

IN THE SUPREME COURT OF THE STATE OF NEVADA

VILLAGE LEAGUE TO SAVE INCLINE	)	Supreme Court Case No. 63581
ASSETS, INC.; et al.,	)	Electronically Filed
	)	Apr 07 2014 10:47 a.m.
	)	District Court No. CV03-06922
Appellants,	)	Tracie R. Lindeman
	)	(consolidated with Clerk of Supreme Court
	)	
vs.	)	
	)	
THE STATE OF NEVADA, BOARD	)	
OF EQUALIZATION; et al.,	)	
	)	
Respondents.	)	
_____	)	

**MOTION TO EXCEED THE TYPE-VOLUME LIMITATION**

Village League appellants hereby move, pursuant to NRAP 32(a)(7)(D), for leave to file a reply brief in excess of the type-volume limitations set out in NRAP 32(a)(7)(A)(ii). Under NRAP 32(a)(7)(A)(ii), a reply brief cannot exceed 7,000 words. Village League appellants seek leave to file a reply brief of 11,668 words. A copy of the proposed reply brief accompanies this motion.

In this matter, the Village League appellants are replying to three separate briefs filed by respondents – two answering briefs filed by the SBOE and one answering brief filed by the County respondents. Although the initial SBOE answering brief was in response to the opening brief filed by the Bakst appellants, substantial portions of that brief were incorporated by reference in the second SBOE brief so the Village League appellants are effectively replying to both

SBOE briefs as well as the County brief.

Filing separate reply briefs to the SBOE briefs and the County brief would allow for a total of 14,000 words. The Village League appellants are seeking to file a single reply brief of 11,668 words.

The three respondents' briefs contain a total of 30,685 words. The Village League appellants' opening brief contained 12,625 words. The opening brief and the proposed reply brief would have a total of 24,324 words, more than 6,000 words fewer than the combined answering briefs.

Village League appellants have worked diligently to keep the size of the reply brief as close to the 7,000 word limit as possible, including not addressing any issues specific to the Bakst appellants. The 11,668 words are necessary, however, for the following reasons:

(1) In addition to responding on the merits of the appeal, the County respondents have challenged the jurisdiction of this Court to hear this appeal. Rather than make that challenge with an independent motion to dismiss for lack of jurisdiction, the County respondents have included that challenge in their answering brief, requiring additional argument in the reply brief.

(2) Both the County and the SBOE respondents have raised new issues in their answering briefs, including the collateral order doctrine and the *de facto* officer doctrine, which have required additional argument in the reply.

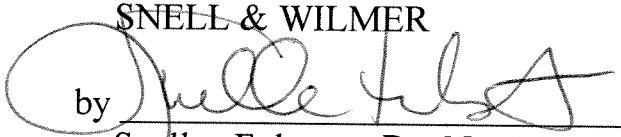
(3) The respondents have cited approximately 100 cases, again requiring substantial argument in the reply to analyze and distinguish.

Based on the foregoing and the attached declaration of counsel, and pursuant to NRAP32(a)(7)(D), the Village League appellants respectfully submit that good cause exists to allow a reply brief of 11,668 words, exceeding the type-volume limitation by 4,668 words. Appellants request the Court to enter an order permitting the proposed reply brief to be filed.

Dated this 6th day of April, 2014.

SNELL & WILMER

by

  
Suellen Fulstone, Bar No. 1615

Attorneys for Village League Appellants

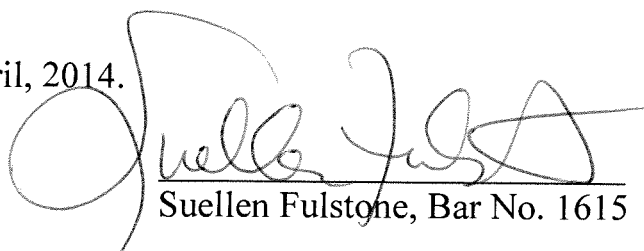
## CERTIFICATE OF COMPLIANCE

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

2. I further certify that this brief complies with the page-or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C) and pursuant to motion to exceed the type-volume limitation, it contains 11,668 words.

