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

NANYAH VEGAS, LLC, a Nevada  
limited liability company,

Appellant

v.

SIG ROGICH a/s/a SIGMUND  
ROGICH as Trustee of The Rogich  
Family Irrevocable Trust, ELDORADO  
HILLS, LLC, a Nevada limited liability  
company; DOES I-X; and/or ROE  
CORPORATIONS 1-x, inclusive

Respondents

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Feb 29 2016 10:40 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court  
Case No. 66823  
District Court Case No. A-13-  
680303  
Dept. No.: XXVII

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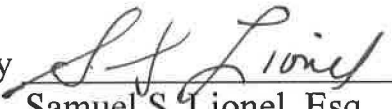
**NOTICE OF ERRATA**

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1 NOTICE IS GIVEN that due to a typographical error in Respondent  
2 Eldorado Hills, LLC's Petition for Rehearing, in three places on page 2,  
3  
4 December is shown incorrectly as November. Attached is a corrected  
5 Petition for Rehearing.  
6  
7

8 FENNEMORE CRAIG, P.C.

9 By   
10 Samuel S. Lionel, Esq.  
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14 Attorneys for Respondent  
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CORPORATIONS 1-x, inclusive

Respondents

Case No. 66823

District Court Case No. A-13-  
680303

Dept. No.: XXVII

**PETITION FOR REHEARING**

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## PETITION FOR REHEARING

Respondent Eldorado Hills, LLC (“Eldorado”) petitions the Court for rehearing on the grounds that the Court misapprehended and overlooked undisputed facts entitling Eldorado to Judgment as a matter of law . Answering Brief at 8:2-9:16,14:9-16, 1:19-2:1.

The Court’s Order of Reversal and Remand is based on the misapprehended fact that Eldorado received and retained Appellant’s \$1.5 million.

“As Eldorado Hills failed to demonstrate that no genuine issues of material fact remain regarding whether the limitations period on appellant’s unjust enrichment claim commenced when Eldorado Hills received the \$1.5 million or at a later date when Eldorado Hills allegedly failed to issue a membership interest to appellant or to repay the money as a loan, the district court erred in granting summary judgment based on the expiration of the state of limitation.”

The Court also stated that “Appellant’s claim for unjust enrichment did not accrue until Eldorado Hills retained \$1.5 million under circumstances where it was inequitable for Eldorado Hills to do so” citing *Certified Fire Prot. Inc. v. Precision Constr.* 128, Nev. Adv. Op. 35, 283 P.3d 250, 257 (2012).

Thus, the Court’s Order is based on Eldorado receiving a \$1.5 million investment from Appellant, not performing, and retaining the \$1.5 million. Eldorado seeks rehearing on the ground that, except for Appellant’s money manager, Carlos Huerta, depositing \$1.5 million in an Eldorado bank account for three days, before \$1.42 million was misappropriated by Huerta as a

1 purported consulting fee (APP 107: 2-14), Eldorado never received or  
2 retained any benefit.

3 In other words, the \$1.5 million this Court relied upon in its Order was  
4 never received nor was a benefit conveyed on Eldorado which was accepted  
5 and retained by it. Rather, Huerta, an original plaintiff in this action, whose  
6 appeal from a partial summary judgment was dismissed as untimely (15-  
7 19597), took and retained almost all the \$1.5 million. The facts with respect  
8 to Huerta's financial manipulations are as follows:

9  
10 There is a chain of bank transactions by Huerta,  
11 starting with a \$1,500,000 wire from Youv Harlap in Israel to  
12 Heurta's Canamex, Nevada, account on December 6, 2007,  
13 which had been opened on December 4, 2007, with a deposit  
14 of \$3,000. APP84-85. The \$1,500,000 deposit was sent by  
15 Harlap to the attention of Melissa Dewin as Huerta had  
16 instructed him. APP120: 20-121: 21. The next day,  
17 December 7, Huerta transferred the \$1,500,000 to the  
18 Eldorado account in the Nevada State Bank. APP88,  
19 APP123:13-18. Three days later, December 10, Huerta  
20 transferred \$1,450,000 of the \$1,500,000 to a money market  
21 account. APP91, APP124:16-125: 10. Four days later,  
22 December 14, Huerta drew a check for \$1,420,000 from the  
23 money market account to Go Global, his wholly owned  
24 company (APP93, APP125: 11-127: 11) and the same day the  
25 check was deposited to Go Global's account at Nevada State  
Bank, APP93, APP126: 19-127: 11. The general ledger of  
Eldorado, kept by Huerta, shows the \$1,420,000 as a  
consulting fee to Go Global on December 14, 2007, 8 days  
after Harlap's wire to Huerta's Canamex Nevada account.  
APP127: 17-24. Each of the cites is from Huerta's  
deposition or the bank record of the transaction.

