**IN THE SUPREME COURT OF THE STATE OF NEVADA**

JUDY PALMIERI,

Appellant,

vs.

CLARK COUNTY, a political subdivision of the STATE OF NEVADA; DAWN STOCKMAN, CE096, individually,

Respondents.

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Case No.: 65143

**Appeal**
From the Eighth Judicial District Court, Clark County
The Honorable Gloria Sturman, District Judge
District Court Case No. A-11-640631-C

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# RESPONDENTS' ANSWER TO PETITION FOR REVIEW

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## I. INTRODUCTION

This case began when Appellant, the owner (or part owner at least) of a pet store, decided to house more than 20 dogs, many of them puppies, in her Las Vegas garage in the May heat. A tip came into local animal control authorities regarding the dogs and their allegedly poor condition. Those animal control authorities did exactly what they are supposed to do – investigate the possibility that animals were being abused. They did so by conducting a minimally-invasive, one-hour search during normal business hours. Animal control officers could not, and did not, arrest Appellant, even though they found what could reasonably be described as a puppy mill.

Rather than accept the fact that she did something wrong, and that even if she had not done anything wrong, the County had a legitimate obligation to investigate allegations of animal abuse, Appellant sued. No stranger to filing lawsuits against animal control authorities, she alleged that her constitutional rights were violated when the authorities obtained the warrant based on the tip. As the theory goes, Clark County and its animal control officer, Dawn Stockman, were required to verify the identity of the tipster, even though there was never any indication that the tipster was potentially an imposter,[1] and despite various efforts that corroborated the basic facts

[1] The tipster identified herself as Appellant's employee, Kaitlyn Nichols. Later, during the litigation, Appellant obtained a declaration from someone purporting to

relayed in the tip.[2]

The incident occurred in 2010. Appellant initiated the lawsuit in 2011. The district court denied an early dispositive motion and permitted Appellant to conduct discovery. Indeed, the parties conducted depositions, delving into the details of both the tip and Appellant's previous run-ins with animal control authorities. Appellant had her chance to describe the embarrassment of being in her pajamas during the short search and to accuse the authorities of being "out to get her for years."

When discovery was complete, Appellant then had her chance to convince the district court that she had a case. She failed to do so because there is nothing unreasonable, much less unconstitutional, in conducting a minimally-invasive search to advance the public's interest in protecting animals. Then, in the appeal, lengthy briefs were filed about constitutional law, governmental immunities, and public policy. Given the circumstances of the case, Appellant was forced to advance an untenable theory – that search warrant applicants must verify the identity of citizen informants in every case, regardless of whether there are any indicia that the

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be the "real" Kaitlyn Nichols who stated she was not the tipster. The declarant could never be deposed, despite best efforts. Thus, it has never been proven that the tipster was not Kaitlyn Nichols.

[2] The tipster relayed, and Stockman corroborated, that Appellant lived at the address and owned a pet store. Stockman also confirmed that Appellant had other complaints against her in the past regarding her mistreatment of animals.

citizen is lying about his or her identity.

The Court of Appeals heard oral argument, giving Appellant another chance to explain her theory. Then, the Court of Appeals took the opportunity of this relatively minor incident to painstakingly author a comprehensive, well-reasoned, and useful opinion about search warrants.

In so doing, the Court of Appeals lived up to the promise made to the people of Nevada when they approved the formation of the Court of Appeals – faster resolution of civil appeals, careful consideration of the issues presented, and more published decisions in areas of the law that need clarification.

Not satisfied that she had every possible opportunity to demonstrate that she has somehow been wronged, Appellant seeks yet another chance. The facts, the law, and the appellate process, however, all require Appellant's petition to be denied.[3]

## II. BECAUSE APPELLANT FAILED TO COMPLY WITH NRAP 40B, THE PETITION SHOULD BE DENIED FROM THE OUTSET

### A. This Court's Standard on a Petition for Review is Extremely Narrow

"A decision of the Court of Appeals is a final decision that is not reviewed by the Supreme Court except on petition for review." NRAP 40B(a) (emphasis added).

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[3] The petition for review contains numerous misstatements of the record and omits certain important details. For the sake of brevity, Respondents simply note that the opinion of the Court of Appeals contains the accurate statement of the facts and procedural history.

