9 **UNION OF NEVADA**
10 601 South Rancho Drive, Suite B-11
11 Las Vegas, NV 89106
12 Telephone: (702) 366-1226
13 Facsimile: (702) 830-9205
14 Email: ramic@aclunv.org
15 *Attorneys for Petitioners/Plaintiffs*

10 **EIGHTH JUDICIAL DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

13 CANNABIS EQUITY AND INCLUSION
14 COMMUNITY (CEIC), a domestic nonprofit
15 corporation; ANTOINE POOLE, an individual,
16
17 **Petitioners/Plaintiffs,**

17 vs.

18 STATE OF NEVADA ex rel. BOARD OF
19 PHARMACY, a public entity of the State of
20 Nevada,

20 **Respondent/Defendant.**

Case No.: A-22-851232-W

Department: 15

22 **DECLARATION OF SOPHIA A. ROMERO, ESQ**
23 **IN SUPPORT OF ATTORNEY'S FEES**

24 STATE OF NEVADA)
25) ss:
26 COUNTY OF CLARK)

27 I, Sophia A. Romero, Esq., under penalty of perjury declare:
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1. I am an attorney admitted to practice before the courts of the states of Nevada and New Mexico (inactive). I am also admitted to practice in the United States District Court for the District of Nevada and the United States Supreme Court.
2. I was first admitted to the bar of the State of Nevada in 2011.
3. My resume is attached.
4. I have worked on many litigation cases which were successfully resolved.
5. I have litigated through the appellate court in Washington State.
6. I have become trained in litigating consumer rights cases over the last 8 years, both as a student admitted to practice in the Washington State, specifically litigating illegal repossession and foreclosure issues, and as an attorney admitted in Nevada.
7. I am a member of the National Association of Consumer Advocates (NACA). I have attended numerous consumer rights litigation conferences and trainings sponsored by NACA and the National Consumer Law Center. The conferences and trainings have involved many consumer rights matters including the Truth in Lending Act, the Consumer Leasing Act, Fair Debt Collection Practices Act, Fair Credit Reporting Act, state deceptive trade practices acts, identification of issues and potential claims for relief involving automobile sales practices and repossessions, and many other consumer rights issues.
8. I have participated in the legislative process in the State of Nevada and have testified on various bills involving consumer rights, as well as testifying in successful opposition to bills weakening consumer rights.
9. Additionally, in 2021 I began practicing civil rights litigation.

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10. The time records attached as Exhibit 2 accurately reflect the time spent in this case and which was reasonable and necessary to litigate this case.

11. In the case at hand, I spent 15.00 hours of reasonable attorney's services at a rate of \$388.00 per hour which equals \$5,835.52. These include, but are not limited to, the following services: Reviewing the file in order to come up to speed on the case, drafting and editing documents, attended hearings.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 16th day of November 2022.



SOPHIA A. ROMERO, ESQ.

Sophia A. Romero

BAR ADMISSIONS

State Bar of Nevada, admitted: October 2011

U.S. District Court for the District of Nevada, admitted: November 2011

State Bar of New Mexico, admitted: April 2012

United States Supreme Court, admitted: May 2016

EDUCATION

Gonzaga School of Law, Spokane, WA

Juris Doctor, May 2011

- Activities:
- Hispanic Law Caucus**, Gonzaga School of Law, 2008-2011 (President, 2010-2011)
 - Represented the board at Latina/Latino Bar Association of Washington's annual award ceremony
 - Organized & planned the Alcanzar Justice program (high school mock trial for minority students); Spanish language lunches to provide an opportunity to both students and professors to practice speaking Spanish on a regular basis; and regular fundraising events to benefit the Hispanic Law Caucus
 - Women's Law Caucus**, Gonzaga School of Law, 2008-2011
 - Organized and coordinated school-wide powder puff football tournament/fundraiser

New Mexico State University, Las Cruces, NM

Bachelor of Arts, December 2007

Major: Criminal Justice, with a supplemental degree in Law and Society

EXPERIENCE

ACLU of Nevada, Inc. Las Vegas, Nevada

Senior Staff Attorney, November 2021 – Present

- Litigation regarding constitutional issues, specifically the First, Fourth, Eighth, and Fourteenth Amendments
- Litigation regarding government compliance with applicable state and local laws including the Nevada Constitution and city charters
- Working with intake and evaluating cases for potential representation.

