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IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCHISE TAX BOARD )  
OF THE STATE OF CALIFORNIA, )  
Appellant/Cross-Respondent, )  
vs. )  
GILBERT P. HYATT, )  
Respondent/Cross-Appellant. )

No. 53264

**FILED**

JUL 20 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

MOTION TO ALLOW ASSOCIATION OF COUNSEL FOR PURPOSE OF PERMITTING  
FILING OF BRIEF BY STATES *AMICI CURIAE* IN SUPPORT OF APPELLANT/CROSS-  
RESPONDENT FRANCHISE TAX BOARD  
OF THE STATE OF CALIFORNIA

Comes now C. Wayne Howle, Solicitor General of the State of Nevada, who respectfully moves this Court pursuant to Supreme Court Rule 42(3) for an order allowing association with proposed STATES *Amici Curiae* and their counsel of record, Clark Len Snelson, Esq., for the purpose of allowing the admission of said counsel on a *pro hac vice* basis and for the filing of its brief in this matter. In support of this Motion, the Solicitor General states that he has filed an appearance in this matter on behalf of *Amici* STATES and has attached the following exhibits as required by Rule 42(3)(c):

1. The original Verified Application to Associate;
2. The original Certificate of Good Standing for Clark Len Snelson, Counsel, STATES *Amici Curiae*; and
3. The State Bar Statement indicating the approval of the application for association.
4. A proposed Order is attached hereto.

**RECEIVED**  
/// JUL 20 2009  
/// TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

09-17747

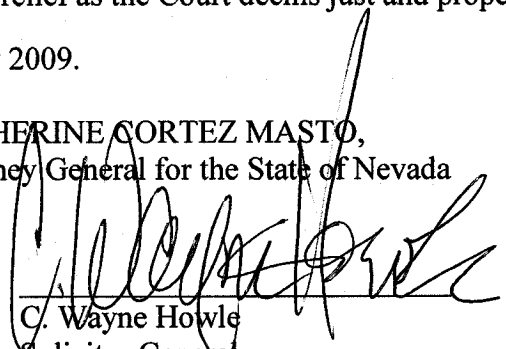
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WHEREFORE, the Solicitor General respectfully prays for an order allowing association in this matter, together with such other relief as the Court deems just and proper.

Respectfully submitted this 20<sup>th</sup> day of July 2009.

CATHERINE CORTEZ MASTO,  
Attorney General for the State of Nevada

By:



C. Wayne Howle  
Solicitor General  
Local Counsel  
Nevada State Bar No. 3443  
100 North Carson Street  
Carson City, Nevada 89701  
Telephone No. (775) 684-1227  
Facsimile No. (775) 684-1108

As Associating Counsel for  
*STATES Amici*

Clark Len Snelson, Esq.  
Utah Attorney General's Office  
160 East 300 South  
Salt Lake City, Utah 84114  
Telephone No. (801) 366-0375  
Facsimile No. (801) 366-0378

Attorney for *STATES Amici*

**EXHIBIT 1**

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCHISE TAX BOARD OF THE  
STATE OF CALIFORNIA,

Appellant/Cross Respondent

v.

GILBERT P. HYATT,

Respondent/Cross Appellant

No. 53264

VERIFIED APPLICATION FOR  
ASSOCIATION OF COUNSEL UNDER  
NEVADA SUPREME COURT RULE 42

Clark                      Len                      Snelson                      , Petitioner, respectfully represents:  
First                      Middle Name                      Last

1. Petitioner resides at 1997 Maple Grove Way  
Street Address

Bountiful                      , Davis                      , Utah  
City                      County                      State

84010                      , (801) 298-0975  
Zip Code                      Telephone

2. Petitioner is an attorney at law and a member of the law firm of

Utah Attorney General's Office

with offices at 160 East 300 South  
Street Address

Salt Lake City                      , Salt Lake County                      , Utah  
City                      County                      State

84114                      , (801) 366-0375  
Zip                      Telephone

3. Petitioner has been retained personally or as a member of the above named law firm by N. A. (Amici) to provide legal representation in connection with the above-entitled matter now pending before the above referenced court.

4. Since 23 September of 1985, petitioner has been, and presently is, a member of good standing of the bar of the highest court of the State of Utah where petitioner regularly practices law.

