

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: MANHATTAN WEST
MECHANICS LIEN LITIGATION,

APCO CONSTRUCTION, A NEVADA
CORPORATION; ACCURACY
GLASS & MIRROR COMPANY,
INC.; BRUIN PAINTING
CORPORATION; BUCHELE, INC.;
CACTUS ROSE CONSTRUCTION;
FAST GLASS, INC.; HD SUPPLY
WATERWORKS, LP; HEINAMAN
CONTRACT GLAZING; HELIX
ELECTRIC OF NEVADA, LLC;
INTERSTATE PLUMBING & AIR
CONDITIONING; SWPPP
COMPLIANCE SOLUTIONS, LLC;
AND WRG DESIGN, INC.,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK; AND THE
HONORABLE SUSAN SCANN,
DISTRICT JUDGE,

Respondents,

and

SCOTT FINANCIAL
CORPORATION, A NORTH
DAKOTA CORPORATION; AHERN
RENTALS, INC.; ARCH ALUMINUM
AND GLASS CO.; ATLAS
CONSTRUCTION SUPPLY, INC.;
BRADLEY J. SCOTT; CABINETEC,
INC.; CAMCO PACIFIC
CONSTRUCTION CO., INC.;
CELLCRETE FIREPROOFING OF
NEVADA, INC.; CLUB VISTA
FINANCIAL SERVICES, LLC;
CONCRETE VISIONS, INC.;
CREATIVE HOME THEATRE, LLC;

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PETITION FOR REHEARING

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2 E&E FIRE PROTECTION, LLC; EZA,
P.C.; FERGUSON FIRE AND
3 FABRICATION, INC.; GEMSTONE
DEVELOPMENT WEST, INC.;
4 GRANITE CONSTRUCTION
COMPANY; HARSCO
5 CORPORATION; HYDROPRESSURE
CLEANING; INQUIPCO; INSULPRO
6 PROJECTS, INC.; JEFF HEIT
PLUMBING CO., LLC; JOHN DEERE
7 LANDSCAPE, INC.; LAS VEGAS
PIPELINE, LLC; NEVADA PREFAB
8 ENGINEERS; NOORDA SHEET
METAL COMPANY; NORTHSTAR
9 CONCRETE, INC.; PAPE MATERIAL
HANDLING; PATENT
10 CONSTRUCTION SYSTEMS;
PRESSURE GROUT COMPANY;
11 PROFESSIONAL DOOR AND MILL
WORKS, LLC; READY MIX, INC.;
12 RENAISSANCE POOLS & SPAS,
INC.; REPUBLIC CRANE SERVICE,
13 LLC; STEEL ENGINEERS, INC.;
SUNSTATE COMPANIES, INC.;
14 SUPPLY NETWORK, INC.;
THARALDSON MOTELS II, INC.;
15 TRI CITY DRYWALL, INC.; UINTAH
INVESTMENTS, LLC; AND ZITTING
16 BROTHERS CONSTRUCTION, INC.,
Real Parties in Interest.

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1 **I. INTRODUCTION**

2 This petition seeks rehearing pursuant to NRAP 40 of the Court’s panel
3 opinion issued on September 24, 2015. The Court’s opinion adopts a policy for
4 Nevada favoring “partial subordination” and rejecting “complete
5 subordination,” absent an express statement for complete subordination, in the
6 context of competing priority of mechanic’s liens and deeds of trust. In
7 adopting this policy, the Court’s opinion principally relied upon *Caterpillar*
8 *Financial Services Corp. v. Peoples National Bank, N.A.*, 710 F.3d 691 (7th
9 Cir. 2013), which was first raised in supplemental authorities, under the
10 parameters of NRAP 31(e). However, *Caterpillar* and many of the related
11 authorities rely upon the Uniform Commercial Code, Article 9—Secured
12 Transactions, which is the equivalent of NRS Chapter 104.9109 *et seq.* This
13 Court’s departure from well-established Nevada law enforcing mechanic’s liens
14 to adopt contrary UCC principles undercuts the policymaking function of the
15 Court in the context of construing ambiguous statutes. *See, e.g., Lehrer*
16 *McGovern Bovis, Inc. v. Bullock Insulation, Inc.*, 124 Nev. 1102, 1115, 197
17 P.3d 1032, 1041 (2008) (“The object of the lien statutes is to secure payment to
18 those who perform labor or furnish material to improve the property of the
19 owner.”) (citation and internal quotation marks omitted); *see also Westpark*
20 *Owners’ Ass’n v. Dist. Ct.*, 123 Nev. 349, 357, 167 P.3d 421, 427 (2007)
21 (“Given an ambiguous statute, this court must interpret the statute in light of the
22 policy and the spirit of the law”) (citation and internal quotation marks
23 omitted). On this initial basis of overlooking well-established principles of