The petition "must state the question(s) presented for review and the reason(s) review is warranted." *Id.* Moreover, the petition "shall succinctly state the precise basis on which the party seeks review…." NRAP 40B(d). "Supreme Court review is not a matter of right but of judicial discretion." NRAP 40B(a). The Court has outlined a non-exhaustive list of factors that may be considered in exercising this discretion:

> (1) Whether the question presented is one of first impression of general statewide significance;
>
> (2) Whether the decision of the Court of Appeals conflicts with a prior decision of the Court of Appeals, the Supreme Court, or the United States Supreme Court;
>
> (3) Whether the case involves fundamental issues of statewide public importance.

The Court does not appear to have interpreted this rule yet. Nevertheless, based on the history of the creation of the Court of Appeals through Senate Joint Resolution 14 (2011), it is very clear that the purpose of the Court of Appeals is to reduce this Court's docket, which will thereby both increase the number of published decisions and reduce the time litigants must wait for finality.

To accomplish these goals, this Court's standard on a petition for review is to be the equivalent of, and as extraordinary as, the United States Supreme Court's standard on a petition for a writ of certiorari. It is likewise clear that this standard of review is more limited than this Court's standard on a petition for rehearing or

petition for *en banc* reconsideration. Pursuant to the history of SJR 14, this limited review ensures that the creation of the Court of Appeals does not add a layer of bureaucracy to Nevada's judicial process.[4]

### B. Appellant Has Failed to Invoke this Court's Discretion to Review

With the history of SJR 14 in mind, Rule 40B's various requirements mandating specificity should be strictly enforced. Here, Appellant's petition does not specifically state the questions presented, the reason review is warranted, or the "precise basis on which the party seeks review." There is no attempt to apply any of the three factors this Court has outlined, nor any argument that the Court should

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[4] An example from the legislative history is as follows:

> Justice Hardesty: Senator Brower made a perceptive comment earlier about S.J.R. 14 of the 76th Session adding to judicial bureaucracy. We recognize that neither litigants nor lawyers want to go through a duplicative appellate process. It is costly and wastes time. Our plan eliminates that. Cases assigned to the court of appeals would only be reviewed by the Nevada Supreme Court by certiorari. In the Supreme Court of the United States, less than 1 percent of those cases are considered for review. The Nevada Supreme Court currently hears either petitions for rehearing en banc or petitions for reconsideration en banc, and we consider 1 percent or less of those petitions. The cases that would be heard by the Nevada Supreme Court and not by the court of appeals would undergo only one appeal and one review. There is no judicial bureaucracy in this plan, which is why we adopted the push-down plan in the first place. There is no need for new court clerks or for additional or separate central legal staff, and the plan does not incur a judicial bureaucracy that duplicates appellate effort.

exercise its discretion for some other reason. One could imagine that this case gives rise to a matter of "first impression of general statewide significance" or that this case "involves fundamental issues of statewide public importance." However, the petition does explain how or why.

Instead, the petition focuses on an argument that the Court of Appeals "misapprehended the facts of the case" and "chose to become an advocate for the County of Clark." In other words, Appellant simply contends that the Court of Appeals got it wrong. Thus, Appellant asks for the type of review that necessarily results in a delay in finality, the discouragement of reasoned published opinions by the Court of Appeals, and another layer of judicial bureaucracy.

Even if the petition could be construed as Appellant contending that this case raises an issue of statewide significance or public importance, Appellant waived that argument. On January 30, 2015, this Court ordered the parties to file a statement explaining why this Court should not assign this appeal to the Court of Appeals. On February 3, 2015, Appellant filed her statement. She did not object, nor did she contend that this case was so important that it should stay in this Court, pursuant to NRAP 17(a).

In sum, because Appellant has not demonstrated that this Court should exercise its discretion, the petition should be denied at the outset.

## III. THE COURT OF APPEALS HAD "JURISDICTION" TO VIEW THE WARRANT AS AN ADMINISTRATIVE WARRANT *SUA SPONTE*

If the Court gets beyond the failure to comply with Rule 40B, Appellant still fails to present any reason to review the Court of Appeals' decision.