Intake Department, Legal Aid Center of Southern Nevada, Inc. Las Vegas, Nevada

Intake Supervising Attorney, July 2021 – November 2021

- Supervise 11 intake advocates and front desk staff
- Preliminary review of cases for both the Consumer Rights Project and Family Justice Project
- Law Clerk and Fellowship Program Supervisor, including interviewing and hiring potential clerks and overseeing the selection of fellows (2018 - 2021)

Consumer Rights Project, Legal Aid Center of Southern Nevada, Inc. Las Vegas, Nevada

Staff Attorney, October 2012 – July 2021

- Law Clerk Program Supervisor, including interviewing and hiring potential clerks (2018 - present)
- Law Clerk Supervisor for the Consumer Unit (2016 - 2018)
- Completed Staff to Supervisor Training (July 9, 2018)
- Assisted thousands of low-income clients either through direct representation, providing counsel & advice, outreach events, community education classes, or legislative advocacy
- Practice areas include: Illegal Repossession, FDCPA, FCRA, TILA, landlord Tenant, Payday/Title Lending, Record Sealing and other general consumer issues
- Consumer litigation attorney for the Consumer Rights Project, including large class action litigation

- Part of the team drafting the Opposition to Petition for Certiorari to the U.S. Supreme Court in the Rapid Cash case
- Built relationships with other consumer attorneys across the country which have resulted in Legal Aid Center receiving *cy pres* funds
- Legislative work, including bill drafting, testifying on behalf of our clients, testifying at the request of legislators, and organizing client testimony since 2013 (4 legislative sessions)
- Taught Community Education Class, specifically the Collection Proof Clinic, including creating and updating the power point presentation and manual since 2013
- Trained new hires, including preparing training schedules, for both attorneys and support staff
- Supervised Civil Law Self-Help Center as needed since 2012
- Deeply involved with consumer intake, including supervising intake staff as needed
- Amicus Trainer (case management system) since implementation in 2013
- Updated and maintained manuals such as the Consumer Practice Manual and the s:drive brief bank
- Attended and participated in numerous outreach events and speaking engagements
- Involved with national organizations to keep up to date with case and legislative developments in consumer law

Consumer Rights Project, Legal Aid Center of Southern Nevada, Inc., Las Vegas, Nevada

Law Clerk, November 2011 – October 2012

- Research projects and memos
- Drafting for litigation

University Legal Assistance, Gonzaga School of Law, Spokane, WA

Legal Intern, January 2010 – May 2011

- Consumer Law Clinic
- Practice areas included: Illegal Repossession, FDCPA, Mortgage Foreclosure, Landlord/Tenant
- Argued in Washington State Court, under the Washington student practice rule
- Argued in U.S. District Court for the Eastern District of WA before the Honorable Judge L. Quackenbush
- Drafted Appellant Briefs submitted to the WA Division III Court of Appeals

Unemployment Law Project, Las Vegas, Nevada

Legal Intern, May 2010 – August 2010

- Direct representation in administrative hearings for employees who were denied unemployment benefits

Gonzaga School of Law, Spokane, WA

Law Ambassador, August 2009 – May 2011

- Welcome prospective students, give tours, and answer questions

MEMBERSHIPS AND AFFILIATIONS

National Association of Consumer Advocates, Washington, D.C.