1 Nevada law for enforcing mechanic's liens and construing the policy of
2 statutes, the Court should grant rehearing.

3 Even if the Court abides by its interpretation of NRS 108.225 to allow the
4 insertion of UCC principles, the Court should still grant rehearing on three
5 alternative grounds. First, the Court's opinion adopted the "partial
6 subordination" policy based upon the assumption that the "subordination
7 agreement neither stated it intended to create complete subordination nor
8 mentioned the mechanic's lien." Opinion, at *12-13. However, the Court
9 overlooked that the subordination agreement conclusively establishes lien
10 priority with the condition "as though the Mezzanine Deeds of Trust has been
11 recorded *subsequent to* the recordation of the \$110,000,000 Senior Debt Deed
12 of Trust." 3 Petitioners' Appendix ("PA") 642, ¶ 1 (emphasis added).

13 Second, if the Court concludes that this overlooked language is not
14 sufficiently clear to apply "complete subordination" in favor of the Lien
15 Claimants, the Court should order an evidentiary hearing, as required by
16 Nevada law, instead of reading a new provision into the subordination
17 agreement for the benefit of Scott Financial Corporation ("SFC"). *See Fox v.*
18 *First W. Sav. & Loan Ass'n*, 86 Nev. 469, 473, 470 P.2d 424, 426 (1970)
19 ("When a contract is in any of its terms or provisions ambiguous or uncertain it
20 is primarily the duty of the trial court to construe it *after* a full opportunity is
21 afforded all the parties in the case to produce evidence of the facts,
22 circumstances and conditions surrounding its execution and the conduct of the
23 parties thereto.") (emphasis added and citation omitted); *see also Traffic*

1 *Control Servs., Inc. v. United Rentals Northwest, Inc.*, 120 Nev. 168, 175–176,
2 87 P.3d 1054, 1059 (2004) (holding that courts cannot revise a contract under
3 the guise of construing it). Because of the limited record, the Court should not
4 presume the absence of prejudice to the Lien Claimants, particularly since they
5 have not been able to challenge numerous assertions from SFC through
6 discovery, including the affidavit of SFC’s president, Bradley Scott (“Scott”),
7 which was first presented in a supplement to SFC’s motion for partial summary
8 judgment. 5 PA 984–995, 996–1004.

9 Finally, the Court’s opinion overlooks the Lien Claimants’ arguments
10 with regard to the refinance of the loans. Opinion, at *6 n. 2. The recognition
11 that the loans were refinanced would bring this case into an “equitable
12 subrogation” situation, which does not legally operate to impair the mechanic’s
13 liens. *See In re Fontainebleau Las Vegas Holdings*, 289 P.3d 1199, 1207 (Nev.
14 2012) (“Because principles of equity cannot trump an express statutory
15 provision, we conclude that equitable subrogation does not apply against
16 mechanic’s lien claimants.”). While the result of equitable subrogation and
17 partial subordination is the same (i.e., junior lienholders are permitted to leap-
18 frog intervening lienholders to take a senior position), the Court’s opinion
19 avoids the application of *Fontainebleau* by characterizing partial subordination
20 as contractual. Opinion, at *13–14 n. 7. However, since the Mezzanine note
21 refinanced the prior deeds of trust, this case presents a straightforward equitable
22 subrogation situation prohibited by *Fontainebleau*. *See Houston v. Bank of*
23 *America*, 119 Nev. 485, 488, 78 P.3d 71, 73 (2003). Thus, the treatment of the

1 loans as a refinance would operate to completely change the legal analysis of
2 this case, and the Court should grant rehearing on this basis.

