

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Appellant,

vs.

THE STATE OF NEVADA ex rel.
DEPARTMENT OF TAXATION;
THE HONORABLE DAN
SCHWARTZ, in his official capacity
as TREASURER OF THE STATE OF
NEVADA; and THE LEGISLATURE
OF THE STATE OF NEVADA,

Respondents.

Supreme Court No.: 66851

District Court Case No.: 12 OC 00168 1B

JOINT APPENDIX

VOLUME 23 PART 4

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1 exist for the protection of political subdivisions in cities like the City of Fernley, it exists to
2 protect the operation of state government. Of course, we're not saying that no one can
3 bring a separation of powers claim except the state government. What we're saying is that
4 a political subdivision can't. Whether an individual or a corporation or an artificial entity
5 can bring a separation of powers claim is not relevant to this case. The only plaintiff in this
6 case is the City of Fernley, it does not have standing to bring the separation of powers
7 claim because the separation of powers provision is not intended to protect local
8 governments like the special and local law provisions.

9 THE COURT: Well, you made a comment but does the -- does the C tax system
10 basically paralyzes to the same to all situated towns and cities?

11 MR. POWERS: It does apply equally to each of the different classes of cities,
12 towns, special districts and enterprise districts. If you're an enterprise district, the statute
13 applies the same to you. Of course, that's different than if you're a special district or a town
14 or a city but within those legitimate legislative classifications, the C tax statutes apply
15 across the board. The same statutory formula gets your base amount. The same statutory
16 formula determines what your excess amount is and the same statutory formula determines
17 whether you're entitled to any additional increase.

18 THE COURT: Are there any other towns or cities that are situated similar to
19 Fernley?

20 MR. POWERS: As it stands now, no, because they, of course, are the only city
21 to have incorporated after July 1st, 1998. Like I mentioned, had the City of Laughlin most
22 recently incorporated, then it would be subject to the same statutory provisions as the City
23 of Fernley.

24 THE COURT: They chose to provide services; is that what you're saying?

25 MR. POWERS: Actually, the City of Laughlin, the voters declined to

1 incorporate but had they incorporated, then they would have been subject to the same C tax
2 statutes. If Laughlin had not provided the services but the Clark County had provided the
3 services, then Laughlin would not have seen an increase in its C tax distributions.

4 THE COURT: What's the amount of money, if anybody knows, that Fernley ---
5 if you buy Fernley's argument, what's the amount of money that they would get from the C
6 tax system, if somehow I threw out that C tax system as it applies to Fernley; do you know
7 how much?

8 MR. POWERS: Well, I would say the remedy here would be that the system
9 would have to stop working until the Legislature convened again and changed it.

10 If this statute is unconstitutional, the court can't order the Department of
11 Taxation to distribute a certain amount of money. Only the Legislature can appropriate
12 state money under the Constitution. So the remedy is for the court to declare it
13 unconstitutional and the system would stop until the Legislature does something about it
14 because under Article IV of the Constitution, it says no money may be distributed from the
15 public treasury except an appropriation made by law.

16 THE COURT: That would have a significant impact on a lot of towns and
17 cities, wouldn't it?

18 MR. POWERS: It would and it probably would necessitate a special session
19 assuming this Governor or two-thirds of the Legislature had the wherewithal and desire to
20 call a special session. Otherwise, it would have to wait until the regular session coming up
21 this February.

22 THE COURT: Don't take anything by my questions. I ask questions on both
23 sides.

24 MR. POWERS: Indeed. No, it's an important question, your Honor, and I do
25 want to emphasize that, that as a matter of remedy, there could only be a declaration of

1 unconstitutional and the injunction could only stop the Department of Taxation from
2 actually carrying out the C tax statutes. The judiciary could not order the Department of
3 Taxation to change C tax distribution, that's a function of the Legislature because the
4 power of the purse lies only with the Legislature.

5 THE COURT: What about the argument that there's a violation of Article IV,
6 Section 21 of the Nevada Constitution?

7 MR. POWERS: Our position is simple, your Honor, that you don't get to Article
8 IV, Sections 20 and 21 unless you have a special or local law. The threshold question is is
9 this a special local law.

10 If you look at the face of the statutes, they apply across the board to every
11 enterprise district, to every special district, every city, town and county. They apply across
12 the board. Unlike say the Clean Water Coalition case or the Attorney General versus
13 Gypsum Resources case, the two most recent cases from the Nevada Supreme Court where
14 special and local laws are struck down. Those laws actually identified a specific political
15 subdivision. In the Clean Water Coalition case, the law said the Clean Water Coalition
16 was required to distribute certain money to the state.

17 In the Attorney General versus Gypsum Resources case, the law said that a
18 specific portion of Clark County couldn't have its zoning changed. Those were special and
19 local laws because they identified specific entities, specific locations in the state and
20 therefore, they were subject to Article IV, Sections 20 and 21.

21 These C tax statutes apply across the board. The City of Fernley is not
22 mentioned. No city is mentioned. Every city is covered by the terms enterprise district,
23 special district, city, town and county.

24 So on their face, these statutes are general laws. They're also general laws
25 because in the C W C case, the Clean Water Coalition case, the National Court set forth the

1 definition of what a general law is. I want to be specific on this so I'm going to turn to that
2 definition.

3 So, A general law is any law that applies to all of a similarly situated class and
4 the Legislature can make distinctions, classifications within a general law so long as those
5 classifications are founded upon natural intrinsic, rational and constitutional distinctions.
6 So essentially, it's the rational basis test. Is there a rational basis for the classifications in
7 the C tax statutes and there are rational basis here. Discouraging new governments from
8 forming without providing these general governmental services is a rational basis.

9 There's -- we cite a case that's really directly on point, Town of Ball versus
10 Rhapsody Parish from Louisiana and it's a 5th Circuit Case from 1984. The similarity of
11 the case is very on point. In that case, this parish which is essentially a county, had a series
12 of incorporated towns. They each received a portion of the sales tax revenue that was
13 collected in the county. The Town of Ball incorporated after that distribution scheme. So
14 their citizens, like every other citizen of the county, paid sales tax money into the county
15 fund but the Town of Ball received no sales tax revenue.

16 The 5th Circuit upheld that distribution under the Equal Protection Clause
17 because the 5th Circuit found there was a rational basis for not giving a newly incorporated
18 town this sales tax money and that rational basis was to discourage the formation of that
19 newly incorporated town. Even though that was an equal protection case, it's right on point
20 because if you look at the case law from Nevada, Article IV, Section 21, is this state's
21 version of the Equal Protection Clause. So their claim that the C tax statutes violate
22 Article IV, Section 21, whether it's a general or a special local law claim or an Equal
23 Protection Claim, it all falls under Article IV, Section 21.

24 So this is essentially a state Equal Protection Claim. They're arguing because
25 Fernley is being treated differently, that that violates that Equal Protection Division of

1 Article IV, Section 21.

2 So that case the Town of Ball versus Rhapsody Parish is right on point here.
3 And that's what the legislature did, it decided, in the 1997 session, that before we're going
4 to have a bunch of newly incorporated towns seeking that consolidated tax money, we
5 want to make sure they're general purpose governments and not special purpose
6 government that just provided a few services and not the most significant services which
7 essentially is police protection, fire protection, roads and parks.

8 The Legislature drew a distinction, it's true that the Legislature said we're going
9 to hold everyone revenue neutral who's receiving C tax in 1997. We're going to start from
10 that as a base, that's what the base is but if you newly incorporate after this date, you're
11 subject to these new provisions and those statutory provisions will limit the amount of C
12 tax you get unless you qualify for the three statutory avenues for change but that's a rational
13 basis. The Legislature has to draw lines all the times, grandfathering old classifications in
14 and creating new classifications. If the Legislature couldn't draw those lines, it could never
15 change the law.

16 This is not a case where this a surprise to Fernley. They didn't incorporate until
17 2001 but their process for incorporation began the year after the C tax system became in
18 place. So the C tax system became in place in 1997. Beginning in 1998, the City of
19 Fernley created an incorporation committee. They corresponded with the Department of
20 Taxation and asked how the incorporation would effect their C tax revenue. The
21 Department of Taxation made it clear that if they did not provide the requisite services
22 under the new C tax statutes, their C tax distributions would not change. Yet they
23 incorporated in 2001 despite that knowledge. That was a choice the City of Fernley made
24 but the Legislature also made a choice to ensure that newly incorporated cities could not
25 receive increased C tax unless they went through one of the specific statutory avenues and

1 provided those additional services.

2 So with regard to the Article IV, Section 21 question, this isn't a special or local
3 law. So Article IV, Section 21 and Article IV, Section 20 have no application. This is a
4 general law.

5 THE COURT: What about the statute of limitations argument that the Supreme
6 Court went to in regards to the US Constitutional issues if in fact you think the statute of
7 limitation applies in this case?

8 MR. POWERS: Absolutely, your Honor, and I also believe as the law of the
9 case doctrine applies here, that the master in court has already answered some of the
10 outstanding questions.

11 If you look at the Nevada Supreme Court's order, it says, "Neither party disputes
12 that at the time of the city's incorporation in 2001, the city was aware that absent specific
13 circumstances, its base consolidated tax distributions would be set by its previous
14 distributions and would remain at that level."

15 THE COURT: Well, the Supreme Court took that as the date when the statutes
16 started to run.

17 MR. POWERS: Exactly, so that establishes when the statute started to run.

18 Then it went on the Supreme Court said, "At oral argument, the city conceded
19 that its federal constitutional claims would be barred unless this court applied an exception
20 to allow it to avoid the expiration of the limitations period," and this is the key, "And we
21 find that no such section applies here."

22 Well, the exception that the City of Fernley has argued all along is the
23 Continuing Violations Doctrine and that's under federal law. So with regard to the federal
24 constitutional claims, the Nevada Supreme Court has already rejected the federal
25 Continuing Violations Doctrine. So it would be odd if the federal Continuing Violations

1 Doctrine saved their state constitutional claims, it just didn't -- it just seems like the law of
2 the case has been established here. The Continuing Violations Doctrine under federal law
3 doesn't apply the federal constitutional claims and clearly does not apply to the state
4 constitutional claims. So the statute has already begun to run.

5 THE COURT: What period of statute of limitations applies, two years, four
6 years?

7 MR. POWERS: Although that could be a difficult question in a closed case
8 since Fernley bought their case 12 years after the cause of action approved, it really doesn't
9 matter which one applies. We know under the law since 1861, the four year statute of
10 limitations applies unless a specific statute provides otherwise.

11 Now, we know from federal constitutional law that in Nevada, the two year
12 statute of limitations for torts applies to federal constitutional claims. So it would be
13 reasonable for the court to say the two years tort limitation also applies to state
14 constitutional claims because it would be odd I think if state and federal constitutional
15 claims had a different statute of limitations. However, even if the court doesn't feel
16 comfortable with the two year statute of limitations applying, then clearly the default since
17 1861 has been the four year statute of limitations.

18 What is absolutely clear though is that from 1868, the Nevada Supreme Court
19 has said that a statute of limitations applies to all causes of actions in Nevada both causes
20 under the law and causes under equity, therefore, there is a statute of limitations in this
21 case. The Nevada Supreme Court has already said it started the run in 2001, and the
22 Nevada Supreme Court has already said the Continuing Violations Doctrine doesn't apply.
23 Therefore, their state constitutional claims have to be barred by the statute of limitations
24 just like their federal constitutional claims.

25 THE COURT: Well, what about the argument that the City of Fernley for years

1 tried to seek some resolution through the Legislature, tried to seek some other kind of
2 resolution and finally gave up and had to file a lawsuit; do you think that it goes back then
3 to the original incorporation in 2001 so or should it go back then to the last date when they
4 finally gave up and filed a lawsuit?

5 MR. POWERS: Well, I think it has to go back to 2001 because we cite cases
6 from federal district courts that have said seeking redress in the political branches of
7 government doesn't stop the statute of limitations from running in the judicial branch.

8 Fernley could have sought judicial review of this matter while they were
9 concurrently seeking redress in the legislative and executive branches and indeed after they
10 filed this lawsuit in 2012, there was the intervening 2013 legislative session. Nothing
11 precluded them from continuing to seek legislative and executive branch redress during
12 that time. These are remedies they should have been seeking concurrently. Nothing
13 stopped them from seeking concurrent remedies. They chose to sit on their rights, and we
14 know the basis of laches or the statute of limitations. Those who sit on their rights lose
15 those rights.

16 So they had every opportunity to concurrently seek judicial relief along with the
17 political branch relief. They chose not to, and they should be held to that policy
18 determination that they made themselves.

19 THE COURT: If the court determines that the statute of limitations was four
20 years and applies, do I even have to address any of the other issues in this case?

21 MR. POWERS: Absolutely not, and I'm sure the court is aware of the rules that
22 courts avoid constitutional questions if the decision can be rested on statutory grounds.
23 Those would be the statute of limitations grounds. If the court rules the statute of
24 limitations bars the state constitutional claims, it never needs to reach the merits of the
25 state constitutional claims.

1 THE COURT: What if the court feels it would be good to give everybody a
2 ruling on all issues in respect to this matter; do you think that's appropriate?

3 MR. POWERS: I do think that's appropriate because that gives the appellate
4 court the opportunity to consider all of the issues because on an appeal if the court relied
5 just on the statute of limitations and the Nevada Supreme Court decided that the statute of
6 limitations wasn't appropriate, then it may not reach the merits, it would sent it back to this
7 court to decide the merits.

8 So I certainly think it's appropriate for the court to rule even assuming if the
9 statute of limitations didn't apply, that there's no constitutional violation as well. Of
10 course, we believe that's how the court should rule is on the merits.

11 THE COURT: What about immunity under N R S-41.032 1 in respect to the
12 individual officers, employees of the state and agencies; do you think it's applicable?

13 MR. POWERS: Absolutely, your Honor. So you set aside all of that, the statute
14 of limitations, laches, the merits, regardless of all of that, Fernley cannot recover money
15 damages in this case.

16 The whole purpose of 41 Sub 1 that we're talking about here 41.032, Sub 1 is to
17 not allow damages recovered in an action challenging the constitutionality of the statute.

18 THE COURT: Can they still recover under declaratory relief, an injunction?

19 MR. POWERS: Yes. The sovereign immunity in 41.032, Sub 1 does not
20 precluded declaratory injunctive relief. It's very simple similar to federal law. The
21 immunity the states enjoy under the 11th amendment, you can't sue a state for money
22 damages in federal court, however, you can sue individual state officers for declaratory
23 injunctive relief because you're not suing the state, you're suing that particular officer not to
24 exercise its power outside of constitutional bounds.

25 So yes, we believe that 41.032 Sub 1 only precludes the imposition of money

1 damages against the state but that would lend me opening up the questions of whether
2 Fernley is entitled to declaratory and injunctive relief.

3 THE COURT: What about N R S-41.032, Sub 2?

4 MR. POWERS: Well, to the extent that Sub 1 doesn't apply, any other decision
5 made by the Department of Taxation is a discretionary decision.