Nevada State Chair, September 2014 – Present

Member, November 2010 - Present

Las Vegas Latino Bar Association, Las Vegas, Nevada

Member, 2013 - Present

Phi Alpha Delta Law Fraternity, Edward M. Connelly Chapter

Member, 2008 – Present

MEDIA AND SPEAKING ENGAGEMENTS

April 2020	Nevada Lawyer Article	https://www.nvbar.org/nvlawyermagazine/april-2020/
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4/7/20	Boyd School of Law	Guest speaker for the Consumer Law class covering FDCPA
3/5/20	Boyd School of Law	Guest speaker for the Consumer Law class covering Illegal Repossessions
3/3/20	Boyd School of Law	Guest speaker for the Consumer Law class covering Auto Fraud
2/26/20	Nevada Current – Medical Debt	https://www.nevadacurrent.com/2020/02/26/nevadans-with-medical-debt-hit-with-murky-collection-practices/
3/21/19	Public News Service – Payday and Title Lending	https://www.publicnewsservice.org/2019-03-21/consumer-issues/nevada-ag-calls-on-feds-to-protect-consumers-from-abusive-lenders/a65898-1
11/27/18	PEW Trusts	https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/11/27/late-payment-a-kill-switch-can-strand-you-and-your-car
4/26/18	NCLC	Speaker - Intake Panel at the NCLC Auto Fraud Conference
3/5/18	Boyd School of Law	Guest speaker for the Consumer Law class covering FDCPA
2/12/18	Boyd School of Law	Guest speaker for the Consumer Law class covering Illegal Repossessions
2/5/18	Boyd School of Law	Guest speaker for the Consumer Law class covering Auto Fraud
5/4/17	Las Vegas Review Journal	https://www.reviewjournal.com/news/2017-legislature/nevada-bill-would-protect-victims-of-aggressive-repossession/
3/27/17	Boyd School of Law	Guest speaker for the Consumer Law class covering FDCPA
2/6/17 & 2/8/17	Boyd School of Law	Guest speaker for the Consumer Law class covering Auto Fraud and Illegal Repossessions
12/4/16	San Antonio Express News	http://www.expressnews.com/business/national/article/As-auto-lending-rises-so-do-delinquencies-10690107.php
12/1/16	CNBC	http://www.cnb.com/2016/12/01/as-auto-lending-rises-so-do-delinquencies.html
12/1/16	The New York Times	http://www.nytimes.com/2016/11/30/business/dealbook/as-auto-lending-rises-so-do-delinquencies.html?_r=1
10/27/16	Las Vegas RJ	Subprime Vehicles
10/20/16	NCLC	Requested by NCLC to speak at the Electronic Repo Session regarding policy
10/15/16	Channel 13 – Contracts	http://www.ktnv.com/news/contact-13/local-bride-and-groom-left-asking-wheres-my-wedding
March/ April 2016	Mother Jones	http://www.motherjones.com/politics/2016/04/subprime-car-loans-starter-interrupt
4/15/15	Nevada Public Radio	https://knpr.org/knpr/2015-04/no-car-payment-cut-engine?fbclid=IwAR2vS0YrshN4KRchS4ef8N8DHfyWJMuL1VYOsgfdv18iMR0_145_lkZi1o
4/14/15	Public News Service	https://www.publicnewsservice.org/2015-04-14/social-justice/bill-would-let-lenders-use-tracking-devices-on-nevada-cars/a45724-1?fbclid=IwAR1jzVJ2gMxnmjDmj2lHdLXNFFfMPO1kOm8NOg088GqEA vX5C5x6eR-O6z8
10/05/14	NBC Nightly News – Repo Class Action	http://www.nbcnews.com/nightly-news/lenders-remotely-disable-car-when-payments-are-late-n218971
10/04/14	MSNBC – Repo Class Action	http://www.msnbc.com/melissa-harris-perry/watch/the-high-cost-of-being-poor-337865283678
9/29/14	Good Morning America – Repo Class Action	http://abcnews.go.com/GMA/photos/video-car-loans-kill-switch-condition-25832247

9/27/14	Inside Edition – Repo Class Action	No link available
9/24/14	NYT – Repo Class Action	http://mobile.nytimes.com/blogs/dealbook/2014/09/24/miss-a-payment-good-luck-moving-that-car/?hp&action=click&pgtype=Homepage&version=HpSum&module=first-column-region%C2%AEion%3Dtop-news&WT.nav=top-news
9/24/14	NYT Video – Repo Class Action	http://mobile.nytimes.com/video/business/10000003095109/the-remote-repo-man.html?_r=0
9/24/14	Consumer Law & Policy Blog – Repo Class Action	http://pubcit.typepad.com/clpblog/2014/09/collecting-debts-on-cars-in-the-computerized-world.html?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+ConsumerLawPolicyBlog+%28Consumer+Law+%26+Policy+Blog%29
9/17/14	NJA EClips	http://www.reviewjournal.com/news/finance-company-shuts-down-vehicles-too-soon-lawsuit-alleges
9/17/14	Las Vegas Review Journal – Repo Class Action	http://www.reviewjournal.com/news/finance-company-shuts-down-vehicles-too-soon-lawsuit-alleges
9/16/14	Channel 8 news – Repo Class Action	http://www.8newsnow.com/story/26550560/las-vegas-mom-sues-over-device-that-electronically-disables-car
7/30/14	NPR – Debt Collection	http://knprnews.org/post/debt-collector-calling-nevadans-struggle-unpaid-bills
7/21/14	Public News Service – Pre-paid Electricity	http://www.publicnewsservice.org/2014-07-21/energy-policy/consumer-rights-attorney-questions-nv-energys-prepayment-plan-proposal/a40609-1
3/24/14	Channel 8 News – Auto Repair	http://www.8newsnow.com/category/28259/8-news-now-video?clipId=9977539&autostart=true
3/03/14	Common Ground Conference	http://www.consumer.gov/sites/default/files/agenda.pdf