3 In summary, the Court should grant rehearing on any of these overlooked
4 legal and factual grounds. If the Court orders the real parties in interest to file
5 an answer to this petition for rehearing, the Court should also grant leave for the
6 Lien Claimants to file a reply and set a schedule for the rehearing briefing.

7 **II. LEGAL ARGUMENT**

8 **A. STANDARD FOR PETITIONS FOR REHEARING.**

9 NRAP 40(c)(2) provides that the Court may consider rehearing in the
10 following circumstances: (A) When the Court has overlooked or
11 misapprehended a material fact in the record or a material question of law in the
12 case, or (B) When the Court has overlooked, misapplied or failed to consider a
13 statute, procedural rule, regulation or decision directly controlling a dispositive
14 issue in the case. *See, e.g., Am. Cas. Co. of Reading, Pa. v. Hotel and Rest.*
15 *Employees and Bartenders Intern. Union Welfare Fund*, 113 Nev. 764, 766,
16 942 P.2d 172, 174 (1997). In the instant case, rehearing is necessary to allow
17 the Court to consider factual and legal points that the Court has overlooked.

18 **B. THE COURT'S ADOPTION OF UCC PRINCIPLES TO** 19 **INTERPRET NRS 108.225 CONFLICTS WITH THE** **UNDERLYING PURPOSE OF MECHANIC'S LIENS.**

20 Nevada law has a rich history of enforcing mechanic's liens. *See, e.g.,*
21 *Lehrer McGovern Bovis, Inc.*, 124 Nev. at 1115, 197 P.3d at 1041 ("The object
22 of the lien statutes is to secure payment to those who perform labor or furnish
23 material to improve the property of the owner.") (citation and internal quotation

marks omitted). Unlike other statutory schemes that call for a strict construction, this Court has repeatedly recognized that “the mechanic’s lien statutes are remedial in character and should be liberally construed.” *Id.* (citation omitted). Despite the presumption of a liberal construction, this Court applied a strict construction to NRS 108.225. Opinion, at *13–14. The Court should have liberally construed the statute in favor of complete subordination because it is not expressly prohibited. *See id.* (“The Legislature has spoken and has created a specific statutory scheme whereby a mechanic’s lien is afforded priority over a subsequent lien, mortgage, or encumbrance in order to safeguard payment for work and materials provided for construction or improvements on land.”) (citation omitted). Thus, in construing NRS 108.225, the Court was bound by the underlying policies of the entire statutory scheme, designed to enforce mechanic’s liens. *See Westpark Owners’ Ass’n*, 123 Nev. at 357, 167 P.3d at 427 (“Given an ambiguous statute, this court must interpret the statute in light of the policy and the spirit of the law”) (citation and internal quotation marks omitted).

Contrary to the underlying purpose of NRS 108.225, this Court’s opinion relied heavily upon the reasoning of *Caterpillar* which does not construe Nevada law or mechanic’s liens. Instead, *Caterpillar* dealt with the priority of UCC financing, which is codified in Nevada as NRS Chapter 104. But, the UCC generally only applies to the sale of goods. *See* NRS 104.2102 (“Unless the context otherwise requires, this article applies to transactions in goods”). Additionally, NRS Chapter 104 does not construe the interplay between

1 this distinct statutory scheme and mechanic's liens. Further, NRS 104.9334(1)
2 expressly states, "A security interest does not exist under this article in ordinary
3 building materials incorporated into an improvement on land." So, the
4 underlying policies of NRS Chapter 104 do not favor contractors or mechanic's
5 liens. *Cf. Skyrme v. Occidental Mill and Mining Co.*, 8 Nev. 219, 232 (1873)
6 ("[A] mechanic's lien is different from a mortgage executed by the consent of
7 the parties") (cited with approval in *Fontainebleau*, 289 P.3d at 1209). Since
8 the statutory purposes of NRS Chapter 108 are fundamentally distinct from the
9 underlying purposes of NRS Chapter 104, this Court should grant rehearing on
10 this threshold issue to enforce the policies underlying the enforcement of
11 mechanic's liens in Nevada.