6 So Sub 1 is going to cover any money damages that's attacking the
7 constitutionality of the statute. Sub 2 is going to cover any action for money damages
8 attacking discretionary decisions made by the Department of Taxation.

9 THE COURT: Does the Department of Taxation have any discretion, that's why
10 I asked that question?

11 MR. POWERS: Well, as Ms. Nichols mentioned, in that narrow category where
12 a city's revenues decline and they're assessed property and value decline over a three-year
13 period, the statute allows an Executive Director of the Department of Taxation to review
14 that decline and assessed value and determine whether or not to change the C tax
15 distribution to that particular city. So that is a discretionary decision by the Department of
16 Taxation, but as far as the base amount, the excess distributions and any increase in the
17 base or excess distributions, the Department follows specific statutory formulas that
18 provide clearly defined statutory standards.

19 With regard to that, Fernley seems to think whether or not the Department of
20 Taxation abused its discretion with regard to other cities somehow impacts the City of
21 Fernley, it doesn't, it's irrelevant. Whether or not the Department of Taxation reduced C
22 tax revenues for those other cities that Fernley mentions would not effect the distributions
23 to the City of Fernley because those other cities are not in Lyon County.

24 The way the C tax system works is the first tier distribution goes out to the 17
25 counties. So the only way to affect their change, the revenues going to the City of Fernley

1 is to change the revenues going to Lyon County but if the Department of Taxation reduces
2 C tax revenues in another county like Clark County, those revenues wouldn't go to Lyon
3 County. They would just go to other entities in Clark County.

4 So whether or not the Department of Taxation has reduced C tax revenues in
5 other counties is wholly irrelevant to the City of the Fernley's situation. Unless it involved
6 another entity, a special district enterprise district or city town in Lyon County, it just
7 simply makes no difference but to the extent that the City of Fernley thinks that they can
8 bring a cause of action dealing with the Department of Taxation's discretion, then 41.032,
9 Sub 3 would bar that by sovereign immunity.

10 So sovereign immunity bars all money damages here, the city can't recover and I
11 want to get back and talk again what we talked before, your Honor, is that the remedy here
12 can't be money damages because a court can't order the State Treasury to disperse money,
13 it's just -- it would violate separation of powers for a court to order the State Treasurer or
14 the Department of Taxation to disperse state money contrary to a law. You would need a
15 law and in that case again, the Legislature would have to intervene by regular session or
16 special session and change the C tax distribution.

17 So the remedies that Fernley seeks are very limited and of course, our belief is
18 that they're not entitled to any remedy based on all the affirmative defenses and the fact
19 that their claims have no merits.

20 THE COURT: If in fact one of the remedies is to hold the C tax system
21 unconstitutional, should all of the other counties been named as parties in this specific
22 action in order to allow them to come in and argue one way or the other before the court
23 takes any action that would affect their ability to receive their taxes?

24 MR. POWERS: Absolutely your Honor.

25 Each of those counties not only each of those counties but each enterprise

1 district, special district and city, town in the 17 counties or the other 16 counties would be
2 necessary and indispensable parties, not only under the Nevada Rules of Civil Procedure
3 but under the Due Process Clause. Because you can't take -- or you can't effect vested
4 rights and affect them negatively without providing notice and an opportunity to be heard
5 by those other entities.

6 So there could be a constitutional issue and an issue under the Nevada Rules of
7 Civil Procedure about not bringing in all necessary and indispensable parties.

8 THE COURT: Ms. Nichols, are you ready to argue?

9 Mr. Powers thank you, unless you have any additional?

10 MR. POWERS: No. I think that covers it, your Honor.

11 THE COURT: I tried to make sure you went through all the points.

12 MS. NICHOLS: Thank you, your Honor. I would just add a few things that I
13 think would help clarify what Mr. Powers said.

14 On plaintiff's Motion For Summary Judgment and their opposition, they have the
15 same Exhibit 12 and that's a power point presentation that was put together by the Nevada
16 Department of Taxation and I think it does a really good job of pointing out how the first
17 tier distribution works and that is that the money comes in and it is divided between the 17
18 counties in the state. Now, what the City of Fernley gets is a part of what Lyon County
19 gets, it's not a part of what any other county gets.

20 I think also it's important to point out that one of the purposes of the C tax that
21 the City of Fernley sort of leaves out, every time they point to the purposes, they'll tell you
22 the first couple and if you look at their exhibits, the next one down that they keep skipping
23 is that one of the purposes was to reduce the competition and encourage cooperation
24 between local governments.

25 So the City of Fernley has known all along and that's in the exhibits that we

1 attached to -- that the Department attached to its opposition to Motion For Summary
2 Judgment, and they're also in the Legislature's exhibits are the City of Fernley's
3 incorporation petition and the agenda when they went before the Lyon County
4 Commission. The City of Fernley, when they were incorporating, represented that they
5 would negotiate with Lyon County and to the extent that they took services from Lyon
6 County, then they would take revenue from Lyon County but they haven't taken over any
7 services from Lyon County.

8 So I think that the statute kind of makes sense if you think about it as the
9 revenues just go to the county level and the City of Fernley gets part of what the county
10 gets and that's also -- I would direct the court's attention to the Plaintiff's Exhibit 30 and
11 that's minutes from the hearing before Legislative Subcommittee on February 22 of 2011
12 on A B 47 which was the City of Fernley's own proposed changes to the C tax legislation,
13 and I think the testimony in there does a very good job of pointing out that the City of
14 Fernley is unable to articulate the basis for its need for an adjustment and then, for
15 example, the County Manager of Lyon County notes that Fernley hasn't agreed to provide
16 additional services that Lyon County provides the police and fire protection for the City of
17 Fernley which are where the large revenues go.

18 Then also the testimony of Carol Vilardo points out that under the previous
19 system that if a county had one city, then they would split the revenue fifty-fifty county,
20 city. If a second city incorporated, then they would have to split the revenue with that city
21 and it would take away from the county. So what one of the things that the C tax
22 legislation sought to or A B-254 sought to remedy was that if you incorporated, you
23 automatically got more revenue but you didn't have to provide services. So they took away
24 the incentive to incorporate just to get money.

25 THE COURT: You talked about the first tier, what about the second tier, how is

1 the second tier distributed. The first tier you indicated goes to 17 counties and it's divided
2 up much different cities or different entities I guess, is the second tier also distributed to
3 that way?

4 MR. POWERS: Yeah. So the second tier -- so the City of Fernley would get a
5 second tier distribution which would come out of the big pot of money that goes to Lyon
6 County. They get a base, and the base was established in 1997. Their base is basically the
7 same as it was when they were a town. Then there's an excess. If there's any money left
8 over, then it goes and it's based on a calculation that has to do with the change in
9 population, it's basically change in population and assessed value and that's for the excess
10 distribution and that's how I think the Legislature tried to get the revenues to follow where
11 the growth was.

12 THE COURT: So is the City of Fernley then seeking to get a portion of Lyon
13 County's as far as tier one and tier two or are they only looking for some adjustment in
14 regards to the excess?

15 MR. POWERS: Well, I think you would have to ask them.

16 But what's really interesting on that is that in the minutes from the legislation
17 that they proposed that A B 47 in 2011, they said, "We just want a five million dollar
18 adjustment in our base." So when they were questioned how did you come up with that
19 number, they said well, we figured -- and I probably -- I would get these wrong but they
20 one way was to figure based on what their percentage of population was in Lyon County
21 and they would just get a percentage of Lyon County's. Another way would be to figure
22 what their population was based statewide. So they got two different numbers, and they
23 said, "Well, we just picked five million because it was in the middle."

24 THE COURT: Okay. Thank you.

25 Mr. Hicks?

1 MR. HICKS: Thank you, your Honor. Josh Hicks and Clark Vellis for the city
2 of Fernley. If it's all right with you, your Honor, I would just like to put a couple of
3 exhibits up?

4 THE COURT: Absolutely.

5 MR. HICKS: And, your Honor, if I may approach, I just printed it off so you
6 can see it just in case you can't see it.

7 THE COURT: That's fine. Thank you.

8 Do you have an extra copy and the only reason I'm asking for that is so that we
9 could have it marked for purposes of this hearing?

10 MR. HICKS: Yes.

11 THE COURT: Thank you. We'll mark it as Exhibit 1 for purposes of this
12 hearing.

13 (Exhibit 1 was marked.)

14 MR. HICKS: So before just -- this is Exhibit 1 to our motion, I'd like to go back
15 just a little bit into some of the C tax history because it's important to know what the
16 Legislature was doing, the system that was set up and how it is now applied so uniquely
17 and differently to the City of Fernley which is, as I think it was apparent, the only city in
18 Nevada that has incorporated since 1997, it's the only city out there. You can see how
19 things have changed there but I'll go through that a little bit more in just a minute.

20 The C tax itself just for background purposes it's one of the funding streams that
21 the local governments have, counties, cities, special districts. There's no restrictions on
22 how it's used, it's basically a general operating base. You can use it for whatever you want
23 to use it for. As we were just talking about, there's a tier one and a tier two.

24 The tier two distribution is of critical importance because back in 1997 when
25 this system was set up, everyone got what they were getting in 1997. They got what they

1 were getting the year before and that was set. That has rolled over every year. You keep
2 getting that same base. There's some adjustments for C P I in certain circumstances but
3 basically, whatever you were getting in 1997, you're still getting today. There's really only
4 been one exception to that which is when Henderson got a four million dollar adjustment.
5 They just so happened to be represented by the Speaker of the Assembly that session. But
6 other than that, there haven't really been any changes. The numbers change because the C
7 P I changes a little bit. The access numbers change a little bit depending on what kind of
8 funds are there. What you had in 1997 is what you're getting.

9 So what was the legislature trying to accomplish then? I'm going to grab another
10 chart over here. This is -- if you guys can see, I'm talking about Guy Hobbs and the
11 minutes. He was the Chair of the Subcommittee, the Technical Subcommittee that put
12 together the recommendations on the C tax, and he's talking about what they were trying to
13 do. They were trying to preserve revenue holding everyone harmless from what they were
14 getting the year before. And very important, as you can see in there and you can see in
15 other exhibits too, there was this idea that revenue was going to follow growth.

16 So a critically important thing, it was part of a sales pitch, for lack of a better
17 word. Revenue had to follow growth. If you grew, you were going to get more revenue.
18 That was one of the big points in all of this.

19 THE COURT: Well, let me ask you the question I asked the other side. If in
20 fact they had taken money away from Lyon County, should Lyon County have been made a
21 part of this lawsuit?

22 MR. HICKS: Your Honor, I don't think so. A couple of points on that.

23 I think Lyon County could intervene if they wanted to. I mean, I don't see why
24 they would not do that. I don't believe that the failure to join a necessary party was raised
25 as an affirmative defense in this case regardless, and I don't necessarily think that the

1 remedy, were you to find that the system was unconstitutional and order that it be changed,
2 I don't think the remedy is necessarily to take money away from Lyon County. I don't
3 think it actually is this court's concern about how that's involved. I think that if this court
4 finds that it's unconstitutional that things needs to be changed either prospectively or
5 potentially retroactively in the form of damages, there can be further discussions. I think
6 the legislature would have to be intimately involved in that about where that money would
7 come from.

8 THE COURT: The same question would follow up and basically Mr. Powers
9 said if I find it unconstitutional, then basically there won't be any distributions to any
10 counties in the State of Nevada until the Legislature meets to redo it or it goes up to the
11 Supreme Court and they affirm or reverse whatever I do in this particular case?

12 MR. HICKS: I'm not sure that that's necessarily accurate.

13 If you look before, there was a distribution of change before. Henderson got a
14 four million dollar change, it did not upend the system. Now, that wasn't litigation but I
15 think if you were to order a change in that to order the Legislature to implement that, we
16 would certainly be willing to some kind of stay to give the Legislature a chance to figure
17 out how to do that. We're not looking to harm other people in this. We're just looking to
18 get a fair share for Fernley.

19 So I think that's the way around that, your Honor. I don't think that the system
20 needs to come to a screeching halt and damage everybody else. I think that's another
21 reason why you don't need to have other parties in. If they want to come in and try to
22 intervene and make a case for it, they can do it if they have them. This case has not be a
23 secret, it's been in the news, it's been out for over two years now, it's made one trip to the
24 Supreme Court. The Legislature intervened, but we haven't seen anybody else come in.

25 THE COURT: Well, that sort of brings us back to the statute of limitations issue

1 to some extent which tell me why, after reading the writ issued by the Nevada Supreme
2 Court and reading everything that the Supreme Court did in regards to that, throwing out
3 the U S constitutional issues which I didn't even address because I just basically made a
4 determination that it was a loss of discovery and allowed things to proceed on that basis.
5 Tell me why the statute of limitations doesn't apply to this case and if there's an exception,
6 what exception really applies?

7 MR. HICKS: Sure.

8 In that case, there was judicial precedent on statute of limitations for the federal
9 claims that we had alleged. Those are the claims that were thrown out. In this case, we
10 don't have any judicially established statute of limitations.

11 THE COURT: There's a general statute of limitations in the State of Nevada,
12 isn't there?

13 MS. HICKS: There's a general statute but there's also a 15-year statute for
14 taking these cases and that's a constitutional clam. I would say that that's a similar
15 situation that you would look at here, that's a longer period of time because you're taking
16 away people's property. This is tax revenue. This is revenue that the citizens of Fernley
17 put into the pot and get a fraction of it back. I think that's a much more apt way to look at
18 it.

19 And on top of that, your Honor, I think it's very important to know that this -- it's
20 important to look at the context of this case. The typical case, when you're looking at the
21 statute of limitations, you have a definite triggering moment and you know when that is.
22 You have a known right. You have a known period of time and if you don't take action
23 within that, you're barred. This is a bit different.

24 THE COURT: Didn't the Supreme Court answer that question when they said it
25 was 2001, the date of the incorporation, that was the triggering date?

1 I mean, I'm just going by their order, whether I agree with it or not, that's the
2 date that they basically used in order to apply the statute of limitations they were going to
3 apply in that case and they just said, "Hey, you've had your opportunity. You need to do
4 something by then."

5 MR. HICKS: Yeah, and I think that was the problem because I think the
6 problem with that was the C tax system, it takes a while to manifest these kind of
7 problems.

8 I mean, there's no question that when this when the Incorporation Committee
9 started, a non-elected body, you know, there had been some comments to them that don't
10 expect more on C tax. They had seen that but they're not an elected body. They didn't
11 become the City Council of Fernley. They didn't -- there's certainly nothing to suggest that
12 they knew Fernley was going to almost double in population in ten years.

13 THE COURT: Most of that population occurred in Fernley early on, it occurred
14 in 2008, 2009. I'm just guessing, speculating because obviously the market went way
15 down. People moved out and everything else so they at least knew or should have known
16 at some point in time that that was a factor.