EXHIBIT 3

1 United States Court of Appeals for the Ninth Circuit, and the Supreme Court of the United
2 States.

3 2. I was first admitted to the bar of the State of Nevada in 2015.

4 3. My resume is attached.

5 4. I have expertise in litigating in both civil and criminal courts.

6 5. I have litigated in both federal and state court. I have been the principal attorney on multiple
7 cases that have been tried to verdict in both jury and bench trials. I have filed appeals,
8 petitions for writs of mandamus, and amicus briefs before the Nevada Supreme Court, the
9 United States Court of Appeals for the Ninth Circuit, and the Supreme Court of the United
10 States.

11 6. I am a current member of Nevada Attorneys for Criminal Justice (NACJ) and the Nevada
12 Justice Association (NJA).

13 7. I am an adjunct professor at the University of Nevada, Las Vegas, where I teach a course
14 on the criminal legal processes.

15 8. I am the Legal Director at the American Civil Liberties Union (ACLU) of Nevada, the
16 Nevada state affiliate of the National ACLU.

17 9. In my role as an attorney for the Clark County Public Defender's Office and the ACLU of
18 Nevada I have significant experience litigating issues related to constitutional law and have
19 unique familiarity with the criminal legal system, both relevant to this litigation.

20 10. In the case at hand, I spent 18.97 hours of reasonable attorney's services at a rate of \$388.00
21 per hour, and 3.72 hours of reasonable attorney's services at a rate of \$400.00 per hour,
22 for a total of \$8,852.36. These include, but are not limited to, the following services:

23 A. Researching a drafting the Reply to the Board's Answer to the petition for writ of
24 mandamus;

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- B. Preparing for oral argument related to the writ of mandamus;
- C. Appearing in court to argue the petition for writ of mandamus;
- D. Researching, drafting, and communicating with opposing counsel regarding the proposed order following the Court’s ruling on the petition;
- E. Researching and drafting the motion for attorney’s fees.

Dated this 16th day of November, 2022

FURTHER YOUR DECLARANT SAYETH NAUGHT.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

CHRISTOPHER M. PETERSON, ESQ.

/s/ Christopher M. Peterson

Christopher Peterson

EDUCATION

Georgetown University Law Center, J.D., May 2015

Honors: *magna cum laude*; Order of the Coif; Dean's List (2012-15); Pro Bono Pledge Honorary (completed 50 hours or more of pro bono service)

Activities: *American Criminal Law Review*, Articles and Notes Editor; Public Interest Fellow; Georgetown Youth Advocacy Executive Board

Publication: *Irrevocable Implied Consent: The "Roach Motel" in Consent Search Jurisprudence*, 51 Am. Crim. L. Rev. 773 (2014), cited by 4 Wayne R. LaFare, *Search and Search: A Treatise on the Fourth Amendment* § 8.1(c)&8.2(l) (5th ed.)(2018).

Pro Bono: Ivy City Project, Research Assistant; National Legal Aid and Defender Association (NLADA), Intern

University of Virginia, B.A., May 2010 (Major: History; Minor: English)

EXPERIENCE

American Civil Liberties Union of Nevada, Las Vegas, NV

Apr. 2021 – present

Legal Director

Managing the ACLU of Nevada's Legal Department, including personnel and case selection. Supervising litigation related to violations of the First, Fourth, and Fourteenth Amendments of the United States Constitution and Article 4, Section 38 of the Nevada Constitution. Filed petitions for writ of mandamus and amicus briefs before the Nevada Supreme Court, the United States Court of Appeals for the Ninth Circuit, and the Supreme Court of the United States.