12 **C. THE COURT'S OPINION OVERLOOKED THAT THE**
13 **SUBORDINATION AGREEMENT EXPRESSLY**
14 **SUBORDINATED THE MEZZANINE DEEDS OF TRUST.**

15 The Court's reliance upon the holding of *Caterpillar* to reach a partial
16 subordination is contingent upon the subordination agreement being silent on
17 priority. *See* Opinion, at *12 (following *Caterpillar* and favoring partial
18 subordination when the subordination agreement is silent on the issue). As
19 such, it follows that if the Court overlooked the express lien priority provisions
20 in the subordination agreement, then partial subordination would not apply.
21 Indeed, in the section of the subordination agreement entitled "Lien Priority,"
22 the priority is defined "as though the Mezzanine Deeds of Trust has been
23 recorded *subsequent to* the recordation of the \$110,000,000 Senior Debt Deed
of Trust." 3 PA 642, ¶ 1 (emphasis added). This express and objective intent

1 should be enforced as written, without any consideration of a subjective
2 element. In fact, this Court’s opinion clearly articulates this point. Opinion, at
3 *14 n. 7 (citing *Bratcher v. Buckner*, 109 Cal. Rptr. 2d 534, 539–540 (Ct. App.
4 2001) (court relied on subordination agreement, not equitable principles, “to
5 enforce the objective intent of the parties”)); *see also Phillips v. Mercer*, 94
6 Nev. 279, 282, 579 P.2d 174, 176 (1978) (stating that a court should not
7 interpret a contract so as to make a provision meaningless). The Court’s
8 opinion cites to George A. Nation, III, *Circuity of Liens Arising From*
9 *Subordination Agreements: Comforting Unanimity No More*, 83 B.U. L. Rev.
10 591 (2003) to illustrate the Court’s adoption of the partial subordination
11 doctrine. However, this law review article acknowledges that “if one wishes to
12 avoid the complete subordination interpretation, it is prudent to avoid the use of
13 the word ‘subordination.’” *Id.* at 614. Yet, the subordination agreement in the
14 instant case carries the title “Mezzanine Deeds of Trust Subordination
15 Agreement.” 3 PA 641. Moreover, the subordination agreement in the instant
16 case does not contain the language suggested in this article to take the
17 agreement out of complete subordination. 83 B.U. L. Rev. at 614.

18 In essence, the Court has applied partial subordination to a hypothetical
19 set of circumstances that do not exist in the instant case. Since the express
20 terms of the subordination agreement place the Mezzanine Deeds of Trust in a
21 junior position, the Court should grant rehearing on this basis.

1 **D. THE COURT’S OPINION ALSO OVERLOOKED THAT**
2 **THE *CATERPILLAR* PRINCIPLES ARE CONTRARY TO**
3 **NEVADA LAW FOR CONSTRUING CONTRACTS.**

4 Aside from the fact that the subordination agreement actually does
5 address priority (3 PA 642, ¶ 1), the Court’s opinion favors the *Caterpillar*
6 principles for construing subordination agreements in direct conflict to well-
7 established Nevada law. Instead of allowing the factual issues surrounding the
8 lien priority provision in the subordination agreement to be developed in
9 subsequent District Court proceedings, the opinion guesses at what the intent of
10 the provision might be. Opinion, at *12 (“We cannot determine any reason
11 SFC would have intended to completely subordinate the Mezzanine Deeds of
12 Trust”); *Id.* at *13 (“Absent this clear intent”). The Court’s opinion
13 overlooks the fact that according to Nevada law, when contract provisions are
14 unclear, the proper remedy is to allow discovery into those issues and an
15 evidentiary hearing. *See Fox*, 86 Nev. at 473, 470 P.2d at 426 (“When a
16 contract is in any of its terms or provisions ambiguous or uncertain it is
17 primarily the duty of the trial court to construe it *after* a full opportunity is
18 afforded all the parties in the case to produce evidence of the facts,
19 circumstances and conditions surrounding its execution and the conduct of the
20 parties thereto.”) (emphasis added and citation omitted). Additionally, Nevada
21 law does not permit the Court to simply read a partial subordination condition
22 into the subordination agreement where none exists, especially when the Lien
23 Claimants’ competing interest is based upon statutory mechanic’s liens. *See*

1 *Traffic Control Servs., Inc.*, 120 Nev. at 175–176, 87 P.3d at 1059 (holding that
2 courts cannot revise a contract under the guise of construing it).