17 MR. HICKS: Well, keep in mind too --

18 THE COURT: Again, don't take anything from my questions.

19 MR. HICKS: I understand.

20 THE COURT: I do both sides. I try to beat up on them a little bit and try to find
21 out where we're going.

22 MR. HICKS: I appreciate that.

23 But your Honor, the fact that the population was changing, that's when things
24 started -- really started realizing that there were problems because the population is going
25 up. Service needs are going up and that was acknowledged by the Legislature's most

1 knowledgeable person. You're going to have more service if you have more population.

2 THE COURT: But isn't Lyon County the one providing the services?

3 MR. HICKS: No, not necessarily.

4 THE COURT: Fire and --

5 MR. HICKS: Lyon County does not provide fire. Fire is provided by the Lyon
6 County Fire Protection District which is a different entity that is paid for by a unique
7 property tax assessment on the citizens of Fernley. No other municipality in the state pays
8 a property tax assessment to a fire protection district. Fernley is unique in that way.
9 They're unique in a lot of ways, that's another way.

10 Now, Lyon County does provide law enforcement, and I'd like to show you what
11 that means because throughout the state's position in this, there's this inference that Fernley
12 has -- what they are complaining about, law enforcement is provided by Lyon County.
13 What are they complaining about? So to show you what that looks like, we have identified
14 two experts in this case, and I'd like to walk through quickly both of them but this is the
15 law enforcement expert. These weren't refuted. They weren't challenged by the state.

16 So what you see up here is a chart what cities look like of 10,000, 25,000
17 people, the national average. You've got 1.85 officers for every 1000 residents. You can
18 see Boulder City. We use the same cities on this because they're comparably sized. So you
19 see Boulder City, Elko, Mesquite. They're all right around there, 2.02 for Boulder City, 2.6
20 for Elko, and 1.79 for Mesquite. Fernley almost 19,000 people has 14 law enforcement
21 officers .074.

22 THE COURT: Should they go to Lyon County and request that they provide
23 more under Lyon County pursuant to their distribution in respect to the C tax to Lyon
24 County?

25 MR. HICKS: Seeing as how Lyon County has turned down things as small as

1 \$200,000 for roads, it would be futile.

2 THE COURT: I would -- I'm just raising the issue wouldn't that be a logical
3 place to go?

4 MR. HICKS: It would but it would be futile.

5 THE COURT: I know Lyon County financially they're very hurting. I mean, I
6 understand that.

7 MR. HICKS: Right, Lyon County has its own financial problems.

8 If I can show you, your Honor, also one of our other experts in this is a person
9 named Sherrie Whalen. She was formerly the Fernley City Engineering Director of Public
10 Works.

11 So what you have here -- if you don't mind, your Honor, I'm going to stand up
12 there.

13 THE COURT: That's fine, I'm reading as you go along.

14 MR. HICKS: So what we have here is the Fernley City Parks and Memorial
15 Gardens Cemetery, and this is just another example of how this lack of funding -- \$133,000
16 in 2013 after it's almost doubled in population what ramification that has on Fernley
17 uniquely. Only two of Fernley's parks have lights, that's 11 parks and only two with lights,
18 only four with restrooms. Park buildings, fields, fences don't meet code. The only
19 programs they've done in five years have been volunteer projects or grant funding, it should
20 say grant funded -- basic loan in need for the Parks and Rec Department. No playground
21 equipment in some of the busiest parks in the city.

22 If you look at the report, you see pictures in back of all these things too. The
23 bottom paragraph has to deal with Memorial Gardens Cemetery picture. There's a picture
24 that's very telling in the expert report, it's just dirt in the cemetery. Dirt rolling over grave
25 stones. Dirt rolling over flowers over that people leave. Those are the kinds of things that

1 come about when you are held back more to where you were in 1997 despite growing as
2 much as you do.

3 THE COURT: Have you ever considered a lawsuit against Lyon County for a
4 better distribution in regards to the C tax?

5 MR. HICKS: Your Honor --

6 THE COURT: The only reason I'm raising that because whatever I do in this
7 case, if the C tax is distributed to 17 counties the way it is in respect to that and tier one
8 goes to 17 counties, tier two goes to 17 counties and we're talking about any excess in
9 respect to that, aren't we talking about monies that basically Lyon County is getting that
10 maybe Fernley should have a share?

11 MR. HICKS: Potentially.

12 I think that the first part of your question about why not just sue Lyon County, I
13 think Lyon County would just say, "We don't have control of the C taxes, and we didn't set
14 it up." And really the basis --

15 THE COURT: But they have control over the amount. They get the amount
16 from the C taxes -- there's six different taxes that are distributed based upon the formula,
17 isn't there?

18 MR. HICKS: They get an amount but if they want to give up any amount out of
19 that, that's purely up to them. They're not mandated to. They get their piece and that's --

20 THE COURT: Well, I understand that but would they get a bigger piece of the
21 pie if in fact I rule in the favor of Fernley in this particular case? Would suddenly the pie
22 shape amount that goes to Lyon County or Fernley, would it increase or -- do you
23 understand what I'm talking about; would it still be the same piece?

24 MR. HICKS: I do, your Honor.

25 I think the answer to that would probably depend on how the Legislature would

1 want to remedy this. If it were to stay exactly -- that's certainly one option. If it were to
2 stay exactly the same, if the tier ones were to stay exactly the same, the remedy would be
3 that Fernley would get a bigger piece of Lyon County's share, but there's other ways to look
4 at it.

5 Legislation that Fernley actually was proposing in 2011 and they actually made
6 some efforts in 2013. They didn't ended up in a bill anywhere but they did make some
7 efforts, would have taken money off of all the tier one levels, all 17, and funneled that into
8 Fernley as an attempt to hold some of the other entities as harmless as possible. So I think
9 you can structure it different ways. I don't think that you're necessarily bound by the
10 system if you were to seek a remedy.

11 THE COURT: Well, we know that Clark County is always arguing that the
12 north gets too much money based upon what happens in northern Nevada versus Clark
13 County how they're entitled to most of the money and somehow they're being
14 shortchanged.

15 So I understand where you're going, but I'm not sure what the fix is. Even if I
16 rule in your favor, I'm not sure what the fix is. At the end of the day, you may still end up
17 with where you are to a certain extent unless I'm wrong and the Legislature says well fine,
18 we'll just collect all six taxes. We'll make a distribution according to population and
19 assessment and then it may hurt a lot of the other counties, in respect to that distribution.

20 MR. HICKS: Well, that's -- our position all along has been to make this a
21 general uniform law. The legislature ought to been examining the service level needs of
22 every local government and everyone who gets C tax and decide if they're getting enough.
23 Fernley certainly couldn't do much worse than where they are now.

24 But at the end of the day, again, your Honor, I don't think you necessarily need
25 to craft how that would necessarily flow. I think if you found it was unconstitutional, it

1 would be incumbent on the Legislature and we would certainly be willing participants in
2 that process to try to put something together that meets constitutional parameters.

3 THE COURT: Do you think I can award damages in this case or do you think
4 I'm limited to declaratory relief and injunctive relief?

5 MR. HICKS: Well, we think you can award declaratory injunctive relief
6 without doubt. And just in part of answering that, that was the basis for our motion for
7 partial reconsideration because the treasurer had been dismissed for all claims.

8 THE COURT: But isn't she barred under N R S 402.031, Sub 1?

9 MR. HICKS: Not for declaratory injunctive relief.

10 THE COURT: Okay, but not for damages.

11 MR. HICKS: But that's why our motion was if you were to say she was immune
12 from damages, we will -- that's your order. We'll deal with that, but she was thrown out for
13 declaratory injunctive or for declaratory and injunctive claims as well so.

14 THE COURT: In her individual capacity.

15 MR. HICKS: I read that she was out all together in the case. If she was -- if
16 she's still in in her official capacity, then I think that we would be fine withdrawing our
17 motion but with respect to the damages themselves, we do think you can award damages.

18 Declaratory injunctive relief is not an issue. We've heard that today. The
19 damages issue turns on the immunity piece and there's some questions there that we have
20 identified with respect to the state's role in this and one of those roles is the action of acting
21 with due care. When you see what this system was set up to do that it was put in place so
22 that revenue would follow growth, that's been again evident everywhere. If you look at the
23 people who are involved in the technical committees, the legislative summaries of these,
24 revenue following growth is a critical component of it.

25 You have seen Fernley has nearly doubled in population and received nothing

1 more effectively in terms of a C tax, revenue has not followed growth and you would think
2 at some point the people administering this might wonder why would something like the
3 Elko Television District be getting \$160,000 when Fernley is still getting \$130,000 with
4 the sixth largest city in the state.

5 THE COURT: Well, I don't think there's any doubt that Fernley is on the short
6 end of the stick to some extent. I believe that. I mean, I'm looking at the numbers, and the
7 numbers speak for themselves to a certain extent but do those numbers and that translate to
8 basically a constitutional violation under one, the separation of powers clause of the
9 Nevada Constitution and whether or not it's basically a violation of the creation of a special
10 law and violation of Article IV, section 20 of the Nevada Constitution or whether or not it's
11 a violation of Article IV of Section 21 of the Nevada Constitution.

12 I think Fernley, you know, has obviously grown and needs additional money for
13 services, it needs to basically get some help in respect to that but I'm not sure that the relief
14 that I can give you, if there's a violation and I'm just saying that openly, so I want to hear
15 about those things.

16 MR. HICKS: Okay. Thank you, your Honor.

17 If I may, let me talk about Article IV, Section 20 first because the threshold
18 question there is is this a special and local law. So the test for that is from case law and
19 we've got it in the briefs is that if it's a local law, it operates over a particular locality
20 instead of the whole state, a special test operates with respect to a class instead of a whole
21 class.

22 Fernley is the only city in the state that is incorporated since 1997. It's unique,
23 it's in its own class. It is subject to barriers that nobody else is subject to. When the C tax
24 system was set up, it did not matter what services you provided. You could have a police
25 department, you could not have a police department. You could have anything or nothing.

1 You got what you had in 1997, there was no analysis there. There were barricades put in
2 afterwards with respect to a new city. They just weren't there for anybody else.

3 THE COURT: But if somebody else incorporated, they would be applied -- the
4 same laws would be applied to them, wouldn't it?

5 MR. HICKS: Yes, but they could still be in a different class because Fernley
6 having grown as much as it did, it's base was artificially although in 1997.

7 Now, if you had someone with a high population and good base and
8 incorporated now, they might not have a problem because the base would continue on into
9 the future. So I don't know if you would have necessarily that same problem.

10 THE COURT: If Fernley chose to provide additional services and that, they
11 could go back through the system and apply for additional monies, couldn't they? What if
12 they chose to say to Lyon County, "We're going to assume our own police." They say to
13 the Fire District, "We're going to assume fire protection. We're going to assume all these
14 things ourselves. Give us the monies or whatever you think you're allocating for the
15 number of police officers and people you're allocating, they could go back to the
16 Legislature and then ask for -- as they've indicated, ask for a reclassification under the C
17 system; is that true?

18 MR. HICKS: I don't think that's accurate, your Honor. There's no automatic --
19 if Fernley were to stand up tomorrow and say, "We're going to have a police department,"
20 there's no automatic distribution to them. They get what they get under the C tax and that's
21 one of the issues. Anyone under the C tax, you could discontinue a service and it doesn't
22 effect your C tax. You could lay off your whole fire department and it wouldn't change
23 your C tax allocations. There's no automatic of appropriation.

24 You have two choices, you can either within the first year of incorporating, you
25 can provide police protection and then apply and that's still not a given because you have

1 go through the Department Of Taxation. You have to go through the Committee on Local
2 Government Finance and you have to go through the Tax Commission and if the
3 Committee on Local Government Finance says you don't get anything, that's the end of the
4 road for you. There's no appeal of the Tax Commission after that.

5 So there is no -- it's a misconception if you think that just because you want to
6 have extra services, you automatically get extra money. You don't. The only other option
7 you've got, if you miss that one-year window which Fernley never made that, I mean
8 there's no way to comply with that really is to go into some kind of revenue sharing
9 situation with another local government. In 17 years of the C tax, that has not happened.
10 You would think if that was such a great remedy that someone would have done it but
11 there have been two times when governments have shared, White Pine and Ely, flipped out
12 around on property tax and C tax revenues and there was a temporary change where
13 Mesquite got some more money because there had been some kind of admitted calculation
14 error. There's no other cases where services were shared for money.

15 So those are the options you have. Now, if Fernley were to say we want to have
16 another 20 police officers on the force, we want to have our own force, they would have to
17 find someone to fund that. They wouldn't get anymore C tax for it.

18 THE COURT: Well, that was my catch 22. They're almost damned if they do
19 and damned if they don't. I mean, if they expand and maybe they won't, if they do this to
20 some extent so.

21 MR. HICKS: And that's exactly the point is that these supposed ways of making
22 adjustments to your C tax are not real. They're illusory, that's how we've always looked at
23 it. You can't really get that adjustment under these things. No one ever has in 17 years, it's
24 a unique situation. You have a barricade.

25 If you come into the system after 1997 like Fernley did, you have a barricade to

1 an adjustment that nobody else has and we think that's intentional. We think that the
2 Legislature, the architects of the C tax system, they didn't want anyone else coming in
3 because they didn't want money coming out of their profits and that's why this case is very
4 similar to a case -- and this is on the Article IV, Section 21 argument, the Anthony case
5 that we cited in our briefs, it's right on point.

6 Actually, I've never once heard the state or the Legislature or the Department
7 even address that case. We point it out in our briefs repeatedly, it's a case that happened in
8 1978 and it's a very similar situation where the C tax is now. There was a tax system set up
9 that said the largest city in Clark County was going to get 68.5 percent of the tax revenues
10 in the county into perpetuity and everyone else would share whatever was left. That was
11 the problem that was a special local law and it was designed for one thing, it was designed
12 to protect the fiscal policy of Clark County in Las Vegas. The Nevada Supreme Court said
13 that's not sufficient. You can't -- that's not sufficient for violating the Constitution and the
14 General Uniform Clause.

15 So that case, to me, has always been right on point. I've yet to see it even be
16 addressed or rebutted at all. We think that that's the case that takes care of this under
17 Article IV, Section 21.

18 THE COURT: You disagree with the fact that the concept of the C tax was to
19 encourage and be an incentive to cities and towns to provide additional services?

20 MR. HICKS: I think that may have been the articulated purpose, it certainly has
21 not been the result of this because if you -- if the idea was to reward people for taking on
22 additional services, you would think there would be some kind of mechanism to do that
23 where it wouldn't require people to give something up, that's always been the problem. No
24 one wants to give anything up. It's a system that is just designed to be locked in place to
25 what was in 1997 through the current date and that's what we see. that's why you see places

1 like Boulder City, they have increased very small amounts in population and they have
2 gone about \$2.6 million dollars up in C tax. Fernley has gone up \$3,000 after going up
3 almost \$10,000 people.

