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Tracie K. Lindeman
Clerk of Supreme Court

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

9 J.W. Bentley and Maryann Bentley,
10 Trustees of the Bentley Family
11 1995 Trust,
12 Appellants,

Case No. 66932

13 vs.

14 The State of Nevada State Engineer;
15 Hall Ranches, LLC; Thomas J.
16 Scyphers; Kathleen M. Scyphers;
17 Frank Scharo; Sheridan Creek
18 Equestrian Center, LLC;
19 Donald S. Forrester; Kristina M.
20 Forrester; Ronald R. Mitchell;
21 and Ginger G. Mitchell,

22 Respondents.

23 **OPPOSITION TO MOTION FOR CLARIFICATION OF ORDER**

24 COME NOW Respondents HALL RANCHES, LLC, a Nevada Limited
25 Liability Company, THOMAS J. SCYPHERS, KATHLEEN M. SCYPHERS,
26 FRANK SCHARO, SHERIDAN CREEK EQUESTRIAN CENTER, LLC, a Nevada
27 Limited Liability Company, DONALD S. FORRESTER, KRISTINA M.
28 FORRESTER, RONALD R. MITCHELL and GINGER G. MITCHELL, by and
through their counsel Thomas J. Hall, Esq., and file their
Opposition to Motion for Clarification of Order, filed on or

1 about February 20, 2015. The relief requested in the Motion,
2 i.e., brief of the rotation schedule separately from the
3 other issues is unnecessary, burdensome and dilatory.

4 I. BACKGROUND.

5 On December 10, 2014, Appellants J.W. Bentley and
6 Maryann Bentley, Trustees of the Bentley Family 1995 Trust,
7 by and through their counsel of record, Matuska Law Offices,
8 Ltd., Michael L. Matuska, Esq., moved the Court to
9 consolidate all three appeals, specifically including Docket
10 Nos. 66303, 64733 and 66932.
11

12 On December 17, 2014, Respondents filed their Response
13 to Motion to Consolidate, stating in part:
14

15 If the Court is inclined to grant the Motions to
16 Consolidate as to Cases 66932 and 64773, in no
17 event should the Court allow the Appellants to use
18 the consolidation as an opportunity to re-brief
19 legal arguments that were already fully briefed in
20 Case 64773. Therefore, the Court is requested to
21 direct the Appellants to limit any further briefing
22 to new matters raised in the appeal in Case 66932.

23 Wherefore it is respectfully requested that the
24 Motions to Consolidate be denied if the parties
25 would be required to file additional and repetitive
26 briefing on those fully briefed matters which have
27 already been submitted to this Court.

28 This court did not agree entirely with Respondents'
position as stated.

1 On January 22, 2015, this Court entered its Order
2 Regarding Jurisdiction, Consolidating Appeals and Setting
3 Briefing Schedule, stating, in pertinent part:

4 Appellants shall have 60 days from the date of this
5 order to file opening briefs addressing any and all
6 issues raised in these consolidated appeals. The
7 parties' briefs may cite to the appendices already
8 filed in Docket No. 64773 and any supplemental
9 appendix filed with the new briefs. Thereafter,
briefing shall proceed in accordance with NRAP
31(a)(1).

10 **II. DISCUSSION.**

11 Although this case raises many interesting issues, in
12 essence, it can easily be reduced to four basic issues:

- 13 1. Whether the Water Diversion Agreement is invalid;
- 14 2. Whether fees and costs were properly awarded in
15 the determination of the invalidity of the Water Diversion
16 Agreement;
- 17 3. Whether rotation of the scarce water resources at
18 issue between the parties can be ordered by the District
19 Court, and implemented by the State Engineer; and
- 20 4. Whether costs were properly awarded on denial of
21 the Petitions to Review Rotation Orders.

22 The invalidity of the Water Diversion Agreement is an
23 issue of fact and law. The second issue raises generally
24 well-established legal precedence in the State of Nevada.
25 The third issue has been fully briefed and submitted to the
26
27
28

1 Court previously in Docket No. 64773. This issue requires no
2 additional briefing. Appellants have asked this Court to
3 allow a separate brief on the issue of the rotation
4 schedule. That was done and completely in the briefs
5 submitted in Case 64773 which is part of the record. It
6 would be simply duplicative efforts to submit separate
7 briefs at this point in time on the issue of the
8 implementation of a rotation schedule and the validity of
9 the same. The Appellants' request to submit a completely
10 separate brief on an issue previously and fully briefed is
11 redundant, costly and simply falls in line with the course
12 of dilatory tactics employed by the Bentleys since the
13 inception of the underlying case.
14
15

16 Costs are mandatory pursuant to NRS 533.450(7).

17 **III. CONCLUSION.**

18 This case, in its seventh year of being litigated, has
19 consumed an inordinate amount of legal resources, time,
20 energy and expense, simply because one party refuses to
21 comply with simple justice. The records, pleadings, notes
22 and discovery consist of approximately eight feet (8') of
23 shelf space in the Respondents'/Intervenors' Counsel's Law
24 Office. The Appellants have vastly superior financial
25 strength and have this litigation as a mission of one to
26 annihilate, to create financial stress, to exhaust and to
27
28

1 embarrass his neighbors, while starving them of their
2 precious water rights.

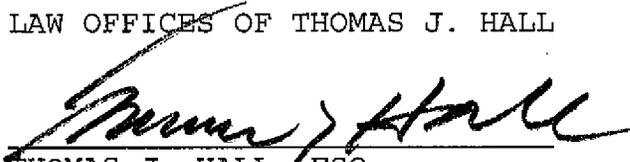
3 Furthermore, the instant Motion is really simply a
4 Petition for Reconsideration. As such, it does not comply
5 with the essential elements of NRAP Rule 40 as to timing,
6 grounds or purpose.
7

8 Additional and separate briefs, extensions or
9 reconsideration of the previous January 22, 2015, Order at
10 this late date should be disallowed. As of this date, over
11 thirty (30) days of the briefing schedule, ordered for sixty
12 (60) days, has already expired and been consumed because of
13 the dilatory actions of Appellants and their counsel.
14

15 Therefore, it is respectfully requested that the Motion
16 for Clarification of Order be promptly denied and that the
17 original briefing schedule be maintained.

18 Respectfully submitted this 27th day of February, 2015.

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21 
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1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of Thomas J. Hall,
3 Esq., and that on this date, pursuant to NRAP 25(b), I
4 electronically filed the foregoing with the Clerk of the
5 Court by using the ECF system and placed in the U.S. Mail,
6 postage prepaid and, a true and correct copy of the
7 preceding document addressed to:
8

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22 DATED this 27th day of February, 2015.

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24 Misti Hale
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