5. Petitioner was admitted to practice before the following United States District Courts, United States Circuit Courts of Appeal, the Supreme Court of the United States, and/or courts of other states on the dates indicated for each, and is presently a member in good standing of the bars of said Courts:

DATE ADMITTED

United States District Court (Utah) 23 September 1985

6. Petitioner is not currently suspended or disbarred in any court except as hereinafter provided (Give particulars; e.g., Court, jurisdiction, date): N.A.

7. Petitioner is not currently subject to any disciplinary proceedings by any organization with authority at law except as hereinafter provided (give particulars, e.g. court, discipline authority, date, status): N.A.

8. Petitioner has never received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law except as hereinafter

provided (give particulars, e.g. court, discipline authority, date, status): N.A.

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9. Petitioner has never had any certificate or privilege to appear and practice before any regulatory administrative body suspended or revoked except as hereinafter provided (give particulars, e.g. date, administrative body, date of suspension or reinstatement): N.A.

---

10. Petitioner, either by resignation, withdrawal, or otherwise, has never terminated or attempted to terminate Petitioner's office as an attorney in order to avoid administrative, disciplinary, disbarment, or suspension proceedings except as hereinafter provided; N.A.

---

11. **Petitioner or any member of Petitioner's firm** with which Petitioner is associated has/have filed application(s) to appear as counsel under Supreme Court Rule 42 during the past three (3) years in the following matters: *(do not include Federal Pro Hacs)*

<u>Date of Application</u>	<u>Cause</u>	<u>Title of Court Administrative Body or Arbitrator</u>	<u>Was Application Granted or Denied</u>
None	-	-	-

(If necessary, please attach a statement of additional applications)

I, Clark L. Snelson, do hereby swear/affirm under penalty of perjury that the assertions of this application are true:

That I am the Petitioner in the above entitled matter; that I have read the foregoing and know the contents thereof; that the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to the matter I believe them to be true.

That I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada; that I understand and shall comply with the standards of professional conduct required by members of the State Bar of Nevada; and that I am subject to the disciplinary jurisdiction to the State Bar of Nevada with respect to any of my actions occurring in the course of such appearance.

DATED this 14<sup>th</sup> day of July, 2009

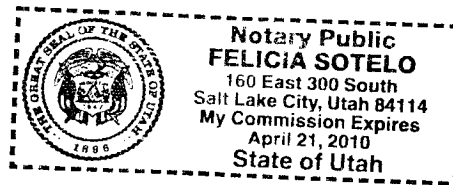
Clark Len Snelson  
Petitioner/Affiant

STATE OF Utah )  
COUNTY OF Salt Lake ) SS

Subscribed and sworn to before me

this 14<sup>th</sup> day of July, 2009

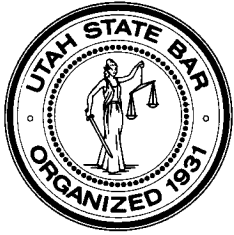
Felicia Sotelo  
Notary Public







**EXHIBIT 2**



John C. Baldwin  
Executive Director

# Utah State Bar

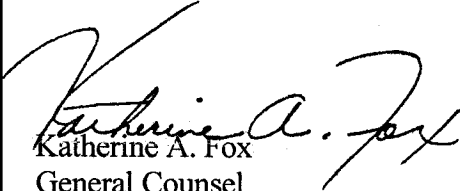
645 South 200 East, Suite 310 • Salt Lake City, Utah 84111-3834  
Telephone: 801-531-9077 • Fax: 801-531-0660  
www.utahbar.org

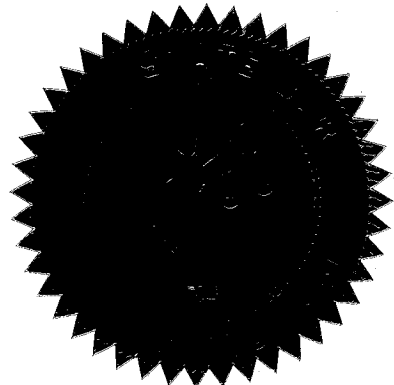
July 14, 2009

To Whom It May Concern:

This is to certify that **Clark L. Snelson**, Utah State Bar No. **04673**, was admitted to practice law in Utah on **September 23, 1985** and is an active member of the Utah State Bar in good standing. "Good standing" is defined as a lawyer who is current in the payment of all Bar licensing fees, has met mandatory continuing legal education requirements, if applicable, and is not disbarred, presently on probation, suspended, or has not resigned with discipline pending, from the practice of law in this state.

No public disciplinary action involving professional misconduct has been taken against the license of **Clark L. Snelson** to practice law.