University of Nevada Las Vegas, Las Vegas, NV

Sept. 2021 – present

Adjunct Professor

Teaching 15-week course "CRJ 432 1003: Criminal Legal Procedure" on statutes, court rules, and constitutional rights governing the criminal legal process in Nevada and federal courts. Instructed participants on application of legal concepts to case studies.

Office of the Clark County Public Defender, Las Vegas, NV

Aug. 2015 – Mar. 2021
& Summer 2013

Deputy Public Defender

Managed case load of over 150 cases, including any felony up to Attempted Murder. Drafted and argued petitions for writs of habeas corpus, prohibition, and mandamus as well as motions to related to violations of the Nevada and United States Constitutions, including violations of the Fourth, Fifth, Sixth, and Fourteenth Amendments and Article 1, Section 11 of the Nevada Constitution. Tried multiple felony trials to verdict.

Georgetown Law Criminal Defense and Prisoner Advocacy Clinic, Washington, D.C.

Sept. 2014– May 15

Trial Advocate and Instructor

Represented clients and investigated cases in criminal matters before the D.C. Superior Court and the U.S. Parole Commission. Developed and taught sixteen-week legal writing curriculum for the inmates at Jessup Correctional Institute in Jessup, Maryland.

Orleans Public Defenders, New Orleans, LA

Summer 2014

Law Clerk

Drafted a successful writ to the Louisiana Supreme Court, two writ applications to the Louisiana Fourth Circuit, and a response to writ application filed by the government. Wrote motions to quash and to prevent the introduction of character evidence. Wrote memoranda in support of litigation in criminal cases, including memoranda analyzing the Louisiana sex offender registration statute, the Louisiana multiple bill, and the Orleans Parish Criminal Court's practice of issuing arrest warrants through bureaucratic offices rather than judges. Interviewed and supported imprisoned clients. Conducted investigations.

MEMBERSHIPS

- Bar membership
 - State of Nevada (Bar No. 13932)
 - United States District Court for Nevada
 - United States Court of Appeals for the Ninth Circuit
 - Supreme Court for the United States
- Nevada Attorneys for Criminal Justice (NACJ)
- Nevada Justice Association (NJA)
- National Lawyers Guild (NLG)

EXHIBIT 4



INVOICE

Invoice # 2
Date: 2022-11-16
Due On: 2022-12-16

Law Office of ACLU NV Legal Department

601 S. Rancho Dr., Suite B-11
Las Vegas, Nevada 89106
United States

Cannabis Equity and Inclusion Community (CEIC)

00021-Cannabis Equity and Inclusion Community (CEIC)

NV State Board of Pharmacy's misclassification of cannabis as a schedule I substance

Type	Date	Notes	Quantity	Rate	Total
Service	2022-02-11	Research: Reviewed NRS, NAC, and Chris' previous documents relating to the scheduling of cannabis as a Schedule I substance.	3.00	\$369.00	\$1,107.00
Service	2022-02-14	Research on writs. Started writing Petition for Writ of Mandamus- Parties, Jurisdiction/Venue, Standing, Standard of Review.	3.60	\$369.00	\$1,328.40
Service	2022-02-15	Continued to work on writing the Writ- Facts/Legislative History, Claims for relief, edited other sections.	4.70	\$369.00	\$1,734.30
Service	2022-02-16	Continued to work on the writ- edits, writ of mandamus argument.	2.00	\$369.00	\$738.00
Service	2022-02-22	Continued to work on the writ- declaratory judgment, injunctive relief, research on counterarguments, edits to other sections.	4.40	\$369.00	\$1,623.60
Service	2022-02-24	Edits to Writ. Reviewed all sections.	2.50	\$369.00	\$922.50
Service	2022-03-10	Research on venue, the Cannabis Compliance Board, the Nevada Board of Pharmacy, and definitions for marijuana under NRS.	2.50	\$369.00	\$922.50
Service	2022-03-10	Edits to writ. Writing intro.	1.20	\$369.00	\$442.80
Service	2022-03-11	Finished writing introduction for writ. Edits to remainder sections.	2.20	\$369.00	\$811.80
Service	2022-03-21	Research on service of process and standing. Edited the Writ.	1.20	\$369.00	\$442.80

