

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF FERNLEY, NEVADA,
A NEVADA MUNICIPAL
CORPORATION,

Appellant,

vs.

THE STATE OF NEVADA
DEPARTMENT OF TAXATION; THE
HONORABLE KATE MARSHALL,
IN HER CAPACITY AS TREASURER
OF THE STATE OF NEVADA; AND
THE LEGISLATURE OF THE STATE
OF NEVADA,

Respondents.

Electronically Filed
Dec 02 2014 02:04 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

Supreme Court Case No. 66851

Appeal from First Judicial District
Court, Carson City, Nevada,
Case No. 12-OC-00168-1B

**RESPONDENTS' JOINT NOTICE DIRECTING APPELLANT
TO FILE TRANSCRIPT REQUEST FORM
PURSUANT TO NRAP 9**

CATHERINE CORTEZ MASTO

Attorney General

Nevada Bar No. 3926

GINA C. SESSION

Chief Deputy Attorney General

Nevada Bar No. 5493

gsession@ag.nv.gov

ANDREA NICHOLS

Senior Deputy Attorney General

Nevada Bar No. 6436

anichols@ag.nv.gov

OFFICE OF THE ATTORNEY GENERAL

5420 Kietzke Ln., Suite 202

Reno, NV 89511

Tel: (775) 688-1818

Fax: (775) 688-1822

*Attorneys for Respondents State of
Nevada, Department of Taxation and
State Treasurer*

BRENDA J. ERDOES

Legislative Counsel

Nevada Bar No. 3644

KEVIN C. POWERS

Chief Litigation Counsel

Nevada Bar No. 6781

kpowers@lcb.state.nv.us

J. DANIEL YU

Principal Deputy Legislative Counsel

Nevada Bar No. 10806

Dan.Yu@lcb.state.nv.us

LEGISLATIVE COUNSEL BUREAU,

LEGAL DIVISION

401 S. Carson Street

Carson City, NV 89701

Tel: (775) 684-6830

Fax: (775) 684-6761

*Attorneys for Respondent
Legislature of the State of Nevada*

JOINT NOTICE

Pursuant to NRAP 9(a)(5), Respondents the State of Nevada, the Department of Taxation and the Honorable Kate Marshall in her official capacity as the Treasurer of the State of Nevada, by and through their counsel the Office of the Attorney General, and the Legislature of the State of Nevada (Legislature), by and through its counsel the Legal Division of the Legislative Counsel Bureau under NRS 218F.720, hereby file this Joint Notice Directing Appellant to File a Transcript Request Form pursuant to NRAP 9.

On December 1, 2014, Appellant City of Fernley filed a Certificate That No Transcript Is Being Requested. In the Certificate, Fernley states that it “is not requesting the preparation of transcripts for this appeal, *as no court reporter was present at the substantive hearing.*” (Emphasis added.) However, even though no court reporter was present at the substantive hearing on the parties’ motions for summary judgment which was held on September 2, 2014, a verbatim record was made of the hearing using sound recording equipment as authorized by NRS 3.380. Under that statute, a transcript of the September 2, 2014 district court hearing may be made from the audio recording, and “[t]he transcript may be used for all purposes for which transcripts have heretofore been received and accepted under then existing statutes, including . . . transcripts of the evidence or proceedings as constituting the record on appeal in civil cases.” NRS 3.380(4).

Therefore, for purposes of NRAP 9, “a verbatim record was made of the district court proceedings,” and Fernley has a duty to file and serve a transcript request form to request preparation of a transcript of the September 2, 2014 district court hearing, unless the parties agree that the transcript is not “necessary for the Supreme Court’s review on appeal.” NRAP 9(a)(1). Furthermore, even if the parties cannot agree on whether the transcript is necessary to the Supreme Court’s review on appeal, Fernley has a duty to file and serve a transcript request form to request preparation of any “parts of the transcript that the respondent considers necessary.” NRAP 9(a)(5).

In this case, the Respondents consider all parts of the transcript of the September 2, 2014 district court hearing to be necessary for the Supreme Court’s review on appeal. Therefore, pursuant to NRAP 9, the Respondents are notifying Fernley in writing—by filing and serving this Joint Notice—that Fernley must: (1) within 10 days from the date of service of this Joint Notice, file and serve a transcript request form to request preparation of the transcript of the entire September 2, 2014 district court hearing; (2) after the transcript is prepared, provide a copy of the certified transcript to counsel for each party; and (3) pay any deposits and costs associated with the preparation and delivery of the transcript. NRAP 9(a)(3)-(6).

DATED: This 2nd day of December, 2014.

Respectfully submitted,

CATHERINE CORTEZ MASTO
Attorney General

BRENDA J. ERDOES
Legislative Counsel

By: /s/ Andrea Nichols
ANDREA NICHOLS
Senior Deputy Attorney General
Nevada Bar No. 6436
anichols@ag.nv.gov
OFFICE OF THE ATTORNEY GENERAL
5420 Kietzke Ln., Suite 202
Reno, NV 89511
Tel: (775) 688-1818
Fax: (775) 688-1822
*Attorneys for Respondents State of
Nevada, Department of Taxation and
State Treasurer*

By: /s/ Kevin C. Powers
KEVIN C. POWERS
Chief Litigation Counsel
Nevada Bar No. 6781
kpowers@lcb.state.nv.us
LEGISLATIVE COUNSEL BUREAU,
LEGAL DIVISION
401 S. Carson Street
Carson City, NV 89701
Tel: (775) 684-6830
Fax: (775) 684-6761
*Attorneys for Respondent
Legislature of the State of Nevada*

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Nevada Legislative Counsel Bureau, Legal Division, and that on the 2nd day of December, 2014, pursuant to the Nevada Electronic Filing Rules, I served a true and correct copy of the foregoing document, by means of the Nevada Supreme Court's electronic filing system, directed to the following:

JOSHUA J. HICKS
BROWNSTEIN HYATT FARBER
SCHRECK, LLP
50 W. Liberty St., Suite 1030
Reno, NV 89501
jhicks@bhfs.com

CLARK V. VELLIS
COTTON, DRIGGS, WALCH, HOLLEY,
WOLOSON & THOMPSON
800 S. Meadows Pkwy., Suite 800
Reno, NV 89521
cvellis@nevadafirm.com

*Attorneys for Appellant
City of Fernley, Nevada*

/s/ Kevin C. Powers
An Employee of the Legislative Counsel Bureau