1 This Court stated that Appellant's claim did not accrue until Eldorado  
2 retained the \$1.5 million. It is undisputed that Eldorado did not retain \$1.42  
3 million. Thus, no claim for unjust enrichment accrued<sup>1</sup>. Because of the  
4 court's misapprehension with respect to the \$1.5 million, it is submitted that  
5 the Order of Reversal should be vacated.

6 **THE COURT SHOULD AFFIRM THE ORDER GRANTING**  
7 **SUMMARY JUDGMENT**

8 The Court stated the long established rule that it reviews a district  
9 court's grant of summary judgment de novo, without deference to the  
10 findings of the lower court. *Wood v. Safeway*, 121 Nev. 714, 729, 121 P.3d  
11 1026, 1029 (2005). *Wood* states the rule and that if summary judgment is  
12 appropriate it shall be rendered forthwith if the pleadings and evidence  
13 demonstrate there is no genuine issue as to any material fact and the moving  
14 party is entitled to a judgment as a matter of law.

15 Because of the Court's misapprehension with respect to the \$1.5  
16 million, this Court did not consider whether the evidence warranted the grant  
17 of summary judgment to Eldorado. Because of the true facts with respect to  
18 the \$1.5 million, Eldorado is entitled to summary judgment.

19 In *Nelson v. Sierra Construction Corp.*, 77 Nev. 334, 343, 364 P.2d  
20 402, 406 (1961) the Court said that "we have many times upheld the rule in  
21 this state that a correct judgment will not be reversed simply because it was  
22 based on a wrong reason (citing cases)." See also, *Hotel Riviera, Inc. v.*  
23 *Torres*, 97 Nev. 399, 403, 632 P.2d 1155, 1158 (1981). In *Nelson*, a motion  
24 to dismiss was granted on the ground that the necessary NRCP 23(b)

25 \_\_\_\_\_  
<sup>1</sup> The \$80,000 not taken by Huerta has not been an issue in the case.

1 allegations required in a derivative action were not alleged. On appeal this  
2 Court held that the complaint did not otherwise state a cause of action. It did  
3 not rule on whether NRCP 23(b) was complied with, but dismissed the  
4 complaint under Rule 12(b)(5).


5 The rule relied on by the Court in *Nelson* and the de novo review of  
6 summary judgment by the court support affirmance because there is no  
7 genuine issue as to any material fact. Because Appellant did not retain \$1.42  
8 million, Appellant has no possible claim for unjust enrichment and the  
9 Summary Judgment awarded by the district court should be affirmed.

#### 10 CONCLUSION

11 For the foregoing reasons the Order of Reversal and Remand should be  
12 vacated and the Order Granting Summary Judgment to Eldorado should be  
13 affirmed.

14  
15 Dated this 29th day of February, 2016.

16 FENNEMORE CRAIG, P.C.

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1                                   **CERTIFICATION PURSUANT TO NRAP 28.2**

2           1.     I hereby certify that this brief complies with the formatting  
3 requirements of NRAP 32(a)(4), the typeface requirements of NRAP  
4 32(a)(5) and the type style requirements of NRAP 32(a)(b) because:  
5

6                 This brief has been prepared in proportionally spaced typeface using  
7 Microsoft Word 2010 in Times New Roman with a font size of 14.  
8

9           2.     I further certify that this brief complies with the page-or-type-  
10 volume limitations of NRAP 32(a)(7) because, excluding the parts of the  
11 brief exempted by NRAP 32(a)(7)(C), it is:  
12

13                 Proportionally spaced, has a typeface of 14 points or more, and  
14 contains 948 words and does not exceed 10 pages.  
15

16           3.     Finally, I hereby certify that I have read this Petition for  
17 Rehearing, and to the best of my knowledge, information and belief, it is not  
18 frivolous or interposed for an improper purpose. I further certify that this  
19 brief complies with all applicable Nevada Rules of Appellate Procedure. In  
20 particular NRAP 28(A)(3), which requires every assertion in the brief  
21 regarding matters in the record to be supported by a reference to the page and  
22 volume number, if any, of the transcript or appendix, where the matter relied  
23 on is to be found. I understand that I may be subject to sanctions in the event  
24  
25



1 that the accompanying brief is not in conformity with the requirements of the  
2 Nevada Rules of Appellate Procedure.

3  
4 Dated this 29<sup>th</sup> day of February , 2016.

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1 **CERTIFICATE OF SERVICE**

2 Pursuant to Nevada Rule of Appellate Procedure 25 (c)(1), I hereby  
3 certify that I am an employee of FENNEMORE CRAIG and that on this 29<sup>th</sup>  
4 day of February, 2016, I caused the foregoing **NOTICE OF ERRATA** to  
5 be served by submission the electronic filing service for the Nevada Supreme  
6 Court upon the following to the email addresses on file and by depositing  
7 same for mailing in the United States Mail, in a sealed envelope addressed  
8 to:

9 brandon@mcdonaldlawyers.com

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