### A. Case Law Unambiguously Permitted the Court of Appeals to Determine the Proper Standard

Appellant fails to distinguish case law permitting an appellate court to raise an issue of constitutional significance *sua sponte*. The Court of Appeals relied on *Desert Chrysler-Plymouth v. Chrysler Corp*., 95 Nev. 640, 600 P.2d 1189 (1979). There, the department of motor vehicles refused to grant a license to a proposed car dealership pursuant to a statute. In the district court, the proposed dealership asserted the statute was unconstitutional under various theories, but not the separation of powers doctrine. During oral argument, this Court raised the separation of powers issue *sua sponte* and then ordered supplemental briefs. In holding that the Court has power to address an issue not raised below, the Court cited several opinions and then reasoned as follows:

> In the case at hand it is appropriate for this court to raise the separation of powers issue; since the statutes were assailed on constitutional grounds, it would be paradoxical for us to uphold the statutes on the grounds raised by the parties, yet ignore a clear violation of the separation of powers doctrine.

*Id.* at 644, 600 P.2d at 1191.

Here, it would have been likewise paradoxical for the Court of Appeals to ignore an issue that it knew to be of fundamental importance. There is no logical

reason to prevent an appellate court for analyzing the merits for what they are.

Any other rule simply wastes time. For instance, if the Court of Appeals had strictly reviewed the district court's decision under the criminal standard, and had reversed, Respondents would simply have to renew their motion for summary judgment, this time pursuant to the administrative standard. The district court would surely grant the motion because the district court already concluded there was probable cause even under the criminal standard. Appellants would apparently appeal again. Years later, we would be back to exactly where we are now, with a well-reasoned decision that thoroughly explores this subject and finds that administrative probable cause did exist, and that even if it did not, qualified immunity would bar the suit anyway.

*Desert Chrysler-Plymouth* has been recognized as good law several times. *See, e.g., Summitt v. State*, 101 Nev. 159, 161, 697 P.2d 1374, 1376, n. 2 (1985) (considering the confrontation clause for the first time on appeal); *see also Beazer Homes Holding Corp. v. Dist. Court*, --- Nev. ---, 291 P.3d 128, 132, n.1 (2012); *Mason v. Cuisenaire*, 122 Nev. 43, 48, 128 P.3d 446, 449, n. 7 (2006).

Other courts agree. *See, e.g., State v. Anderson*, 276 P.3d 200, 211 (2012). There, the Kansas Supreme Court outlined the following, well-reasoned approach:

> Generally, constitutional grounds for reversal are not properly before an appellate court if not addressed by the district court. But an appellate court may consider a constitutional issue raised for the first time on appeal if it

> falls within three recognized exceptions: (1) the newly asserted claim involves only a question of law arising on proved or admitted facts and is finally determinative of the case; (2) the claim's consideration is necessary to serve the ends of justice or to prevent the denial of fundamental rights; or (3) the district court's judgment may be upheld on appeal despite its reliance on the wrong ground or reason for its decision.

Here, the issue is whether the warrant was constitutional, which is purely a question of law because all material facts have been construed in Appellant's favor. Respondents contended the warrant was constitutional, and the district court agreed. The Court of Appeals agreed, if for a slightly different reason. *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding that "[i]f a judgment or order of a trial court reaches the right result, although it is based on an incorrect ground, the judgment or order will be affirmed on appeal"). Starting over does not serve the ends of justice, especially since the case turns on whether Respondents are immune. *Hobbs v. Ga. DOT*, 785 F. Supp. 980, 985 (N.D. Ga. 1991) (noting that "constitutional immunity is a question of jurisdiction which can be raised at any time during the legal process by either party or *sua sponte* by the Court….even…for the first time on appeal").

### B. The Court of Appeals did not Violate Appellant's "Due Process" Rights When it Viewed the Warrant Under the Administrative Standard

Just as Appellant failed to take advantage of this Court's invitation to keep this case in this Court, Appellant failed to take advantage of the Court of Appeals'

invitation, albeit implied, to file a supplemental brief. During oral argument, the Court of Appeals specifically asked both lawyers about administrative search warrants. *Palmieri v. Clark County*, 131 Nev. Ad. Op. 102, * 22, fn. 13 (2015). As such, both lawyers knew that the Court was interested in the difference between administrative and criminal warrants.