4 So the system I think has worked to the extent of reducing the competition
5 because it's eliminated the competition, it's just that you're in with what you've got and
6 you're not going to get any more and there's no real option around it. The only way you
7 can get an adjustment, the only way we've ever seen an adjustment is like I mentioned
8 before, was when the City of Henderson got a four million dollar adjustment to their base
9 and that happened because their legislator was the Speaker of the Assembly at the time. If
10 you have the political clout, you can do it, if you don't, you get nothing and that's another
11 hallmark of a special and local law.

12 When you've got a small place that's politically isolated, you get stuck with these
13 systems, and Fernley has tried. They've done what they can. They've gone to the
14 Legislature. They've attempted to get changes there. They've gone to the Department.
15 They've gone to Lyon County. They've gotten nowhere. We're here as a last resort. These
16 are constitutional problems, it's a very significant case for Fernley. It's a significant case
17 for the state and that's why we're here asking for relief, your Honor.

18 THE COURT: Thank you.

19 Mr. Powers, any final comments?

20 MR. POWERS: Yes, you Honor and I will try to make this as brief as possible.
21 Thank you.

22 One thing lacking from Fernley's briefs and its arguments today is how the law
23 violates the Constitution. There's no connection between their evidence and a
24 constitutional violation. They keep pointing to the objective that the money was supposed
25 to follow the growth. Well, the money, the excess money has followed the growth. As

1 Fernley has grown, its population and its assessed value has grown, the percentage increase
2 in its C tax base, based on this initial excess, has increased because its population and
3 assessed value has grown. So its excess -- so the goal here for the Legislature was that the
4 excess amount would follow the growth. So Fernley's increase in excess has been based on
5 its increase in growth.

6 THE COURT: The tier one funds, what are they based upon, the distribution?

7 MR. POWERS: The tier one funds are based on a set of statutory formulas that
8 the legislature established with the C tax system. They just determined, based on the
9 existing population and a series of statutory steps, how to determine how each county got
10 their initial C tax distribution.

11 I think one thing to point out too is that there are several counties who are
12 exporters of C tax revenue. For example, the citizens of Clark County pay more state C tax
13 than goes back to the county. So there's not an equitable distribution.

14 THE COURT: That's the argument you hear at the State Legislature is that
15 they're paying more money and getting less services.

16 MR. POWERS: But the point to be had is that Fernley is not the only city or the
17 only county that can complain of some sort of disparity but that disparity is based on policy
18 determinations the legislature made, but those policy determinations in their wisdom does
19 not result in a constitutional violation, that's what's missing.

20 Fernley is asking the court to judge the wisdom and the fairness of the legislative policy tax
21 determination. Even if the Legislature's current law as the C tax statutes don't meet the
22 stated objectives from 1997, that makes it an ineffective law, not an unconstitutional law.
23 The remedy for an ineffective law is redress before the Legislature, but that's a policy
24 determination for the Legislature to make. Ineffective laws do not become unconstitutional
25 laws because a city or any other political subdivision thinks they're unfair and certainly

1 that's not the rule of the judiciary in the separation of powers. Policy determinations about
2 tax distribution are for the Legislature to determine.

3 So under the C tax, Clark County receives less back in C tax than its citizens
4 actually pay but that's the legislative determination that the Legislature made as a matter of
5 policy and it doesn't result in a constitutional violation. But the fact of the matter is there's
6 more than one objective to this C tax statute. It wasn't just the excess revenue should
7 follow th growth, it was also to discourage cities from incorporating if they didn't provide
8 those general purpose governmental services.

9 Laced throughout the legislative history from 1997 is referenced time and time
10 again the general governmental services. So real quickly on LCB00031, part of our
11 exhibits, Marvin Levitt who is part of the Advisory Committee who was instrumental in
12 helping the Legislature formulate these laws, talks about the importance of general
13 governmental services and general governments in general. They're the ones that provide a
14 wide variety of the services. You know, normally they have police, fire, parks, planning
15 and all the services we normally associate with general purpose government. Because of
16 that, there's been a feeling that general purpose government is the desirable of all the little
17 forms of government we have because they can make a conscious decision on an annual
18 basis about service levels.

19 THE COURT: Well, let me ask you this, and it's a question I want to ask Mr.
20 Hicks too.

21 Based on the briefs and the arguments and everything else, do you believe we're
22 dealing with legal issues that the court can determine on Motions For Summary Judgment
23 or do you believe there's a need to have a trial to provide any additional information?

24 MR. POWERS: There's absolutely no need for a trial. They have not presented
25 any issues of fact that are disputed here. There are no issues of fact that are in dispute. All

1 of their documentation deals with their service level needs that Fernley provides. The state
2 doesn't dispute that but that evidence, to the extent it's relevant, doesn't result in a
3 constitutional violation, it has nothing to do with the issue of law. The fact that Fernley
4 doesn't have the same supposedly, according to them, the ratio of police to citizens does
5 not result in a separation of powers violation, and the fact that there's a lower police to
6 citizen ratio, how does that make it a special or local law, it doesn't.

7 Fernley has misconstrued the whole concept of a special and local law here.
8 This is a textbook example of a general law. On the face of the statutes, they all apply
9 across the board to enterprise districts, special districts, cities, towns and counties and yes,
10 there are classifications and right now, Fernley is a class of one but there's nothing
11 unconstitutional about a class of one as long as the distinction is based upon a rational
12 intrinsic difference and that rational intrinsic difference here is that Fernley does not
13 provide the same level of general governmental services.

14 Once again, Fernley refers to those three cities, Boulder City, Mesquite and
15 Elko. Attached to the Department of Taxation's Motion to Dismiss as Exhibit 1 is a list of
16 the public safety costs of Boulder City, Mesquite and Elko compared to the public safety
17 costs of Fernley. Each of those cities, Boulder City, Mesquite and Elko has public safety
18 costs for fire and police protection including those of over eight million dollars. Fernley
19 doesn't have anywhere near that. They don't have police and fire protection so their public
20 safety costs in that category is zero.

21 So those three cities are providing general purpose revenue -- I mean general
22 purpose services costing them eight million dollars annually and therefore, they receive a
23 larger C tax distribution. Fernley does not provide those services, it receives a smaller C
24 tax distribution, that is an obvious essential and rational distinction between those other
25 cities and Fernley.

1 And just about the Fire Protection District, the Fire Protection District for the
2 City of Fernley, it receives its own C tax because it's a special district. Fernley actually
3 asked the Legislature, it went to the Legislature and asked that the Fire Protection District
4 stay in the City of Fernley. There's a law in Chapter 266 that requires a 266 city like
5 Fernley generally to provide its own fire department. Fernley asked for an exception for
6 that because it didn't want to provide its own Fire Protection District.

7 So there's a special exception just for Fernley that allows it to not provide its
8 own fire services but to continue to receive the fire services from the Lyon County Fire
9 Protection District.

10 THE COURT: Are those funds to the Fire Protection District, are they part of
11 the Lyon County C tax?

12 MR. POWERS: They are, your Honor, that would be part of the tier two
13 distribution. It goes into Lyon County and the Fire Protection District is entitled to a slice
14 of Lyon County's C tax.

15 THE COURT: Thank you.

16 Any additional comments?

17 MR. POWERS: Just a few more, your Honor.

18 Fernley's statement that it's not entitled to an increase of C tax if it assumes
19 services of another government is, as a matter of law, wrong on its face based on the
20 statutes. The statute is N R S-354.598 747. That statute provides, "To calculate the
21 amount to be distributed pursuant to the C tax from a county sub account to a local
22 government that assumes the functions of another local government, the Department of
23 Taxation shall add the amounts calculated under the C tax to each of those local
24 governments that assumes the functions."

25 And it's not just limited to fire or police, it's any functions of another local

1 government. So Lyon County could assume all park responsibilities -- I'm sorry, the City
2 of Fernley could assume all park responsibilities from Lyon County and they would be
3 entitled to an increase in the C tax because they assumed those functions. So there is a
4 direct requirement in the law when a city assumes the functions that they get additional C
5 tax.

6 Now, the other provision where you provide police and fire protection and two
7 of the three fire protection parks and roads, that's a different statutory provision and there is
8 a process where you go through and make an application to the Committee on Local
9 Government and Finance, that is not an entitlement to increase C tax but the 354 statute is
10 an entitlement to increase C tax.

11 Fernley's point that if you stop providing services, then your C tax would not
12 decrease is not a valid point because if the City of Reno stopped providing police
13 protection, Washoe County would be required to provide it. The Washoe County Sheriff's
14 Office has a duty to provide any sort of police protection in an area of the county where it's
15 not provided. As soon as the City of Reno dropped its police services, Washoe County
16 would take over and then they would be entitled, under 354, to that C tax money that the
17 City of Reno would be getting.

18 So it's a fallacy of Fernley's that somehow you drop your services, they don't
19 exist anymore but you keep your C tax. The system is set up that once somebody else
20 takes over your services, you lose your C tax.

21 Finally, the Anthony case, your Honor, which the city of Fernley makes much
22 about but it's not even close to being on point. The legislation in the City of Las Vegas, the
23 Anthony case, let me get the name right, it's Anthony versus State of Nevada, it involved
24 Clark County. The law applied only to counties of population of 400,000 and more but the
25 key was it had a date limitation. Because of that date limitation, it didn't apply

1 prospectively. So as enacted, that law could only apply to Clark County and could only
2 apply to the cities in Clark County. Therefore, it was a textbook special or local law
3 because it was limited in time and location, that's not the case here. The C tax are not
4 limited in time and location. Any city that incorporates would be subject to the same
5 statutes as Fernley. Sure their circumstances will be different but each person's
6 circumstances doesn't make a law special, that makes the person's circumstances special
7 but those circumstances are applied to a general law. These C tax are a general law.
8 Regardless of the circumstances of each individual city, they're subject to the same
9 statutory requirements.

10 I also want to take a quick quote from the Anthony case. One of the reasons that
11 the Nevada Supreme Court struck it down, it says, "The population classification bears no
12 rational relation to the purpose of the legislation. "

13 As we mentioned before, it's the rational basis test. The Legislature's
14 determination to draw a line at July 1st, 1998 and say, "No city incorporating after this date
15 can get additional C tax money unless it provides these certain services or does these
16 certain things," there's a rational base for that, it discourages cities from incorporating just
17 to get more money. Instead, they have to incorporate and then provide additional services
18 and then they get more money. There's a rational basis for this classification, it was
19 lacking in the Anthony case. The Anthony case simply has no application.

20 Thank you, your Honor.

21 THE COURT: Mr. Hicks, any additional comments?

22 I want to ask you the one question I did ask; do you believe that there's any need
23 for a trial in this based upon the facts and the issues?

24 I am going to admit Exhibit 1. Exhibit 1 is admitted for purposes of this hearing.
25 I'm sure maybe there's an objection, but I'm not going to allow it for the hearing anyway.

1 In your opinion, do you think there's a need for this court to continue with a trial
2 or can the court -- I think -- they're legal issues in front of the court more than anything I
3 think

4 MR. HICKS: I think for the most part, they are legal issues, your Honor. There
5 maybe some questions of fact with respect to whether the state exercised due care. For the
6 purposes of the immunity statute, I think potentially damages kind of questions could be a
7 jury question. For the most part, I think generally it's a legal question for you. I think
8 that's why you saw the constant motions for summary judgment.

9 THE COURT: I kind of figured the cross motions would take care of this matter
10 in regards to this case so.

11 MR. HICKS: Your Honor, if I may just make a few comments, I'll try to be very
12 brief. I do have a couple more exhibits I want to put up just because they reference some
13 of the things that you just heard.

14 There was a comment there suggesting that you would somehow lose money or
15 you would get less C tax if you stopped providing the service. So what you have here is an
16 excerpt from the Person Most Knowledgeable from the Department of Taxation. You can
17 see from the question and answer that that's not the case at all. If you discontinue a
18 service, does it effect their rates, it doesn't, that's the answer, that's correct. As long as you
19 were in in 1997, you can do whatever you want with your services, it doesn't really matter.
20 You can lay people off. You can do anything. Those kind of things aren't going to effect
21 you.

22 Another one I wanted to bring here to your attention, your Honor, this is an
23 interrogatory. You've heard a lot today about how critical it is that these services are
24 provided, suggestions that Fernley is not providing the correct services. This was an
25 interrogatory that we sent early on in this case, Interrogatory Number 19 was responded to

1 you by the Department of Taxation and Treasurer. You can see we asked the very basic
2 question, "If you're claiming that C tax distributions to Fernley, Nevada are based in any
3 way on the provision of public safety under government services, please set forth each and
4 every fact that would support such a claim."

5 The answer, "C tax distributions to Fernley, Nevada are not based on the
6 provision of public safety or other government services period." So you've got -- and it
7 may talk about how you can get some adjustments but the answer is right there that
8 services are irrelevant, it's not a pertinent discussion point, it's really a red herring and
9 that's why the system has been designed all along to make sure that whoever was in there
10 in 1997 indicating that they're getting what they're getting without changing it.

11 So here's another example from an expert from the Department of Taxation's
12 Most Knowledgeable Person and this has to do with when the bases were set. So you can
13 see right here, "If I was a city that was participating in the program and received money
14 prior to the C tax but maybe not based on the C Tax, there's no requirement by the police
15 department or fire department or any of these other services you listed, correct?" Answer,
16 "That's correct." So again, service is irrelevant to the setting of C tax in the first place.

17 Finally, I had said earlier, your Honor, that it's really self evident if you grow in
18 size and how that effects your services. This is a deposition of Mr. Russel Gindon. He was
19 the Person Most Knowledgeable for the Nevada Legislature and he acknowledges that fact.
20 If you're -- "Would you agree or disagree with the idea that the level of government
21 services and function grows as the population grows?"

22 "Yes."

23 "In this particular instance, what SB 254 of the C tax is trying to do is make sure
24 the money goes where you have population grown in certain cities?"

25 "Correct."

1 As we can see from Exhibit 1, that has not happened from our expert reports as
2 well. There was discussion too about Mr. Levitt. Mr. Martin Levitt is the chairperson of
3 the committee that made the recommendations. We pulled out a comment that he made in
4 2001 actually the minutes from an Advisory Committee, Legislative Committee studying
5 the distribution of the C tax. You see right here he's saying, "Where a government in the
6 county is growing much more rapidly than the revenue growth, the formula needs to work
7 on a long-term basis on entities, on entities that are not growing at all, and some place in
8 between. If it does not work for all three, then it's deficient and that's what we have here.

