

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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3
4 THE STATE OF NEVADA,)

5 Appellant,)

6 v.)

7 LACY THOMAS,)

8 Respondent.)

Case No. 58833

Electronically Filed
Jan 03 2013 09:55 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

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10 **MOTION TO STRIKE RESPONDENT'S NOTICE
OF SUPPLEMENTAL AUTHORITIES**

11 COMES NOW the State of Nevada, by STEVEN B. WOLFSON, Clark
12 County District Attorney, through his Chief Deputy, STEVEN S. OWENS, and
13 submits this Motion to Strike Respondent's Notice of Supplemental Authorities.
14 This motion is based on the following memorandum and all papers and pleadings
15 on file herein.

16 Dated this 3rd day of January, 2013.

17 Respectfully submitted,

18 STEVEN B. WOLFSON
19 Clark County District Attorney
Nevada Bar # 001565

20
21
22 BY /s/ Steven S. Owens

23 STEVEN S. OWENS
24 Chief Deputy District Attorney
25 Nevada Bar #004352
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MEMORANDUM

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2 On January 2, 2012, just five days before oral argument in this appeal which
3 is scheduled for January 7, 2012, Thomas has filed a Notice of Supplemental
4 Authorities. The State now moves to strike the Notice and requests it not be
5 considered at oral argument or in resolving this appeal.

6 Pursuant to NRAP 31(e), when pertinent and significant authorities come to
7 a party's attention after a brief has been filed before decision, a party may
8 "promptly" advise the Supreme Court by filing a Notice of Supplemental
9 Authorities. Briefing in this appeal was concluded on August 27, 2012. The
10 Notice provides only two case citations published in 1994 and 2002, respectively,
11 with no explanation why they were omitted from the briefs or a showing that the
12 Notice has been promptly filed.

13 Pursuant to NRAP 31(e), the Notice shall provide references to the pages of
14 the brief that is being supplemented, shall state concisely and without argument the
15 legal proposition for which each supplemental authority is cited, and may not raise
16 any new points or issues. The Notice on file in this case fails on all three grounds.
17 It includes no references to pages of the brief because it does not supplement any
18 issue found there. Instead, the Notice raises new issues of estoppel and invited
19 error that are not raised in the briefs. Also, the Notice impermissibly includes
20 argument as opposed to concise statements of legal proposition.

21 Finally, the Notice in this case is filed less than 10 days before oral
22 argument, so it shall not be assured of consideration. NRAP 31(e). Although no
23 Notice of Supplemental Authorities shall be rejected solely on grounds that it was
24 filed less than 10 days before oral argument, the other deficiencies and blatant
25 disregard for the rules are indicative of bad faith.

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify and affirm that this document was filed electronically with
3 the Nevada Supreme Court on January 3, 2013. Electronic Service of the
4 foregoing document shall be made in accordance with the Master Service List as
5 follows:

6 CATHERINE CORTEZ MASTO
Nevada Attorney General

7 DANIEL J. ALBREGTS, ESQ.
Counsel for Respondent

8 STEVEN S. OWENS
9 Chief Deputy District Attorney

10
11 I further certify that I served a copy of this document by mailing a true and
12 correct copy thereof, postage pre-paid, addressed to:

13
14 FRANNY A. FORSMAN, ESQ.
15 P.O. Box 43401
Las Vegas, Nevada 89116

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17
18
19 BY /s/ eileen davis
20 Employee, District Attorney's Office

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27 SSO//ed