Pursuant to NRAP 27, any party may move the Court for any relief. The Rules "shall be liberally construed to secure the proper and efficient administration of the business and affairs of the courts and to promote and facilitate the administration of justice by the courts." NRAP 1(c). Supplemental briefs are specifically contemplated, if the "court permits." NRAP 28(c).

Here, either party could have sought leave to file supplemental authorities. By deciding not to, each party waived the right to be further heard on the issue and accepted the risk that the Court of Appeals would form its own opinion on the matter. It simply cannot be said that Appellant was surprised by the opinion or that Appellant had no opportunity to be heard.

## IV. REVERSING WOULD BE FUTILE

### A. More Briefing Could Not Result in a Different Decision

To the extent that Appellant seeks reversal simply because the Court of Appeals considered of the warrant under the administrative standard *sua sponte*, reversal on that basis alone would be futile. As noted above, all that would happen

is that more briefs would be filed, and the district court would still grant summary judgment because if probable cause exists under the criminal standard, as the district court already concluded, then surely it exists under any lesser standard.

Respondents would not be estopped from arguing that the administrative standard applies. *Breliant v. Preferred Equities Corp*., 112 Nev. 663, 669, 918 P.2d 314, 318 (1996) (noting that party to be estopped must have been successful in its original position).[5]

### B. Whether Probable Cause Actually Existed is Dicta, Not Essential to the Outcome

To the extent that Appellants are arguing that the warrant actually was a criminal warrant and/or that probable cause did not exist under either the criminal or administrative standard, it actually does not matter because the Court of Appeals held that Respondents were entitled to qualified immunity because the law, whatever it is, was not clearly established at the time Stockman applied for the warrant.

#### 1. Under the Qualified Immunity Doctrine, Appellant Had to Set Forth Substantial Evidence that Stockman Violated a Clearly Established Right

"Under the qualified immunity doctrine, 'government officials performing discretionary functions ... are shielded from liability for civil damages insofar as

[5] Despite what Appellant argues in her petition for review, Respondents never "conceded" that the warrant was criminal in nature. The distinction was just never addressed.

their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Ortega v. Reyna*, 114 Nev. 55, 59, 953 P.2d 18, 21 (1998), *abrogated on other grounds by Martinez v. Maruszczak*, 123 Nev. 433, 168 P.3d 720 (2007), *quoting Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982).

An appellate court's *de novo* review of a grant of summary judgment based on qualified immunity involves two distinct steps. Government officials are not entitled to qualified immunity if (1) the facts "[t]aken in the light most favorable to the party asserting the injury ... show [that] the [defendants'] conduct violated a constitutional right" **and** (2) the right was **clearly established** at the time of the alleged violation. *Saucier v. Katz*, 533 U.S. 194, 201, 121 S.Ct. 2151, 150 L.Ed.2d 272 (2001).

The Court may address these two prongs in either order. *Pearson v. Callahan*, 555 U.S. 223, 236, 129 S.Ct. 808, 172 L.Ed.2d 565 (2009). Whether a right was clearly established at the time of the alleged violation is a question of law. *Serrano v. Francis*, 345 F.3d 1071, 1080 (9th Cir. 2003).

Thus, in this case, only if Appellant had a clearly established right would Respondents be liable. Here, Appellant asserts that she had the right to expect that Stockman would verify the identity of the informant before seeking a search warrant. But, as the Court of Appeals determined, and as further demonstrated below, no such

right was "clearly established" at the time.

2. Appellant Did Not Set Forth Substantial Evidence that Stockman Violated a Clearly Established Right

"It is firmly established . . . that the finding of probable cause may be based on slight, even marginal, evidence." *State v. Boueri*, 99 Nev. 790, 795, 672 P.2d 33, 36 (1983). "'Probable cause'" requires that law enforcement officials have trustworthy facts and circumstances which would cause a person of reasonable caution to believe that it is more likely than not that the specific items to be searched for are seizable and will be found in the place to be searched." *Keesee v. State*, 110 Nev. 997, 1002, 879 P.2d 63, 66 (1994).