9 We have a constitutionality deficient system and the Anthony case -- actually, I
10 believe what it did not provide just to Clark County was the county that was over 200,000
11 in population. So it was potentially applicable anywhere. But the situation here is the
12 same. If the Legislature went out and passed a law that said what you're getting in 1997 is
13 what you'll get forever and you're not going to get any changes to it, that's what they did
14 with the C tax, that's the system that we've got. It's the same situation as Anthony, it's
15 unconstitutional for the same reasons and it burdens Fernley in the way it burdens nobody
16 else, it's the only city to incorporate, it's a small rural city that does not have political clout.
17 It does not garner a lot of sympathy when they're out there and as you've seen, they have
18 services that are severely impacted by this and no real options to do anything. No one is
19 going to give them any money. Lyon County is not interested in giving them money.
20 They've been unsuccessful at the Legislature. The Department has told them and it's one of
21 our exhibits, Exhibit 24 in our motion, that those are your options and if you don't get that,
22 then you're out of the luck.

23 That's why we're here and that's why we're asking your Honor to find the
24 constitutional violation that we believe is self-evident in this case.

25 THE COURT: Okay. Thank you.

1 Well, first of all, thank you for the excellent briefs, on behalf of everybody in
2 regards to that and the arguments. We don't often get excellent briefs and arguments I will
3 tell you and I appreciate it very much in regards to this matter.

4 First of all, I do think there's an issue in regards to the statute of limitations
5 based upon the Supreme Court's decision in effect to when the Supreme Court granted in
6 part and denied in part the Writ of Mandamus. They stated in regards to Fernley's federal
7 constitutional claims that the district court was obligated under clear authority to dismiss
8 the federal constitution claims because the city was required to bring its federal
9 constitution claims within two years of its incorporation and its failure to do so renders
10 those claims barred by the statute of limitations.

11 It's clear to the court that the statute of limitations clock then based upon that
12 Supreme Court writ started to run when Fernley was incorporated. There can't be a
13 different standard, it either ran on the federal constitution claims as well as the state claims
14 in respect to that. Fernley is correct that the Nevada Supreme Court has not determined
15 which limitations period applies to state constitution claims. However, the defendant
16 Legislature is also correct that the legislative determined limitation period is four years
17 unless a different period is provided by specific statute.

18 There's no specific statute on point. So the court is convinced that the applicable
19 statute of limitations in regard to this matter is four years. Fernley had four years from
20 2001, when it was incorporated, in which to bring this lawsuit. Fernley failed to do so.

21 Additionally, the court is going to go ahead and provide comments with respect
22 to the causes of actions because in case the Supreme Court -- I think Mr. Powers is correct,
23 in case they decide I'm wrong in regards to the statute of limitations issue, I think it's
24 important that I at least comment on those additional claims for relief.

25 Claim one, basically also dealt with the order granting in part and denying in

1 part the Petition for Writ of Mandamus where the Nevada Supreme Court basically
2 dismissed that claim.

3 Claim two, violation of the separation of powers clause of the Nevada
4 Constitution. In respect to that particular claim in regards to that, the court is not
5 persuaded by Fernley that it does not have standing to bring a separation of powers claim
6 against the state. The separation of powers clause in the Nevada Constitution does not
7 exist for the protection of political subdivision of the state. Second, even if Fernley did
8 have standing, the court has determined that Fernley's claim of relief is without merit.
9 Executive branch acting through the Department of Taxation and the Treasurer is merely
10 executing the C tax statutes as delegated at the delegation of the Legislature. All
11 distributions under the C tax system are done in accordance with specific statutory
12 formulas which the Legislature codified at N R S-360.600 to N R S-360.740. The
13 Department of Taxation and Treasurer can only apply their findings based upon the fiscal
14 data to the mathematical equations to arrive at the exact amount to be appropriated which
15 has been indicated except for maybe one little small discretionary amount which doesn't
16 sound to me like -- it's being applied, at least from the court's view, fairly. Therefore
17 contrary to Fernley's assertion, there's legislation participation, oversight and guidance in
18 the collection appropriation process.

19 It is the court's determination that defendant's Motion for Summary Judgment
20 with regards to Fernley's second claim of relief should be granted and Fernley's Motion For
21 Summary Judgment with regard to the second claim for relief should be denied.

22 Claim three, creation of a special law in violation of Article IV, Section 20 of
23 the Nevada Constitution. According to Article IV, Section 20 of the Nevada Constitution,
24 the Legislature shall not pass local or special laws in any of the following enumerated
25 cases that is to say for the assessment of collection of taxes for state, county and township

1 purposes. Here in their opposition to the Fernley's Motion For Summary Judgment, the
2 Legislature also argues that the C tax statutes apply statewide to all similarly situated local
3 governments. So the C tax statutes are general laws not local laws or special laws.

4 The court believes that -- well, the court is not persuaded that the C tax system is
5 a special or local law. The C tax system applies to the same to all similarity cities and
6 towns. Just because Fernley refuses to supply the necessary services in order to obtain
7 more revenue from the C tax system does not mean that Fernley is treated unfairly. The
8 court sympathizes with Fernley's circumstances and again, I think there's no doubt and I
9 said this earlier in the court's mind that the City of Fernley is entitled to additional public
10 services but it seems to the court the answer lies with the legislature or it additionally lies
11 with Lyon County which is receiving those C taxes. Unfortunately, Fernley is not
12 receiving that but that does not mean that the C tax system is a special or local law in
13 violation of Article IV, Section 20 of the Nevada Constitution.

14 Therefore, it is this court's determination that the defendant's Motion For
15 Summary Judgment with regard to Fernley's third claim for relief should be granted and
16 Fernley's Motion for Summary Judgment with regard to third claim of relief shall be
17 denied.

18 Claim four, violation of Article IV, Section 20 of the Nevada Constitution.

19 According to Article IV, Section 21 of the Nevada Constitution, all laws shall be
20 general and of uniform operation throughout the state. The court is in agreement in respect
21 to this that basically, I agree with Fernley that a general law could have been implemented
22 instead of the C tax system. The six taxes could have been distributed to cities and towns
23 based upon population, for example. However, the purpose of the C tax system was to
24 encourage and an incentive to towns and cities to provide necessary services to their
25 citizens. Distributing the six taxes funds to the cities and towns without any consideration

1 to whether or not they were providing necessary services would have defeated the entire
2 purposes of the legislation in this particular case.

3 The court agrees with the defendants that the C tax system best serves the
4 interest of the people of the State of Nevada as a whole by making sure necessary services
5 are being provided. Therefore, under the Clean Water Coalition and Resort L.L.C. case
6 because a general law would be insufficient to serve the underlying purpose of the C tax
7 system because the C tax system best serves the interest of the people in the State of
8 Nevada, the court has determined the C tax system does not violate Article IV, Section 21
9 of the Nevada Constitution.

10 It is this court's determination that defendant's Motion For Summary Judgment
11 with regard to Fernley's fourth claim of relief should be granted and in that Fernley's
12 Motion For Summary Judgment with regard to the fourth claim of relief should be denied.

13 Additionally, claim five is basically handled and taken care of by the order
14 granting in part, and denying in part the Writ of Mandamus that was issued by the Nevada
15 Supreme Court on January 30, 2013.

16 The court also believes that according to N R S-41.0312, that basically it does
17 apply in regards to the individual entities in regards to that application in regard to any
18 damage claims in respect to any matter in regards to that. I'm not sure N R S-41.032 Sub 2
19 is even applicable to this case in regards to that.

20 Again, I'm not going to address laches. I'm not sure it really applies but I do
21 believe the statute of limitations is probably the overall basis in denying it but I do think it
22 was appropriate to address the other issues in case the Nevada Supreme Court could take a
23 look at this matter.

24 Mr. Powers, you'll prepare the order for the court in respect to these two
25 motions. Any further comment?

1 MR. VELLIS: Your Honor, would we be allowed to see the order before it's
2 submitted?

3 THE COURT: Absolutely. Our rule does provide under our local rules, that it's
4 the right of the other counsel they have five days to review it and then provide it to the
5 court.

6 MR. POWERS: And your Honor, may I suggest another procedure might
7 facilitate it because we've worked well with counsel. We will draft the order, provide them
8 with a copy and work to come up with a mutually agreed proposal and then submit it to
9 you. If we can't come up with a mutually agreed proposal, we'll submit it with their
10 objections.

11 THE COURT: That's fine with the court.

12 MR. VELLIS: That's agreeable, your Honor.

13 THE COURT: And additionally, the Motion for Reconsideration is denied. The
14 court feels it's moot in respect to the order of the court in respect to this particular matter.

15 So thank you all again for the excellent argument. Again, my sympathies go out
16 for the City of Fernley, it really does. Mr. Goodman and people of Fernley, I sympathize
17 with them but I just don't believe that the answer is holding these statutes unconstitutional.
18 I think the answer is going to Lyon County and maybe bringing an action against Lyon
19 County for not doing the right things in regards to providing Fernley the necessary funding
20 that they should be entitled to.

21 I'm just making that comment where going to the legislature but again, when you
22 sit there and you take the same piece of pie and that piece of pie is going to Lyon County,
23 I'm not sure you can get anywhere anyway because the other counties would have an
24 impact in regards to that piece of pie and arguing now you're taking away our piece of pie
25 and we weren't even noticed on it. So that concerns the court as well in this case.

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So thank you again. Court will be in recess.

(Whereupon the proceedings were concluded.)

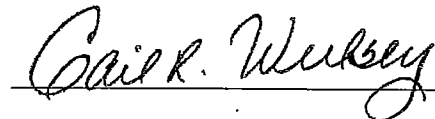
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STATE OF NEVADA)
) SS.
COUNTY OF WASHOE)

I, GAIL R. WILLSEY, do hereby certify:

That I was provided a JAVS CD and that said CD was transcribed by me, a
Certified Shorthand Reporter, in the matter entitled herein;

That said transcript which appears hereinbefore was taken in stenotype notes by
me from the CD and thereafter transcribed into typewriting as herein appears to the best of
my knowledge, skill and ability and is a true record thereof.



GAIL R. WILLSEY, CSR #359

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Appellant,

vs.

THE STATE OF NEVADA ex rel.
DEPARTMENT OF TAXATION;
THE HONORABLE DAN
SCHWARTZ, in his official capacity
as TREASURER OF THE STATE OF
NEVADA; and THE LEGISLATURE
OF THE STATE OF NEVADA,

Respondents.

Supreme Court No.: 66851

District Court Case No.: 12 OC 00168 1B

JOINT APPENDIX

VOLUME 23 PART 3

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| 7 | Stipulation and Order for an Extension of Time to File Responses to Discovery Requests; Extend Certain Discovery Deadlines and Extend Time to File Dispositive Motions | Parties/First Judicial District Court | 04/11/14 | 1410-1413 |
| 7 | Stipulation and Order Regarding Change of Briefing Schedule and Plaintiff's Response to Defendant's Motion to Strike Plaintiff's Jury Demand | Parties/First Judicial District Court | 02/19/14 | 1403-1405 |
| 12 | Stipulation and Order Regarding Change of Briefing Schedule and Setting Hearing for Oral Argument | Parties/First Judicial District Court | 06/25/14 | 2046-2048 |
| 7 | Stipulation and Order Regarding Defendant's Motion to Strike Plaintiff's Jury Demand | Parties/First Judicial District Court | 10/23/13 | 1400-1402 |
| 3 | Stipulation and Order Regarding Joinder to Motion to Dismiss | Parties/First Judicial District Court | 09/18/12 | 658-661 |
| 23 | Transcript of Hearing | Court Reporter | 01/07/15 | 4213-4267 |
| 7 | Writ of Mandamus | Nevada Supreme Court | 01/25/13 | 1371-1372 |

1 or relate in any way to the subject matter of the specified allegations, including, but not limited to,
2 the following:

3 a. Documents which may identify or refer to persons, whether specifically
4 named or not, with knowledge of the subject matter of allegations and/or defenses;

5 b. Documents which may identify or refer to persons or entities, whether
6 specifically named or not, which have custody of documents which are otherwise called for in the
7 particular request;

8 c. Documents which may identify or refer to persons or entities, whether
9 specifically named or not, which participated in the events which constitute the subject matter of
10 the allegations and/or defenses;

11 d. Documents which may identify persons or entitled, whether specifically
12 named or not, who are referred to, directly or indirectly, in the allegations and/or defenses;

13 e. Documents which may identify or refer to other documents which are
14 otherwise called for by the particular request;

15 f. Documents generated or prepared by any person to memorialize any event
16 which constitutes part of the subject matter of the allegations and/or defenses;

17 g. Documents which may constitute evidence of any aspect of the allegations
18 and/or defenses, including, but not limited to, any and all lease documents where the allegations
19 relate to any lease; and

20 h. Any documents which may otherwise support or contradict the allegations
21 and/or defenses.

22 4. When used herein, the term "C-Tax" or "C-Tax System" shall refer to the Local
23 Government Tax Distribution Account, and the collection and distributions of taxes therein,
24 created pursuant to NRS 360.660.

25 5. When used herein, the term "Tier 1" shall mean C-Tax distributions on a county-
26 level pursuant to NRS 370.260, 369.173, 482.181, 375.070, 377.055, and 377.057.

27 6. When used herein, the term "Tier 2" shall mean C-Tax distributions to a local
28 government pursuant to NRS 360.680.

7. When used herein, the term "public safety" shall mean police protection or fire protection provided by a local government as used in NRS 360.740.

8. When used herein, the term "local government" means those governmental entities as defined in NRS 360.610 to NRS 360.650.

9. When used herein, "Senate Bill 254" or "SB 254" means Senate Bill 254 of the 1997 Legislative Session which created the C-Tax system and is codified generally in NRS 360.600 through 360.740.

10. As used herein, the terms "C-Tax Revenue", "C-Tax Revenues", or "revenue distribution" refers to all C-Tax distributions.

11. As used herein, the term "formula for revenue distribution" means the formula established initially by SB 254 and codified generally as NRS 360.600 through 360.740, and used to allocate C-Tax to local governments.

12. As used herein, the term "prior formula for revenue distribution" means the formula for distribution of revenue to local governments utilized by the State of Nevada prior to the effective date of SB 254.

13. As used herein, the terms "distribute" or "distributing" shall have the meaning ascribed to those terms as codified in NRS 360.600 through 360.740.

14. As used herein, the terms "population" or "citizen population" shall have the meaning ascribed to those terms as codified in NRS 360.600 through 360.740.

15. As used herein, the term "date" means the exact day, month, and year, if known, or if not known, your best approximation thereof. If the exact date is not known, but your response includes your best approximation of the date, please indicate that it is an approximation.

REQUESTS FOR PRODUCTION

REQUEST NO. 28. Please produce any and all tentative and final budget files submitted by each local governmental entity and special district for fiscal years 2013 and 2014, including but not limited to, the documents referenced by Warner Ambrose during his deposition taken on December 12, 2013. (Please see the Deposition Transcript for Warner Ambrose, pages 52 through 56).

1 **REQUEST NO. 29.** Please produce any and all files or agreements related to inter-
2 local/cooperative agreements proposed or executed between local governmental entities, for the
3 period 1997 to the present, including but not limited to, the documents referenced by Warner
4 Ambrose during his deposition taken on December 12, 2013. (Please see the Deposition
5 Transcript for Warner Ambrose, pages 37 through 42).