Expense	2022-04-15	Filing Fee: CEIC filing fee	1.00	\$270.00	\$270.00
Expense	2022-04-15	Filing Fee: Antoine Poole filing fee	1.00	\$30.00	\$30.00
Expense	2022-04-26	Process Server: Service on Board of Pharmacy at 985 Damonte Ranch Pkwy	1.00	\$85.00	\$85.00
Expense	2022-04-28	Process Server: Attempted service on Board of Pharmacy re: Attorney General at 555 E Washington Ave., Ste. 3900, Las Vegas, NV.	1.00	\$89.20	\$89.20
Expense	2022-04-28	Process Server: Attempted service on Board of Pharmacy at 1050 E. Flamingo Rd., #E-217, Las Vegas, NV	1.00	\$85.00	\$85.00
Service	2022-05-23	Court Appearance: Court appearance for briefing schedule- Chris, Athar, and I.	2.20	\$369.00	\$811.80
Expense	2022-05-23	Process Server: Serviced on Board of Pharmacy re: Attorney General at 100 N Carson St., Carson City, NV	1.00	\$125.00	\$125.00
Service	2022-05-27	Opposing Counsel Communication: Good faith meet and confer w/ opposing counsel and Chris.	0.80	\$369.00	\$295.20
Service	2022-06-10	Draft/Edit Documents: Read MTD filed by opposing counsel. Made general notes and responses to the MTD.	1.20	\$369.00	\$442.80
Service	2022-06-14	Draft/Edit Documents: Outlined arguments to MTD.	2.20	\$369.00	\$811.80
Service	2022-06-15	Draft/Edit Documents: Began outline for Opposition to MTD.	1.60	\$369.00	\$590.40
Service	2022-06-16	Draft/Edit Documents: Continued outlining arguments for Opp. to MTD. Research on standing.	4.70	\$369.00	\$1,734.30
Service	2022-06-17	Draft/Edit Documents: Research on standing for writ of mandamus and general complaint. Research on legal standards for MTD and proper responsive pleading to petition for writ of mandamus. Researched case examples to use for argument section in our Opp. to MTD. Drafted Opp. to MTD.	11.00	\$369.00	\$4,059.00
Service	2022-06-18	Draft/Edit Documents: Finished Opp. to MTD draft.	10.50	\$369.00	\$3,874.50
Service	2022-06-20	Draft/Edit Documents: Read edits made by Sophia and Chris. Conferred with them about arguments/structure/legal standards of the Opp. to MTD. Conducted further research on standing. Edited the draft.	8.10	\$369.00	\$2,988.90
Service	2022-06-21	Draft/Edit Documents: Conferred w/ Chris and Sophia about the Opp. to MTD. Read their edits. Made edits of my own. Proofread and corrected mistakes. Filed.	8.60	\$369.00	\$3,173.40
Service	2022-06-28	Correspondence: Spoke w/ Antoine Poole over the phone. [REDACTED]	0.10	\$369.00	\$36.90

Service	2022-07-08	Case Administration: First moot of oral argument for MTD Hearing	1.50	\$388.00	\$582.00
Service	2022-07-11	Case Administration: Second moot for MTD hearing	0.80	\$388.00	\$310.40
Service	2022-07-12	Case Administration: Two rounds, approximately 30+ minutes each, of mooting the MTD argument.	1.20	\$388.00	\$465.60
Service	2022-07-13	Court Appearance: Court appearance on Respondent's Motion to Dismiss- Sophia, Athar, and I.	2.00	\$369.00	\$738.00
Service	2022-07-13	Court Appearance: MTD hearing - we survived on standing and failure to state a claim.	2.00	\$388.00	\$776.00
Service	2022-07-14	Draft/Edit Documents: Drafted order Denying Respondent's Motion to Dismiss. Sent to Board.	0.50	\$369.00	\$184.50
Service	2022-07-21	Opposing Counsel Communication: Reviewed Brett's suggested changes to the order Denying MTD. Reviewed the clip of the Judge's ruling. Sent Brett an email outlining which changes we agree with and which we disagree with.	0.70	\$369.00	\$258.30
Service	2022-08-15	Draft/Edit Documents: Drafting Reply to the Board's Answer to Petition for Writ of Mandamus	3.37	\$388.00	\$1,307.56
Service	2022-09-14	Research: Preparing for oral argument re: petition for writ of mandamus	1.52	\$388.00	\$589.76
Service	2022-09-14	Court Appearance: In court from 8:55 AM to 12:12 PM for argument on petition for writ of mandamus	3.29	\$388.00	\$1,276.52
Service	2022-09-14	Court Appearance: Hearing on Writ of Man and Compl. We won flat out, 2/3 claims, last claim will be decided on the orders.	4.00	\$388.00	\$1,552.00
Service	2022-09-15	Draft/Edit Documents: First draft of order.	1.63	\$388.00	\$632.44
Service	2022-09-20	Draft/Edit Documents: Continued drafting order, starting with Conclusions of Law.	1.50	\$388.00	\$582.00
Service	2022-09-21	Draft/Edit Documents: Continued drafting Conclusions of Law.	2.41	\$388.00	\$935.08
Service	2022-09-22	Draft/Edit Documents: Continuing with Conclusions of Law	4.47	\$388.00	\$1,734.36
Service	2022-09-26	Draft/Edit Documents: Reviewing and editing order drafted by Sophia.	0.29	\$388.00	\$112.52
Service	2022-09-27	Draft/Edit Documents: Editing & revising order from CEIC	1.27	\$388.00	\$492.76
Service	2022-09-28	Draft/Edit Documents: Drafting/editing proposed order for petition of writ of mandamus.	2.39	\$388.00	\$927.32
Service	2022-09-28	Draft/Edit Documents: Drafted/revised order regarding "ruled on" portion of CEIC case. Sent copy of "ruled on"	1.39	\$388.00	\$539.32