"When the issuance of a search warrant is based upon information obtained from a confidential informant, the proper standard for determining probable cause for the issuance of the warrant is whether, under the *totality of the circumstances*, there is probable cause to believe that contraband or evidence is located in a particular place." *Id*. at 1002, 879 P.2d at 67, *citing Illinois v. Gates*, 462 U.S. 213 (1983). "The reviewing court is not to conduct a *de novo* probable cause determination but instead is merely to decide whether the evidence viewed as a whole provided a substantial basis for the magistrate's finding of probable cause." *Id*.

Where a party alleges that a warrant was obtained upon inaccurate information affecting probable cause, the warrant is still constitutional unless any "erroneous

statements or omissions" in the search warrant affidavit "were made knowingly and intentionally, or with reckless disregard for the truth." *United States v. Elliott*, 322 F.3d 710, 714 (9th Cir.2003) (citations omitted). Moreover, even if there is such a finding, the warrant is only unconstitutional if "the affidavit's false material [is] set to one side, [and] the affidavit's remaining content is insufficient to establish probable cause." *Id*.

*Elliott* relies on many cases, including *Franks v. Delaware*, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978). Both Appellant and Respondents urged the Court of Appeals to analyze the case under *Franks* and its progeny, namely *Hervey v. Estes*, 65 F.3d 784, 788 (9th Cir. 1995). Under *Franks*, a criminal defendant is entitled to an evidentiary hearing on a motion to suppress evidence upon a substantial showing of a deliberate falsehood or reckless disregard for the truth in a search warrant affidavit and upon demonstration that but for the dishonesty, the affidavit would not support a finding of probable cause. *Hervey* applies that standard in the civil context:

> a plaintiff can only survive summary judgment on a defense claim of qualified immunity if the plaintiff can *both* establish a substantial showing of a deliberate falsehood or reckless disregard and establish that, without the dishonestly included or omitted information, the magistrate would not have issued the warrant.

*Hervey* at 789 (emphasis in original).

Here, the Court of Appeals adopted this well-established test. *Palmieri* at *15.

It then undertook to analyze the two factors. With regard to the first factor, the Court of Appeals held that Appellant "failed to demonstrate that Stockman included the Informant's fictitious name in the search warrant affidavit with reckless disregard for the truth…." *Palmieri* at *20. Thus, at a minimum, Respondents enjoy qualified immunity. *Id.*

Notably, *Appellant does not object to this holding*. Rather, Appellant's petition for review focuses on whether probable cause actually existed. However, as the Court of Appeals noted, it "need[ed] not proceed to the second prong of *Franks*" by considering whether probable cause would have existed without the allegedly fictitious name. *Id.*

The Court of Appeals proceeded anyway - not because it was necessary to dispose of this case, but because it would provide clarity for future cases. To do so, it spent considerable effort thoroughly outlining the difference between administrative and criminal warrants, finding that the warrant in this case was merely administrative, then concluding that probable cause exists based on the totality of the circumstances. *Id.* at ** 20-35. In so doing, the Court relied heavily on well-established federal and state law.[6]

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[6] *See, e.g., Camara v. Mun. Court*, 387 U.S. 523 (1967); *Keesee v. State*, 110 Nev. 997, 1002, 879 P.2d 63, 66 (1994).

In *Camara*, the Supreme Court noted that an administrative warrant authorizes an

But again, these conclusions are not necessary to resolve the case because, as previously held, Respondents enjoy qualified immunity simply because Appellant did not come forward with a substantial showing that Stockman acted with reckless disregard for the truth. As such, it would futile to reconsider the Court of Appeals' decision. At the end of the day, Respondents will enjoy qualified immunity regardless of what type of warrant it was.

The concurring opinion makes this clear. Judge Tao would have affirmed by simply concluding that Respondents met one of the *Franks/Hervey* prongs for establishing qualified immunity; i.e., that Stockman reasonably believed that the warrant was valid because no clearly established principle of law made the warrant unconstitutional. Judge Tao would not have gone as far as concluding that the

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agency "to determine whether physical conditions exist which do not comply with minimum standards prescribed in local regulatory ordinances." 387 U.S. at 530. Thus, the primary objective is not to gather evidence of criminal conduct. But if evidence of criminal conduct happens to be discovered while executing the warrant, the warrant does not suddenly become a criminal warrant. *Id.* at 531. *Camara* also holds that the heightened standard of probable cause required of a criminal warrant is not required of an administrative warrant. *Id.* at 537.