6 **REQUEST NO. 30.** Please produce any and all incorporation documents maintained or
7 in possession of the Committee on Local Government Finance or the Nevada Department of
8 Taxation for the period 1997 to the present, including but not limited to, the documents
9 referenced by Warner Ambrose during his deposition taken on December 12, 2013. (Please see
10 the Deposition Transcript for Warner Ambrose, page 8, lines 6-25; page 9, lines 1-5).

11 **REQUEST NO. 31.** Please produce any and all expenditures of local governments for
12 lobbying activities submitted by Lyon County, Storey County, Douglas County and Carson City
13 to the Nevada Department of Taxation in compliance with NRS 354.58803 for the years 1997
14 through 2013.

15 **REQUEST NO. 32.** Please produce a current copy of the budget form that is provided by
16 the Department of Taxation to local governments for submission of tentative yearly budgets and
17 as referenced by Warner Ambrose during his deposition taken on December 12, 2013. (Please see
18 the Deposition Transcript for Warner Ambrose, page 51, lines 16-25).

19 **REQUEST NO. 33.** Please produce any and all files kept by the Department of Taxation
20 and/or the Local Government Finance section of the Department of Taxation which contain
21 materials or relate in any way to any attempt by the city of Fernley to incorporate.

22 **REQUEST NO. 34.** Please produce the entire file and all materials related in any way to
23 the Local Government Finance hearing on March 27, 2000, and/or the transcript of such hearing
24 that was introduced and marked as exhibit number 2 at the deposition of the Fernley Mayor taken
25 on January 10, 2014 as part of this litigation.

26 **REQUEST NO. 35.** Please produce any and all materials related to hearings of the Local
27 Government Finance Committee wherein C-Tax matters were agendized, presented, discussed or
28

1 were in any way part of any item considered by the Local Government Finance Committee from
2 the period 1997 to the present.

3 DATED this 11th day of March, 2014.

4 BROWNSTEIN HYATT FARBER SCHRECK, LLP

6
7 By: 

8 Joshua J. Hicks, Nevada Bar No. 6679
9 Clark V. Vellis, Nevada Bar No. 5533
10 50 West Liberty Street, Suite 1030
11 Reno, Nevada 89501
12 Telephone: 775-622-9450

13 *Attorneys for the City of Fernley, Nevada*
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 11th day of March, 2014, I caused to be served via hand delivery, a true and correct copy of the above foregoing **PLAINTIFF'S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS TO THE STATE OF NEVADA DEPARTMENT OF TAXATION** properly addressed to the following:

Andrea Nichols, Esq.
Office of the Attorney General
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
anichols@ag.nv.gov

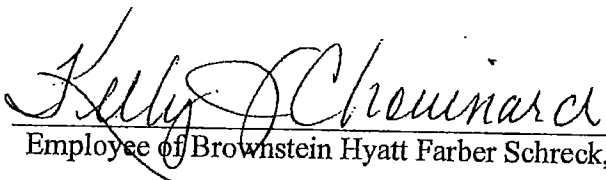

Employee of Brownstein Hyatt Farber Schreck, LLP

EXHIBIT 13

EXHIBIT 13

Case No. 66851
JA 4173

Case No. 66851
JA 4174

| Day | Special Off Database TT | Transactions | Docs/Lines | Connect Time | Standard Charge |
|------------|-------------------------|--------------|------------|--------------|-----------------|
| 04/10/2014 | Included | 0 | 5 | 4514 0 | 241.39 |
| 04/10/2014 | | 0 | 5 | 4514 0 | 241.39 |
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| 04/17/2014 | Included | 0 | 9 | 990 0 | 200.00 |
| 04/17/2014 | | 0 | 9 | 990 0 | 200.00 |
| 04/18/2014 | Included | 0 | 5 | 238 0 | 134.15 |
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| 07/10/2014 Included | 0 | 15 | 0 0 | 168.00 |
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| 07/11/2014 Included | 0 | 7 | 0 0 | 96.00 |
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| 08/05/2014 | 0 | 1 | 0 0 | 9.00 |
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| 09/30/2014 | 0 | 11 | 0 0 | 90.00 |
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| 10/02/2014 Included | 0 | 4 | 0 0 | 36.00 |
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| | 0 | 423 | 12327 0 | 5900.97 |

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Attorneys for the City of Fernley, Nevada

IN THE FIRST JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR CARSON CITY

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Plaintiff,

v.

STATE OF NEVADA ex rel. THE NEVADA
DEPARTMENT OF TAXATION; THE
HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
STATE OF NEVADA; and DOES 1-20,
inclusive,

Defendants,

NEVADA LEGISLATURE,

Intervenor.

Case No.: 12 OC 00168 1B

Dept. No.: I

**PLAINTIFF'S MOTION TO STRIKE, OR ALTERNATIVELY, MOTION TO RETAX
COSTS**

REC'D & FILED

2014 OCT 14 PM 3:34

ALAN GLOVER

BY C. GRIBBLE CLERK
DEPUTY

COMES NOW Plaintiff CITY OF FERNLEY, NEVADA (hereinafter "Fernley"), by and through its attorneys of record the law firm Brownstein Hyatt Farber Schreck, LLP and hereby moves to strike, or alternatively, moves pursuant to NRS 18.110(4) to retax and settle the costs claimed by the State of Nevada *ex rel.* its Department of Taxation (the "Department") in its Amended Memorandum of Costs and Disbursements dated October 9, 2014. Fernley's motions are based on the following memorandum of points and authorities, all other pleadings, papers, and documents on file with the Court in this action, such further documentary evidence as the Court deems appropriate, and the arguments of counsel at any hearing on this motion and opposition.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND RELEVANT FACTS¹

On September 2, 2014, at the conclusion of a hearing, the Court ruled from the bench granting summary judgment in favor of the Department and the Nevada Legislature. On September 19, 2014, the Department—as a prevailing party—submitted a Motion for Costs and a Memorandum of Costs and Disbursements, seeking \$8,698.31 in costs from Fernley ("First Cost Request"). On September 24, 2014, Fernley filed a motion to retax costs and an opposition to the Department's motion for costs. On October 2, 2014 the Department filed an opposition to Fernley's motion to retax costs and admitted that its First Cost Request was inappropriately filed before the entry of judgment. (Department's Opposition to Motion to Retax Costs and Reply to Opposition to Motion for Costs, 3.) ("In its Motion to Retax Costs and Opposition to Motion for Costs Fernley first argues that the Department's request is premature. The Department agrees."). However, the Department did not withdraw and has not withdrawn its First Cost Request, and as such the First Cost Request is still pending with this Court. Accordingly, Fernley was required to incur the time and expense of responding to a request from the Department which the Department admits was untimely.

On October 6, 2014, this Court issued an Order and Judgment. In that Order and Judgment, the Court acknowledged the First Cost Request and stated that "the Court will decide

¹ The parties and their claims are well-established in the Court record. Thus, the following will address the procedural history relevant to the Department's instant request for costs.

1 the disputed issues concerning an award of costs and disbursements in a post-judgment order as
2 permitted by Nevada's Civil Rules. NRCP 58(c)." Order and Judgment, 51.

3 On October 8, 2014, the Legislature filed a Notice of Entry of Order and Judgment.
4 Thereafter, on October 9, 2014, the Department filed an Amended Memorandum of Costs and
5 Disbursements ("Second Cost Request") seeking \$8,489.04 in costs. As set forth below, the
6 Second Cost Request should be stricken as a rogue document and the First Cost Request denied
7 as untimely and on its merits.

8 To the extent this Court does not strike the Second Cost Request, it should be denied on
9 its merits for several reasons. First, costs should be denied based upon the unique nature of this
10 case. Second, the Department failed to provide documentation sufficient to support its claim that
11 the costs incurred were reasonable, and failed to mitigate costs. Third, a significant portion of the
12 costs claimed fall outside those costs permitted by NRS 18.005. Finally, the City of Fernley is
13 immune from any monetary judgment the Department seeks against Fernley pursuant to NRS
14 41.032.

15 Thus, Fernley respectfully requests that the Court deny the Department's request for costs
16 and order that all parties should bear their own costs.

17 **II. ARGUMENT**

18 **A. The Second Cost Request Should Be Stricken**

19 As noted above, the Department has not withdrawn its First Cost Request. Moreover, the
20 Order and Judgment does not decide the First Cost Request, and also does not grant the
21 Department leave to file a second or amended request for costs. The Court cites to NRCP 58(c),
22 which provides that a judgment is effective once it is entered, and further provides that "[t]he
23 entry of the judgment shall not be delayed for the taxing of costs." Nothing in NRCP 58(c) or
24 this Court's Order suggests that a party is entitled to file multiple requests for costs, or even to
25 amend an initial request for costs. Nor does the Department cite to any authority which would
26 allow multiple or amended requests. The only sensible reading of the Order is that the Court
27 desired to enter judgment without delaying the matter further while the pending First Cost
28 Request was considered.

1 The Department filed its First Cost Request. That First Cost Request has not been
2 adjudicated and has not been withdrawn. As a prevailing party, the Department is entitled to
3 request costs, but it is not entitled to file multiple requests for costs in hopes of getting it right one
4 of those times. The Department's multiple requests only serve to increase the time and expense
5 Fernley and this Court must dedicate to this case.

6 The First Cost Request is pending before this Court. As admitted by the Department, it
7 was not filed timely. The First Cost Request should be denied for that reason alone and the
8 Second Cost Request (and any further cost requests from the Department) should be stricken as
9 fugitive documents. *See Radovich v. French*, 36 Nev. 341, 135 P. 920, 920 (1913)
10 ("Unquestionably, a court has jurisdiction to strike out a cost bill not filed within the time allowed
11 by law....")

12 **B. Standard for Claiming Costs.**

13 Assuming this Court considers the Second Cost Request on its merits, it should still be
14 denied for a variety of reasons.

15 NRS 18.020(3) provides that costs are allowed to a prevailing party and against an adverse
16 party in any action for damages where the plaintiff seeks to recover more than \$2,500. Although
17 this case has always been more about prospective constitutional relief for Fernley than for money
18 damages, Fernley did seek money damages in excess of \$2,500.

19 "The party in whose favor judgment is rendered, and who claims costs, *must file with the*
20 *clerk*, and serve a copy upon the adverse party, *within 5 days after the entry of judgment*, or such
21 further time as the court or judge may grant, a memorandum of the items of the costs in the action
22 or proceeding..." NRS 18.110(1) (emphasis added).

23 The amount of costs claimed must be "reasonable." *Waddell v. L. VR. V, Inc.*, 122 Nev.
24 15, 25, 125 P.3d 1160, 1166 (2006) (citing NRS 18.005). "The determination of which expenses
25 are allowable as costs is within the sound discretion of the trial court." *Bergmann v. Boyce*, 109
26 Nev. 670, 679, 856 P.2d 560, 565-66 (1993). District courts narrowly construe statutes allowing
27 the recovery of costs "because they are in derogation of the common law." *Bobby Berosini, Ltd.*
28 *v. PETA*, 114 Nev. 1348, 1352, 971 P.2d 383, 385 (1998).

1 Finally, a party claiming costs is required to provide sufficient documentation and other
2 material to show that the costs claimed were reasonably or necessarily incurred. *See id.* at 1352-
3 53, 971 P.2d at 386 (reversing a district court award for investigative fees, photocopy fees, long
4 distance phone costs, and jurors' fees because the party failed to show "how such fees were
5 necessary to and incurred in the present action" and failed to provide supporting documentation to
6 show that the fees "were accurately assessed" and reasonably incurred); *see also Waddell*, 122
7 Nev. at 25-26, 125 P.3d at 1166-67 (refusing to allow a party to recover costs for computerized
8 legal research "because those costs were not sufficiently itemized"); *see also Gibellini v. Klindt*,
9 110 Nev. 1201, 1206, 885 P.2d 540, 543 (1994) (the phrase "reasonable costs" as noted in the
10 statute is "interpreted to mean actual costs that are also reasonable, rather than a reasonable
11 estimate or calculation of such costs based upon administrative convenience").

12 C. **The Court Should Require All Parties to Bear Their Own Costs Due to the**
13 **Unique Nature of this Case.**

14 Assuming the Court considers the Second Cost Request, the Court should exercise its
15 discretion to deny the Department's request for costs and instead order each party to bear their
16 own costs. As the Court is aware, this case was a unique constitutional challenge to a tax
17 collection and distribution system in Nevada. It is significantly different from the type of cases in
18 which costs are routinely awarded – cases such as personal injury, breach of contract, and similar
19 cases.

20 As Fernley pointed out in briefs and at argument, it filed suit only as a last resort after
21 efforts to reach an administrative and legislative resolution were unsuccessful. At oral argument
22 on September 2, 2014, the Court, despite ruling against Fernley, expressed sympathy for
23 Fernley's situation, which has indisputably resulted in financial inequities for Fernley as
24 compared to other Nevada municipalities, leaving Fernley facing tremendous difficulties in
25 providing basic levels of service to its citizens. That situation should not be further exacerbated
26 by the Department's attempt to extract even more money from Fernley for attempting to protect
27 the best interests of its community and its citizens.

28 ///

1 Furthermore, Fernley has now incurred the time and expense to respond to two requests
2 for costs from the Department because of the Department's inability to file a timely request for
3 costs in the first instance. This factor also weighs in favor of the Court exercising its discretion to
4 deny the Department's requested costs.

5 As noted above, the determination of whether to award costs is within the discretion of the
6 Court. Fernley asks that the Court exercise that discretion in this unique constitutional case and
7 order that all parties bear their own costs.

8 A. The Department Failed to Provide Sufficient Documentation to Support its
9 Request for Costs.

10 The Department failed to provide sufficient documentation to show that the costs claimed
11 were actually and reasonably incurred. Under Nevada law, their failure to do so bars them from
12 recovering costs. *See Bobby Berosini, Ltd.*, 114 Nev. at 1352-53, 971 P.2d at 386.

13 Notwithstanding, assuming the Court allows the Department to recover costs (even though
14 its request is improper as noted above and should be denied pursuant to the Court's discretion),
15 certain items are plainly unreasonable and should be disallowed or reduced as more fully
16 described below.

17 I. *The Department's document for "Reporters' Fees for Deposition" and "Costs*
18 *for Travel and Lodging" does not satisfy the requirements of Nevada law.*

19 The Department claims \$2,809.90 for reporter's fees for depositions, including fees for
20 one copy of each deposition transcript.

21 Similarly, the Department claims \$1,169.72 in travel and lodging costs. The later request
22 is supported with a series of confusing and conflicting documents.² The printouts show differing
23 amounts claimed at different times, leaving Fernley and the Court to guess at which printouts
24 apply to which requested costs. Moreover, the request fails to explain the need for the
25 Department to send counsel to Las Vegas when the Attorney General maintains offices in Las
26 Vegas with competent counsel. It should be noted that the Department was not taking the

27 ² Notably, in its First Cost Request, the Department claimed \$3,163.15 for reporter's fees and requested \$1,025.74
28 for travel and lodging costs. The Department does not identify the discrepancy between the amounts claimed in the
First Cost Request to the Second Cost Request.