3. I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 6th day of April, 2014.

  
Suellen Fulstone, Bar No. 1615

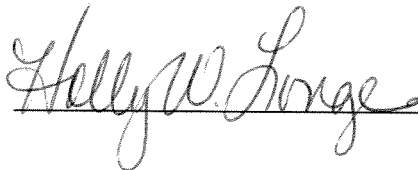
## **CERTIFICATE OF SERVICE**

This document was filed electronically with the Nevada Supreme Court on April 6, 2014. Electronic service of this document shall be made in accordance with the Service List as follows:

Dawn Buoncristiani  
Office of the Attorney General  
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Carson City, NV 89701

Herb Kaplan  
Washoe County District Attorney's Office  
Civil Division  
P.O. Box 30083  
Reno, NV 89520

Norman J. Azevedo  
405 N. Nevada Street  
Carson City, NV 89703



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**DECLARATION OF SUELLEN FULSTONE IN SUPPORT OF MOTION  
TO EXCEED THE TYPE-VOLUME LIMITATION**

I, Suellen Fulstone, state, under penalty of perjury, as follows:

1. I am an attorney duly licensed to appear in the courts of the State of Nevada and am employed part-time with the law firm of Snell & Wilmer, counsel for the Village League appellants in the appeal captioned “*Village League to Save Incline Assets, Inc. v. The State Board of Equalization, et al.*,” Appeal No. 63581 in the Nevada Supreme Court.

2. I prepared the opening brief for the Village League appellants and am primarily responsible for the preparation of the reply brief in the above-identified appeal. Village League appellants seek leave to file a reply brief of 11,668 words.

3. In this matter, the Village League appellants are replying to three separate briefs filed by respondents – two answering briefs filed by the SBOE and one answering brief filed by the County respondents. Although the initial SBOE answering brief ostensibly was in response to the opening brief filed by the Bakst appellants, substantial portions of that brief were incorporated by reference in the second SBOE brief so the Village League appellants are effectively replying to both SBOE briefs as well as the County brief.

4. Filing separate reply briefs to the SBOE briefs and the County brief would allow for a total of 14,000 words. The Village League appellants are seeking to file a single reply brief of 11,668 words.

5. The three respondents' briefs contain a total of 30,685 words. The Village League appellants' opening brief contained 12,625 words. The opening brief and the proposed reply brief would have a total of 24,324 words, more than 6,000 words fewer than the combined answering briefs.

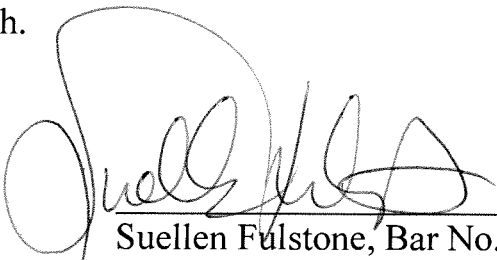
6. I have worked diligently to keep the size of the reply brief as close to the 7,000 word limit as possible, including not addressing any issues that are specific to the Bakst appellants. The 11,668 words are necessary, however, for the following reasons:

(1) In addition to responding on the merits of the appeal, the County respondents have challenged the jurisdiction of this Court to hear this appeal. Rather than make that challenge with an independent motion to dismiss for lack of jurisdiction, the County respondents have included that challenge in their answering brief, requiring additional argument in the reply brief.

(2) Both the County and the SBOE respondents have raised new issues in their answering briefs, including the collateral order doctrine and the *de facto* officer doctrine, which have required additional argument in the reply.

(3) The respondents have cited approximately 100 cases, again requiring substantial argument to distinguish.

Dated this 6th day of April, 2014.

  
Suellen Fulstone, Bar No. 1615