  
Katherine A. Fox  
General Counsel  
Utah State Bar



**EXHIBIT 3**

1 STAT

2  
3 IN THE SUPREME COURT OF THE STATE OF NEVADA

4 Case No. 53264

5 Franchise Tax Board of  
6 the State of California

7 vs.

8 Gilbert P. Hyatt

9  
10  
11 STATE BAR OF NEVADA STATEMENT PURSUANT TO SUPREME COURT RULE  
12 42 (3) (b)

13 THE STATE BAR OF NEVADA, in response to the application of  
14 Petitioner, submits the following statement pursuant to SCR42(3):

15 SCR42(6) **Discretion.** The granting or denial of a motion to associate  
16 counsel pursuant to this rule by the court is discretionary. The  
17 court, arbitrator, mediator, or administrative or governmental  
18 hearing officer may revoke the authority of the person permitted to  
19 appear under this rule. Absent special circumstances, repeated  
20 appearances by any person or firm of attorneys pursuant to this rule  
21 shall be cause for denial of the motion to associate such person.

- 22 (a) **Limitation.** It shall be presumed, absent special  
23 circumstances, and only upon showing of good cause, that  
24 more than 5 appearances by any attorney granted under  
25 this rule in a 3-year period is excessive use of this  
26 rule.
- 27 (b) **Burden on applicant.** The applicant shall have the  
28 burden to establish special circumstances and good cause  
for an appearance in excess of the limitation set forth  
in subsection 6(a) of this rule. The applicant shall set  
forth the special circumstances and good cause in an  
affidavit attached to the original verified application.

1. DATE OF APPLICATION: 7/17/2009

2. APPLYING ATTORNEY: Clark Len Snelson, Esq.

3. FIRM NAME AND ADDRESS: Utah Attorney General's Office, 160 East  
300 South, Salt Lake City, UT 84114

**EXHIBIT 4**

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2  
3 FRANCHISE TAX BOARD )  
4 OF THE STATE OF CALIFORNIA, )  
5 Appellant/Cross-Respondent, )  
6 vs. )  
7 GILBERT P. HYATT, )  
8 Respondent/Cross-Appellant. )  
9

No. 53264

10 ORDER GRANTING MOTION TO ALLOW ASSOCIATION OF COUNSEL WITH CARL  
11 L. SNELSON, COUNSEL, STATES *AMICI*, IN SUPPORT OF APPELLANT/CROSS-  
RESPONDENT FRANCHISE TAX BOARD OF THE STATE OF CALIFORNIA

12 THIS MATTER having come before the Court on the Motion by C. Wayne Howle,  
13 Solicitor General for the State of Nevada, for the purpose of allowing association of counsel  
14 with Carl L. Snelson, STATES *Amici*, and the Court having found that good cause exists,  
15 hereby consents to allow association for the purposes of appearing as *amicus curiae* in the  
16 above-referenced matter on behalf of Appellant/Cross-Respondent Franchise Tax Board of the  
17 State of California.

18 Dated this \_\_\_\_ day of \_\_\_\_\_, 2009.

19  
20 By: \_\_\_\_\_  
21 Justice, Nevada Supreme Court  
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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of this Motion to Allow Association of Counsel were served on the following counsel of record this 20<sup>th</sup> day of July, 2009, by first class mail, postage pre-paid to the addresses show below:

Robert L. Eisenberg  
Lemons, Grundy & Eisenberg  
6005 Plumas Street, Suite 300  
Reno, Nevada 89519

Pat Lundvall  
McDonald Carano Wilson LLP  
2300 West Sahara Avenue, Suite 1000  
Las Vegas, Nevada 89102


Carla Higginbotham  
McDonald Carano Wilson LLP  
100 W. Liberty Street, 10<sup>th</sup> Floor  
Reno, Nevada 89501

(Counsel for Appellant/Cross-Respondent California Franchise Tax Board)

Peter C. Bernhard, Esq.  
Kummer, Kaempfer, Bonner, Renshaw & Ferrario  
3800 Howard Hughes Parkway  
Seventh Floor  
Las Vegas, Nevada 89169

Mark A. Hutchison, Esq.  
Hutchison & Steffen  
Peccole Professional Park  
10080 West Alta Drive, Suite 200  
Las Vegas, NV 89145

(Counsel for Respondent/Cross Appellant Gilbert B. Hyatt)

By:   
Vicki Beavers