1 depositions that occurred in Las Vegas, nor were those depositions of Department personnel, so
2 surely the Department could have utilized one of the other Deputy Attorney Generals based in
3 Las Vegas and assigned to represent the Department to appear at those depositions. Moreover,
4 since the Department was not taking the depositions, and indeed the depositions in Las Vegas
5 were not even depositions of Department personnel, there was no obligation to even appear at
6 those depositions – the Department's choice to do so was purely voluntary.

7 Finally, as noted in Fernley's motion to retax costs on the Department's First Cost
8 Request, the Department failed to mitigate costs by leading Fernley to believe that one individual
9 would be able to testify as the Department's "person most knowledgeable," thus eliminating the
10 need for Fernley to conduct multiple depositions of Department personnel. It wasn't until the
11 deposition of Marian Hernderson was underway that the Department indicated that Ms.
12 Henderson would not in fact be able to comprehensively represent the Department. (Plaintiff's
13 Motion to Retax Costs and Opposition to Motion for Costs, filed September 24, 2014, Exhibit 2,
14 pages 12-23)

15 For all of these reasons, the Court should deny the Department's request due to its failure
16 to provide clear back-up documentation and otherwise mitigate costs.

17 **2. *The Department provides no documentation for its requests for discovery***
18 ***expenses and legal researcher expenses.***

19 The Department claims \$4,480.30 for expenses incurred by the Department to "organize
20 and scan documents in response to Plaintiff's discovery requests." (See Memorandum of Costs
21 and Disbursements, on file herein, at 2:4.).

22 In its First Cost Request, the Department failed to identify tasks completed, the persons
23 who completed the tasks, the amount of time taken to complete the tasks, how the hourly rate for
24 the work was appropriate, and whether the Department had to pay employees above and beyond
25 their normal rate of pay. The Department attempts to cure some of these defects in a new
26 affidavit filed with the Second Cost Request, but still falls far short.

27 The affidavit is void of any explanation of the tasks completed (stating only that time
28 was spent "on this project") or how the hourly rate for such work is appropriate, including

1 whether the work required the Department to pay employees above and beyond their normal rates
2 of pay. The State is generally not allowed to request reimbursement for the production of
3 documents that is undertaken within the ordinary overhead expenses of a state agency. *See*
4 Nevada Attorney General Opinion 2000-12 (April 6, 2000) ("Not every customized request will
5 require the extraordinary use of personnel or technological resources but if it does, and if a fee is
6 charged, the fee must be both reasonable and based on the cost the governmental entity *actually*
7 *incurs* for the extraordinary use of personnel or technological resources . . . The governmental
8 entity's ordinary overhead is not contemplated in the cost for reproduction of the public record
9 whether for existing records or for creation or reproduction of a customized record. ") (emphasis
10 added).³ The Department has made no showing whatsoever as to whether the cost request is
11 based on expenses incurred outside the ordinary overhead of the Department. Indeed, the
12 Department has made no showing whatsoever as to how the hourly rates of pay requested are
13 appropriate or were even determined.

14 Furthermore, the Department failed to identify when and how the expenses were incurred.
15 The Department's failure to provide any documentation in this regard prevents Fernley from
16 challenging the claimed expenses and further prevents the Court from determining whether the
17 expenses were reasonable and necessarily incurred. Accordingly, the Department's request for
18 discovery expenses should be denied for this reason as well.

19 Finally, the Department failed to provide any documentation to support its "legal
20 researcher" expenses of \$29.12. The information the Department provided in the Second Cost
21 Request via affidavit is vague and unclear. Apparently, the Department is requesting a
22 reimbursement for a travel expense incurred as a result of a document indexing project. The
23 affidavit fails to provide the Court with the information necessary in order to determine whether
24 the expenses were reasonable and necessarily incurred. Thus, the request should be denied.

25
26 ³ Although the opinion is in the context of Nevada's public records law, the documents provided by the
27 Department in this case pertain to tax reports or public hearings on tax matters, ~~which are public records.~~ *See also*
28 NRS 239.052(1) (providing that a fee for a public record "must not exceed the actual cost to the governmental entity
to provide the copy of the public record unless a specific statute or regulation sets a fee that the governmental entity
must charge for the copy.").

1 **B. The Department's Claimed Costs are not Recoverable Under NRS 18.005.**

2 Although the Department's claimed costs for travel and lodging, reporters' fees, deposition
3 transcript costs and legal research facially appear to qualify as recoverable costs pursuant to NRS
4 18.005, those requests should be denied for the reasons set forth above. Additionally, the
5 Department's claimed expenses of \$4,480.30 for organizing and scanning documents, which the
6 Department characterized as "man-hours" in the First Cost Request, are not recoverable under
7 NRS 18.005.

8 Costs that can be awarded pursuant to NRS 18.020(3) are defined as follows:

9 [T]he term "costs" means:

- 10 1. Clerks' fees.
- 11 2. Reporters' fees for depositions, including a reporter's fee for
12 one copy of each deposition.
- 13 3. Jurors' fees and expenses, together with reasonable
14 compensation of an officer appointed to act in accordance with
15 NRS 16.120.
- 16 4. Fees for witnesses at trial, pretrial hearings and deposing
17 witnesses, unless the court finds that the witness was called at the
18 instance of the prevailing party without reason or necessity.
- 19 5. Reasonable fees of not more than five expert witnesses in an
20 amount of not more than \$1,500 for each witness, unless the court
21 allows a larger fee after determining that the circumstances
22 surrounding the expert's testimony were of such necessity as to
23 require the larger fee.
- 24 6. Reasonable fees of necessary interpreters.
- 25 7. The fee of any sheriff or licensed process server for the
26 delivery or service of any summons or subpoena used in the action,
27 unless the court determines that the service was not necessary.
- 28 8. Compensation for the official reporter or reporter pro tempore.
9. Reasonable costs for any bond or undertaking required as part
 of the action.
10. Fees of a court bailiff or deputy marshal who was required to
 work overtime.
11. Reasonable costs for telecopies.
12. Reasonable costs for photocopies.

13. Reasonable costs for long distance telephone calls.
14. Reasonable costs for postage.
15. Reasonable costs for travel and lodging incurred taking depositions and conducting discovery.
16. Fees charged pursuant to NRS 19.0335.
17. Any other reasonable and necessary expense incurred in connection with the action, including reasonable and necessary expenses for computerized services for legal research.

NRS 18.005.

The Department's claimed expenses of \$4,480.30 for the organizing and scanning of documents in response to Plaintiff's discovery requests do not fall within any of the categories listed above. Additionally, the Department's claimed "legal researcher" expenses of \$29.12 do not fall within any of the above mentioned categories. Therefore, the Department's request to recover these expenses should be denied.

C. Pursuant to NRS 41.032, Fernley—as a Political Subdivision of the State—is Immune from the Court Awarding Costs Against it.

NRS 41.032(1) provides that "no action may be brought under NRS 41.031 or against an immune contractor or an officer or employee of the State or any of its agencies or political subdivisions which is . . . [b]ased upon an act or omission of an officer, employee or immune contractor, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation is valid, if the statute or regulation has not been declared invalid by a court of competent jurisdiction . . . " NRS 41.032(2) provides that "no action may be brought under NRS 41.031 or against an immune contractor or an officer or employee of the State or any of its agencies or political subdivisions which is . . . [b]ased upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of the State or any of its agencies or political subdivisions or of any officer, employee or immune contractor of any of these, whether or not the discretion involved is abused. " Fernley is entitled to immunity from the Department's claimed costs under both NRS 41.032(1) and NRS 41.032(2).

///

1 As an initial matter, Fernley is a political subdivision of the State of Nevada. NRS
2 41.0305. As noted in the briefing and argument in this case, Fernley brought this action as a last
3 resort, and with a good faith belief that the C-Tax system in Nevada suffers from fatal
4 constitutional deficiencies. Fernley therefore has alleged that the C-Tax system is not being
5 administered in a constitutional manner, and also exercised its discretion to undertake a good faith
6 legal challenge to the C-Tax system. Moreover, the phrase "action" is not defined in NRS 41.032
7 and should therefore be construed to include any action in which monetary compensation is
8 sought against a political subdivision of the State, including a request for costs against a political
9 subdivision. Accordingly, Fernley is immune from the imposition of costs and the Department's
10 request for costs should be denied for this reason as well.

11 **III. CONCLUSION**

12 For the foregoing reasons, Fernley respectfully requests that the Court strike the Second
13 Cost Request, or alternatively, to deny both the Department's First Cost Request and Second Cost
14 Request and instead order that all parties bear their own costs in this matter.

15 DATED this 14th day of October, 2014.

16 BROWNSTEIN HYATT FARBER SCHRECK, LLP

17
18 By: 

19 Joshua J. Hicks, Esq., Nevada Bar No. 6679
20 50 West Liberty Street, Suite 1030
21 Reno, Nevada 89501
22 Telephone: 775-622-9450

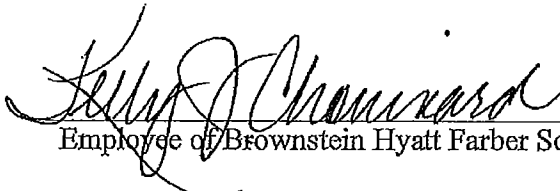
23 *Attorneys for the City of Fernley, Nevada*
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 14th day of October, 2014, I caused to be served via electronic mail, a true and correct copy of the above foregoing **PLAINTIFF'S MOTION TO STRIKE AND MOTION TO RETAX COSTS** properly addressed to the following:

Andrea Nichols, Esq.
anichols@ag.nv.gov
Office of the Attorney General
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511

Brenda J. Erdoes, Esq.
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Carson City, Nevada 89701


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(702) 382-2101

REC'D & FILED

2014 OCT 15 AM 11:45

ALAN GLOVER
BY CLERK
DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

CITY OF FERNLEY, NEVADA, a Nevada
municipal corporation,

Plaintiff,

v.

STATE OF NEVADA, ex rel. THE NEVADA
DEPARTMENT OF TAXATION; THE
HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
STATE OF NEVADA; THE LEGISLATURE
OF THE STATE OF NEVADA and DOES 1-
20, Inclusive,

Defendants.

Case No.: 12 OC 00168 1B

Dept. No.: I

ORDER GRANTING NEVADA DEPARTMENT
OF TAXATION'S MOTION FOR COSTS

This matter is before the Court on the Nevada Department of Taxation's Motion for Costs, filed September 19, 2014, Plaintiff's Motion to Retax Costs and Opposition to Motion for Costs, filed September 24, 2014, and the Department of Taxation's Opposition to Motion to Retax Costs and Reply to Opposition to Motion for Costs filed October 3, 2014.

Having reviewed the Motion, Opposition and Reply, together with the Amended Memorandum of Costs and Disbursements filed by the Department of Taxation on October 9, 2014, and Plaintiff's Motion to Strike, or Alternatively, Motion to Retax Costs, filed October 14, 2014, the Court makes the following Findings of Fact, Conclusions of Law and Order:

///

///

FINDINGS OF FACT

This Court heard oral argument on the parties' Motions for Summary Judgment on September 2, 2014.

At the September 2, 2014, hearing the Court announced its decision in favor of the Defendants on all of Plaintiff, City of Fernley's causes of action and requested that counsel for the Legislature draft and submit a proposed order.

The Nevada Department of Taxation filed a Memorandum of Costs and Disbursements on September 19, 2014.

On October 6, 2014, this Court entered an Order and Judgment in which a final judgment was entered in favor of the Defendants on all causes of action and claims for relief alleged in Plaintiff, City of Fernley's Complaint.

Notice of Entry of Order was filed October 8, 2014.

The Nevada Department of Taxation filed an Amended Memorandum of Costs and Disbursements on October 9, 2014.

The Amended Memorandum of Costs and Disbursements lists the total costs incurred by the Department in the amount of \$8,489.04, and provides supporting documentation for the following:

Reporters' fees for depositions, including fees for one copy of each deposition totaling \$2,809.90 comprised of:

Deposition of Marian Henderson - \$365.70;
Deposition of Tara Hagen - \$96.25;
Deposition of Marvin Leavitt - \$374.75;
Deposition of Mary C. Walker - \$407.00;
Deposition of Terry Rubald - \$202.50;
Deposition of Warner Ambrose - \$171.40;
Deposition of Guy Hobbs - \$399.50;
Deposition of LeRoy Goodman - \$604.00; and,
Deposition of Allen Veil - \$188.80.

Costs for travel and lodging incurred in attending depositions totaling \$1,169.72 comprised of:

Airfare of \$397.80, lodging, per diem and airport parking of \$195.14, and car rental of \$58.20 incurred in connection with the Deposition of Marvin Leavitt;

1 Airfare of \$397.80, per diem of \$35.00, and car rental of \$30.60 incurred in connection
with the Deposition of Guy Hobbs; and,

2 Per diem of \$16.00, and car rental of \$39.18 incurred in connection with the
3 Deposition of Allen Veil.

4 Expenses incurred in connection with services of legal researcher totaling \$29.12.

5 Expenses incurred by the Nevada Department of Taxation to organize and scan
6 documents in response to Plaintiff's Second Request for Production of Documents totaling
7 \$4,480.30.

8 Plaintiff, City of Fernley sought to recover more than \$2,500 in damages.

9 **CONCLUSIONS OF LAW**

10 The Nevada Department of Taxation is a prevailing party.

11 Pursuant to NRS 18.110, a party who claims costs must file a memorandum of the
12 items of costs within five days of entry of judgment.

13 Judgment in this case entered on October 6, 2014.

14 The Nevada Department of Taxation filed an Amended Memorandum of Costs and
15 Disbursements on October 9, 2014.

16 The costs listed on the Amended Memorandum of Costs and Disbursements were
17 reasonable and necessarily incurred in this action.

18 Pursuant to NRS 18.020(3), costs must be allowed to a prevailing party in an action
19 for the recovery of money or damages, where the plaintiff seeks to recover more than
20 \$2,500.

21 Pursuant to NRS 18.025, this Court shall not refuse to award costs to the State or
22 reduce the amount of the costs it awards to the State as the prevailing party solely because
23 the prevailing party is a State agency.

24 **ORDER**

25 Therefore, good cause appearing,

26 IT IS HEREBY ORDERED that the Nevada Department of Taxation's Motion for costs
27 is GRANTED.

28 ///

Office of the Attorney General
5420 Kietzke Lane, Suite 202
Reno, NV 89511

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IT IS FURTHER ORDERED that the Nevada Department of Taxation is awarded costs in the amount of \$8,489.04.

DATED this 15th day of October, 2014.