3 In contrast to *Caterpillar*, which concluded in a bench trial (710 F.3d at
4 692), the instant case was decided at summary judgment while discovery was
5 still open. *Cf.* 4 PA 970, 971–974; 5 PA 1143–1155. As such, numerous
6 factual issues remain, particularly from Scott’s affidavit filed as a supplement to
7 SFC’s motion for partial summary judgment. 5 PA 996–1004. Since Scott’s
8 affidavit was filed as a supplement to summary judgment, the Lien Claimants
9 did not have an opportunity to contest those self-serving statements through
10 discovery. *See* 5 PA 984–995. As a matter of law, self-serving statements
11 cannot support summary judgment. *See Dennison v. Allen Group Leasing*
12 *Corp.*, 110 Nev. 181, 185, 871 P.2d 288, 290–291 (1994); *see also Clauson v.*
13 *Lloyd*, 103 Nev. 432, 434–435, 743 P.2d 631, 632–633 (1987). Moreover, the
14 Lien Claimants have not yet deposed Scott. 4 PA 971–974; 5 PA 1137. After
15 the District Court announced its decision, all parties agreed and the District
16 Court concluded that the ongoing discovery would be stayed pending the
17 outcome of this original proceeding. 5 PA 1137:12–16. Because the Court has
18 identified ambiguities in the subordination agreement, the proper remedy is not
19 to read in additional conditions that favor SFC, but rather to send the case back
20 to the District Court for further proceedings. Therefore, the Court should grant
21 rehearing.

1 **E. THIS COURT ALSO OVERLOOKED THE LIEN**
2 **CLAIMANTS' REFINANCE ARGUMENT, WHICH WOULD**
3 **BRING THIS CASE UNDER *FONTAINEBLEAU*.**

4 While the result of equitable subrogation and partial subordination is the
5 same (i.e., junior lienholders are permitted to leap-frog intervening lienholders
6 to take a senior position), the Court's opinion avoids the prohibition in
7 *Fontainebleau* against equitable subrogation by characterizing partial
8 subordination as contractual. Opinion, at *13–14 n. 7. However, since the
9 Mezzanine note refinanced the prior deeds of trust, this case presents a
10 straightforward equitable subrogation situation prohibited by *Fontainebleau*.
11 *See Houston*, 119 Nev. at 488, 78 P.3d at 73 (The doctrine of equitable
12 subrogation “permits a person who pays off an encumbrance to assume the
13 same priority position as the holder of the previous encumbrance.”) (internal
14 quotation marks and citation omitted). Yet, the Court's opinion overlooks that
15 with the application of the holding of *Fontainebleau*, the mechanic's liens
16 would be in first priority. *Fontainebleau*, 289 P.3d at 1207 (“Because
17 principles of equity cannot trump an express statutory provision, we conclude
18 that equitable subrogation does not apply against mechanic's lien claimants.”).

19 As outlined in their petition¹ and supplement,² Lien Claimants set forth
20 facts that the loan amendments served to refinance the original Mezzanine

21 ¹ See joint petition at 6, ¶ 2, stating, “In addition to the Construction Loan
22 Agreement, SFC and Gemstone entered into a new Mezzanine Note, dated
23 January 22, 2008, for the principal sum of \$46,000,000. 3 App. 543–545. The
Mezzanine Note refinanced the prior land acquisition loans and provided a
new interest rate, a new date for the commencement of interest payments and a
new maturity date.” (emphasis added). See joint petition at 7, ¶ 1, stating,
“Both the Senior Mezzanine DOT and the Junior mezzanine DOT contained the

1 deeds of trust, which focused on the *Fontainebleau* case. In addition, Lien
2 Claimants also referred to the original summary judgment order in favor of
3 APCO, which included the refinance of the original Mezzanine deeds of trust in
4 its findings of fact:

5 24. In addition to the Construction Loan Agreement, SFC and
6 Gemstone Development West, Inc. entered into a new Mezzanine
7 Note, dated January 22, 2008, for the principal sum of
8 \$46,000,000.

9 25. The Mezzanine Note refinanced the Prior Deeds of Trust as
10 the Senior Mezzanine DOT and the Junior Mezzanine DOT.