		language to Board of Pharmacy.			
Service	2022-09-29	Draft/Edit Documents: Drafting language of reserved ruling; responding to Brett Kandt regarding NAC 639.110.	5.45	\$388.00	\$2,114.60
Service	2022-09-29	<p>Draft/Edit Documents: Reviewing Chris' version of the portion of the order on the reserved ruling.</p> <p>Also looked into NRS 233B, which Bret cited as the process for removing the regulation as opposed to NAC 639.110</p> <p>The only entry in Chapter 233B that is even remotely applicable to this matter is:</p> <p>NRS 233B.110 Declaratory judgment to determine validity or applicability of regulation.</p> <p>1. The validity or applicability of any regulation may be determined in a proceeding for a declaratory judgment in the district court in and for Carson City, or in and for the county where the plaintiff resides, when it is alleged that the regulation, or its proposed application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the plaintiff. A declaratory judgment may be rendered after the plaintiff has first requested the agency to pass upon the validity of the regulation in question. The court shall declare the regulation invalid if it finds that it violates constitutional or statutory provisions or exceeds the statutory authority of the agency. The agency whose regulation is made the subject of the declaratory action shall be made a party to the action.</p> <p>2. An agency may institute an action for declaratory judgment to establish the validity of any one or more of its own regulations.</p> <p>3. Actions for declaratory judgment provided for in subsections 1 and 2 shall be in accordance with the Uniform Declaratory Judgments Act (chapter 30 of NRS), and the Nevada Rules of Civil Procedure. In all actions under subsections 1 and 2, the plaintiff shall serve a copy of the complaint upon the Attorney General, who is also entitled to be heard.</p> <p>(Added to NRS by 1965, 965; A 1969, 317; 1977, 1388)</p> <p>There is nothing in that chapter regarding removal of regulations.</p>	0.73	\$388.00	\$283.24
Service	2022-10-04	Draft/Edit Documents: Incorporated requested amendments from Board and Sophia's edits into draft order.	0.52	\$400.00	\$208.00
		Emailed Brett re: accepting amendments and following			

up re: paragraph 5.

Service	2022-10-05	Draft/Edit Documents: Amending order to include issues raised during discussion with Board of Pharmacy.	0.19	\$400.00	\$76.00
Service	2022-10-05	Draft/Edit Documents: Completed editing both "marked" and "clean" drafts of proposed order. Sent both copies to court.	0.72	\$400.00	\$288.00
Service	2022-11-16	Draft/Edit Documents: Motion for Attorney's Fees, research and drafting.	2.30	\$400.00	\$920.00
				Total	\$47,463.18

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
2	2022-12-16	\$47,463.18	\$0.00	\$47,463.18
			Outstanding Balance	\$47,463.18
			Total Amount Outstanding	\$47,463.18

Please make all amounts payable to: Law Office of ACLU NV Legal Department

Please pay within 30 days.