In *Keesee*, a warrant was issued to search a residence for illegal drugs. The warrant was based, in part, on information received from an informant. After a motion to suppress was denied, the defendant pleaded guilty and appealed, asserting that the officers had a duty to conduct an investigation to determine whether the informant was reliable and trustworthy. This Court held otherwise, concluding that no such investigation was required because the information the informant gave was very specific and was corroborated by other information known to the officers. 110 Nev. at 1003, 879 P.2d at 67.

warrant was actually constitutional. Thus, the difference between the majority and concurring opinions leads to a thoughtful, thorough, and instructive discussion of the law of search warrants, but it does not lead to any possibility that Respondents are liable.[7]

### C. Reversing as to Appellant's State Claims Would Likewise be Futile

Just as Respondents enjoy qualified immunity from federal claims, they enjoy discretionary immunity from state law claims under NRS 41.032(2). The Court of Appeals did not address discretionary immunity because it had already concluded there is no constitutional violation. However, discretionary immunity is as broad, if not broader, than qualified immunity. *See, e.g., Carey v. Nev. Gaming Control Bd.*, 279 F.3d 873, 882 (9th Cir. 2002) (affirming dismissal of state law claims but

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[7] Judge Tao's concurrence is focused on whether Nevada law would have required Stockman to first ask Appellant to search her garage before seeking a warrant. *See Owens v. City of North Las Vegas*, 85 Nev. 105, 450 P.2d 784 (1969). The majority holds there is no such requirement, while the concurring opinion would leave the issue for another case. Regardless, both opinions agree that Respondents are entitled to qualified immunity because the law in this area was not clearly established.

Moreover, to the extent Appellant argues that the reasonable suspicion standard should not apply to administrative warrants, or that permission is required under *Owens*, the argument is likewise futile because the majority opinion was consistent with *Owens* and *Camera*. In *Palmieri*, the Court of Appeals concluded that, "in perspective, the invasion of Palmieri's privacy interests was low compared to the regulatory need …." *Palmieri* at * fn. 20. This Court held in *Owens*, relying on *Camera*, that "There can be no ready test for determining reasonableness other than by balancing the need to search against the invasion which the search entails." 85 Nev. at 110, 450 P.2d at 787.

reversing as to federal claims in unlawful arrest action). Moreover, Nevada law is clear that a county's decisions in enforcing local codes are discretionary in nature. *Ransdell v. Clark County*, 124 Nev. 847, 192 P.2d 756 (2008). As such, it would be futile to reconsider the Court of Appeals' decision as to Appellant's state law claims.

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## V. CONCLUSION

The Court of Appeals accomplished its mission in this case. It thoroughly considered the issues presented on appeal. It applied this Court's binding precedent, as well as other binding precedent governing constitutional law. Appellant has not identified any portion of the decision that is not well-reasoned. At the end of the day, Appellant needed there to be a rule of law that required Stockman to verify the identity of the informant, even though Stockman had received no indication that the informant was lying about her identity. There is no such duty to verify, and even if a court were to create one, it would not have been clearly established at the relevant time. Thus, at the very minimum, Respondents enjoy qualified immunity, just as the Court of Appeals held. As such, there is no reason for this Court to grant extraordinary relief under NRAP 40B, especially since Appellant has not complied with the Rule by precisely stating her specific argument. The petition should be denied.

DATED this 18th day of April, 2016.

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## CERTIFICATE OF COMPLIANCE

1. I hereby 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 in size 14 font in Times New Roman.

2. I further certify that this brief complies with the page or type-volume limitations of NRAP 40B(d) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionally spaced, has a typeface of 14 points or more, and contains 4612 words. (Although no rule seems to govern the maximum length of an answer to a petition for review, the petition itself is limited to 4667 words.)

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information and belief, it is not frivolous, 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)(1), which requires every assertion in the brief regarding matters in the record to be supported by 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 18th day of April, 2016.

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of April, 2016, I submitted the foregoing ANSWER TO PETITION FOR REVIEW for filing via the Court's eFlex electronic filing system. Electronic notification will be sent to the following:

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