11 4 PA 844, ¶¶ 24–25. The District Court’s initial determination that the loans
12 were refinanced was based upon the actual language of the loan documents that
13 characterized the transaction as a refinance. 2 PA 312–313; 3 PA 627–632,
14 634–639. In the second summary judgment hearing, the District Court
15 acknowledged this evidence, yet still made the finding that there was no
16 refinance. 5 PA 1115:5–9, 1150–1151. A key distinction between
17 “subrogation” is that some of the loans are paid off, while “subordination”
18 simply deals with the reordering of the existing loans that are not paid.
19 Opinion, at *11. In addition, “subordination” works backwards (i.e., a lowering
20 of the priority of the subordinating party). *See Black’s Law Dictionary*, 1653
21 (10th ed. 2014) (defining “subordination” as “[t]he act or an instance of moving

22 same language noting “The Trustor has requested, and the Beneficiary has
23 agreed, **to refinance the obligations secured** by the [Senior/Junior Deed of
Trust.] 3 App. 628, 634 (emphasis added).”

24 ² See Lien Claimants’ supplemental brief at 2, ¶ 1: “The prior \$46,000,000.00
loans were restructured into a single note for \$46,000,000.00, called the
Mezzanine Note.”

1 something (such as a right or claim) to a lower rank, class, or position
2 <subordination of a first lien to a second lien>”). Only through the exercise of
3 “partial subordination” can the entity with the junior interest leap-frog ahead of
4 the Lien Claimants. Thus, the doctrine of “partial subordination” requires the
5 application of equitable principles to defeat mechanic’s liens, which was
6 previously rejected in *Fontainebleau*. 289 P.3d at 1207. A refinance of the
7 loans would necessarily invoke the equitable subrogation doctrine, such that
8 any loans that had previously held a priority position with respect to the
9 mechanic’s liens would lose that position by virtue of the holding of
10 *Fontainebleau*, 289 P.3d at 1207.

11 Since *Caterpillar* construed the UCC, the Seventh Circuit reached a
12 different result because a “purchase-money security interest does not lose its
13 status as such, even if . . . the purchase-money obligation has been . . .
14 refinanced.” 710 F.3d at 695 (citing UCC § 9-103(f)(3)); *see also*
15 NRS 104.9103(6)(c) (reciting similar language applicable to a purchase-money
16 security agreement). As such, the overlooked factual issues demonstrating a
17 refinance of the loans are material because they change the entire outcome of
18 this case. Therefore, on this alternative basis, the Court should grant rehearing
19 of the panel opinion.

20 **III. CONCLUSION**

21 In summary, the Court should grant rehearing for a variety of reasons.
22 The Court should not have applied policy considerations underlying the
23 Uniform Commercial Code to mechanic’s liens. Likewise, since the

1 subordination agreement expressly subordinated the Mezzanine Deeds of Trust,
2 there was no reason for the Court to adopt the *Caterpillar* rule, stating that a
3 silent subordination agreement implies partial subordination. In any event, the
4 *Caterpillar* rule violates Nevada law for construing ambiguous provisions in
5 contracts, particularly at the summary judgment stage when discovery has not
6 been completed. Finally, the Court overlooked the factual basis of the Lien
7 Claimants' argument that SFC refinanced the loans, thus bringing this case into
8 the holding of *Fontainebleau* in which the mechanic's liens cannot be impaired
9 based upon equitable subrogation.

10 If the Court orders the real parties in interest to file an answer to this
11 petition for rehearing, the Court should also grant leave for the Lien Claimants
12 to file a reply and set a schedule for the rehearing briefing.

13 Dated this 19th day of October, 2015.

14 By /s/ Micah S. Echols

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1 **CERTIFICATE OF COMPLIANCE**

2 1. I hereby certify that this petition complies with the formatting
3 requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5)
4 and the type style requirements of NRAP 32(a)(6) because it has been prepared
5 in a proportionally spaced typeface using Microsoft Word 2007 in 14-point
6 Times New Roman font.

7 2. I further certify that this petition complies with the page- or type-
8 volume limitations of NRAP 40 or 40A because it is either:

9 ☒ proportionally spaced, has a typeface of 14 points or more and
10 contains 3,294 words; or

11 ☐ does not exceed _____ pages.

12 Dated this 19th day of October, 2015.

13 By /s/ Micah S. Echols

By /s/ Wade B. Gochnour

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **PETITION FOR REHEARING** was filed electronically with the Nevada Supreme Court on the 19th day of October, 2015. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

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