JAMES T. RUSSELL
DISTRICT COURT JUDGE

CERTIFICATE OF MAILING

I hereby certify that on the 5th day of October, 2014, I served a copy of the foregoing
by placing the foregoing in the United States Mail, postage prepaid, addressed as follows:


Joshua J. Hicks, Esq.
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50 West Liberty Street, Suite 1030
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Clark V. Vellis, Esq.
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Reno, NV 89521

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Fernley, NV 89408

Brenda J. Erdoes, Esq.
Kevin C. Powers, Esq.
J. Daniel Yu, Esq.
Legislative Counsel Bureau, Legal Division
401 S. Carson Street
Carson City, NV 89701

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Chief Deputy Attorney General
Andrea Nichols, Esq.
Senior Deputy Attorney General
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Samantha Peiffer
Law Clerk, Dept. 1

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2 GINA C. SESSION

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Senior Deputy Attorney General

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7 anichols@ag.nv.gov

8 *Attorneys for the Nevada Department of Taxation*

9
10 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

11 **IN AND FOR CARSON CITY**

12 CITY OF FERNLEY, NEVADA, a Nevada
municipal corporation,

13 Plaintiff,

14 v.

15 STATE OF NEVADA, ex rel. THE NEVADA
16 DEPARTMENT OF TAXATION; THE
17 HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
18 STATE OF NEVADA; and DOES 1-20,
Inclusive,

19 Defendants.

Case No.: 12 OC 00168 1B

Dept. No.: I

20 **NOTICE OF ENTRY OF ORDER**

21
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Case No. 66851
JA 4195

1 PLEASE TAKE NOTICE that on October 15, 2014, an Order Granting Nevada
2 Department of Taxation's Motion for Costs was entered in the First Judicial District Court of
3 the State of Nevada. A copy of said document is attached hereto as Exhibit "1."

4 DATED this 17th day of October, 2014.

5 CATHERINE CORTEZ MASTO
6 Attorney General

7 By: Andrea Nichols
8 ANDREA NICHOLS
9 Senior Deputy Attorney General
10 Nevada Bar No. 6436
11 5420 Kietzke Lane, Suite 202
12 Reno, NV 89511
13 (775) 688-1818

14 *Attorneys for Defendant Nevada*
15 *Department of Taxation*

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Office of the Attorney General
5420 Kietzke Lane, Suite 202
Reno, NV 89511

CERTIFICATE OF SERVICE


I hereby certify that I am an employee of the Office of the Attorney General of the State of Nevada and that on this 17th day of October, 2014, pursuant to NRCP 5(b) and the parties' stipulation and consent to service by electronic means, I served a copy of the foregoing **NOTICE OF ENTRY OF ORDER**, by electronic mail directed to the following:

Joshua Hicks, Esq.
Brownstein Hyatt Farber Schreck, LLP
50 West Liberty Street, Suite 1030
Reno, NV 89501
jhicks@bhfs.com

Clark Vellis
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Dan Yu, Esq.
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kpowers@lcb.state.nv.us
dan.yu@lcb.state.nv.us


An Employee of the Office
of the Attorney General

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EXHIBIT INDEX

| EXHIBIT NO. | DESCRIPTION | NO. OF PAGES (excluding tabs) |
|----------------|--|----------------------------------|
| 1 | Order Granting Nevada Department of Taxation's Motion for Costs | 5 |
| | | |

EXHIBIT 1

EXHIBIT 1

Case No. 66851
JA 4199

REC'D & FILED

2014 OCT 15 AM 11:45

ALAN GLOVER
BY CLERK
DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

CITY OF FERNLEY, NEVADA, a Nevada
municipal corporation,

Plaintiff,

v.

STATE OF NEVADA, ex rel. THE NEVADA
DEPARTMENT OF TAXATION; THE
HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
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OF THE STATE OF NEVADA and DOES 1-
20, Inclusive,

Defendants.

Case No.: 12 OC 00163 1B

Dept. No.: I

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21 Pursuant to NRS 18.025, this Court shall not refuse to award costs to the State or
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23 the prevailing party is a State agency.

24 **ORDER**

25 Therefore, good cause appearing,

26 IT IS HEREBY ORDERED that the Nevada Department of Taxation's Motion for costs
27 is GRANTED.

28 ///

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5420 Kietzke Lane, Suite 202
Reno, NV 89511

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IT IS FURTHER ORDERED that the Nevada Department of Taxation is awarded costs in the amount of \$8,489.04.

DATED this 15th day of October, 2014.


JAMES T. RUSSELL
DISTRICT COURT JUDGE

CERTIFICATE OF MAILING

I hereby certify that on the 15th day of October, 2014, I served a copy of the foregoing
by placing the foregoing in the United States Mail, postage prepaid, addressed as follows:


Joshua J. Hicks, Esq.
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Samantha Peiffer
Law Clerk, Dept. 1

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15 Brandi L. Jensen, Nevada Bar No. 8509
16 Fernley City Attorney
17 OFFICE OF THE CITY ATTORNEY
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19 Fernley, Nevada 89408

20 *Attorneys for the City of Fernley, Nevada*

21 **IN THE FIRST JUDICIAL DISTRICT COURT**

22 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

23 CITY OF FERNLEY, NEVADA, a
24 Nevada municipal corporation,

25 Plaintiff,

26 v.

27 STATE OF NEVADA ex rel. THE NEVADA
28 DEPARTMENT OF TAXATION; THE
HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
STATE OF NEVADA; and DOES 1-20,
inclusive,

Defendants,

NEVADA LEGISLATURE,

Intervenor.

Case No.: 12 OC 00168 1B

Dept. No.: I

NOTICE OF APPEAL

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN THAT Plaintiff CITY OF FERNLEY, NEVADA hereby
appeals to the Supreme Court of the State of Nevada from the "Order And Judgment" (hereinafter

REC'D & FILED
2014 NOV -7 AM 9:52
ALAN GLOVER
CLERK
BY C. COOPER
DEPUTY

1 "Judgment") entered in the above-entitled action on the 6th day of October, 2014 and the "Order
2 Granting Nevada Department Of Taxation's Motion For Costs" (hereinafter "Cost Order") entered
3 in the above-entitled action on the 15th day of October, 2014. This Appeal is taken on all matters
4 of law and fact relating to the aforementioned Judgment and Cost Order.

5 DATED this 6th day of November, 2014.

6 BROWNSTEIN HYATT FARBER SCHRECK, LLP

7
8 By: 

9 Joshua J. Hicks, Nevada Bar No. 6679

10 50 West Liberty Street, Suite 1030

11 Reno, Nevada 89501

12 Telephone: 775-622-9450

13 *Attorneys for the City of Fernley, Nevada*
14
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 7th day of November, 2014, I caused to be served via hand delivery, a true and correct copy of the above foregoing **NOTICE OF APPEAL** properly addressed to the following:

Andrea Nichols, Esq.
anichols@ag.nv.gov
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5420 Kietzke Lane, Suite 202
Reno, Nevada 89511

Brenda J. Erdoes, Esq.
Kevin Powers, Esq.
kpowers@lcb.state.nv.us
J. Daniel Yu, Esq.
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Legislative Counsel Bureau
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Carson City, Nevada 89701



Employee of Brownstein Hyatt Farber Schreck, LLP

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Brandi L. Jensen, Nevada Bar No. 8509
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Attorneys for the City of Fernley, Nevada

IN THE FIRST JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR CARSON CITY

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Plaintiff,

v.

STATE OF NEVADA ex rel. THE NEVADA
DEPARTMENT OF TAXATION; THE
HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
STATE OF NEVADA; and DOES 1-20,
inclusive,

Defendants,

NEVADA LEGISLATURE,

Intervenor.

Case No.: 12 OC 00168 1B

Dept. No.: I

CASE APPEAL STATEMENT

1. Name Of Appellant Filing This Case Appeal Statement:

City of Fernley, Nevada

REC'D & FILED

2014 NOV -7 AM 9:50

ALAN GLOVER
CLERK

3Y. C. COOPER

2. The Judge Issuing The Decision, Judgment, Or Order Appealed From:
The Honorable James T. Russell
3. All Parties To The Proceedings In The District Court:
City of Fernley, Nevada, Plaintiff
State of Nevada ex rel. the Nevada Department of Taxation, Defendant
The Honorable Kate Marshall, in her official capacity as Treasurer of the State of Nevada, Defendant
The Legislature of the State of Nevada, Defendant-Intervenor
4. All Parties Involved In This Appeal:
City of Fernley, Nevada, Appellant
State of Nevada ex rel. the Nevada Department of Taxation, Respondent
The Honorable Kate Marshall, in her official capacity as Treasurer of the State of Nevada, Respondent
The Legislature of the State of Nevada, Respondent-Intervenor
5. The Name, Law Firm, Address, And Telephone Number Of All Counsel On Appeal And The Party Or Parties Whom They Represent:
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City of Fernley, Nevada

Fernley incorporated as a municipality in 2001, and has been the only local government to do so since the enactment of Senate Bill 254. Because Fernley's population has more than doubled since 1997, the service needs of Fernley's residents have greatly increased. Despite having much lower growth rates, however, similarly sized cities have received millions of dollars more in C-Tax revenue than Fernley since 2001. These gross inequities have left Fernley unable to provide comparable levels of services to its residents, and have forced Fernley to burden residents and businesses with high property taxes in an effort to make up some of the difference, while comparably sized neighbors realize high levels of service and lower property taxes. Fernley seeks both injunctive and monetary relief to redress prior distributions and to ensure that distributions in the future meet constitutional standards.

The District Court heard cross-motions for summary judgment, and erroneously entered judgment for the State on the following grounds: (1) Fernley's state constitutional claims are barred by the four-year statute of limitations set forth in NRS 11.220; (2) Fernley's claims for money damages are barred by sovereign immunity under NRS 41.032(1); (3) Fernley lacks standing to bring separation of powers claims against the State under Article 3, Section 1 of the Nevada Constitution because it is a political subdivision of the State; (4) Fernley's separation of powers claim is unsustainable, regardless of Fernley's standing, because the C-Tax does not violate Article 3, Section 1 of the Nevada Constitution; and (5) Fernley's state constitutional claims under Article 4, Sections 20 and 21 of the Nevada Constitution are unsustainable, even if they were not time-barred, because the C-Tax does not violate either constitutional provision. The District Court thereafter erroneously granted the State's motion for costs, and denied Fernley's motion to retax costs. This appeal follows.

11. This case has previously been the subject of the following original writ proceeding in the Nevada Supreme Court:

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, Petitioners, vs. The First Judicial District Court of the State of Nevada in and for the County of Carson City; and the Honorable James Todd Russell, District Judge,

1 Respondents, and The City of Fernley, a Nevada municipal corporation, Real Party in
2 Interest, Nevada Supreme Court Case No. 62050.

3 12. The appeal does not involve child custody or visitation.

4 13. The appeal does not involve the possibility of settlement.

5 DATED this 6th day of November, 2014.

6 BROWNSTEIN HYATT FARBER SCHRECK, LLP

7
8 By: 

9 Joshua J. Hicks, Nevada Bar No. 6679

10 50 West Liberty Street, Suite 1030

11 Reno, Nevada 89501

12 Telephone: 775-622-9450


13 *Attorneys for the City of Fernley, Nevada*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 7th day of November, 2014, I caused to be served via hand delivery, a true and correct copy of the above foregoing CASE APPEAL STATEMENT properly addressed to the following:

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Carson City, Nevada 89701


Employee of Brownstein Hyatt Farber Schreck, LLP

COPY

IN THE FIRST JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR CARSON CITY

-oOo-

CITY OF FERNLEY, NEVADA , a Nevada
municipal corporation,

Plaintiff,

vs.

STATE OF NEVADA ex rel. THE NEVADA
DEPARTMENT OF TAXATION; THE
HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
STATE OF NEVADA; and DOES 1-20,
inclusive,

Defendants.

Case No. 12 OC 00168 1B
Dept No. I

TRANSCRIPT OF PROCEEDINGS

Hearing

September 2, 2014

Carson City, Nevada

SUNSHINE LITIGATION SERVICES

Transcribed By: GAIL R. WILLSEY, CSR #359, CA CSR #9748

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APPEARANCES

FOR THE PLAINTIFF:
BROWNSTEIN HYATT FARBER SCHRECK, LLP
By: JOSHUS J. HICKS
50 West Liberty Street, Suite 1030
Reno, Nevada 89501

FOR THE DEFENDANTS:
KEVIN POWERS, ESQ.
ANDREA NICHOLS

*** ^ ^ ***

CARSON CITY, NEVADA, SEPTEMBER 2, 2014, 3:00 P.M.

^ ^

THE COURT: This is Case Number 12 0C 00168 1-B, City of Fernley, Nevada versus State of Nevada, The Nevada Department of Taxation, The Honorable Kate Marshall, Treasurer of the State of Nevada the Legislature of the State of Nevada. We're here primarily in respect to motions to dismiss which the court had deferred and converted to Motions For Summary Judgment filed by the Department of Taxation joined by the Legislative Council Bureau.

Additionally, Fernley has filed a Motion For Summary Judgment and a motion for reconsideration in respect to this particular matter.

Appearing on behalf of the City of Fernley is Josh Hicks; is that correct?

MR. HICKS: Yes, your Honor.

THE COURT: Also Clark?

MR. VELLIS: Vellis, your Honor.

THE COURT: In regards to this matter appearing on behalf of the State of Nevada, Department of Taxation is Andrea Nichols?

MS. NICHOLS: Yes.

THE COURT: Also appearing on behalf of the Legislature of the State of Nevada is Kevin Powers?

MR. POWERS: Correct, your Honor.

THE COURT: And who are you, sir?

MR. HU: Daniel Yu for the Legislature.

THE COURT: Okay. Thank you.

1 Anybody I missed that wants their name put on the record with respect to this
2 matter?

3 MR. HICKS: Your Honor, could I just recognize a couple of people who are
4 here for my client as well?

5 THE COURT: That's fine.

6 MR. HICKS: Mayor Roy Goodman, Councilman Roy Edgington, Councilman
7 Sue Cidal, City Attorney Brandi Jensen, City Manager Chris Good and Dafney Hooper, the
8 Assistant City Manager.

9 THE COURT: Okay. Thank you.

10 The Court has read all the briefs in respect, gone through everything in respect
11 to this particular matter. I appreciated the briefs very much. Obviously, this case is very
12 important to the City of Fernley and to the State of Nevada in regards to the C tax system
13 that was put into place in respect to that. The court is also aware of the fact that the
14 Supreme Court did grant its Writ in this particular case, did remove several of the causes of
15 action, the constitutional issues under the United States Constitution in respect to this
16 matter, it did apply a two-year statute of limitations in respect to that, in regards to that and
17 there is a statute of limitations argument in this case.

18 Mr. Hicks, are you ready to proceed or should we start with the State of Nevada
19 because it's their motion to dismiss that the court basically turned into a Motion For
20 Summary Judgment. I think your motion was filed first so we can proceed with them or
21 however the parties want to proceed is fine with me.

22 MR. HICKS: Whatever your preference is, your Honor. We're ready to go.

23 THE COURT: Why don't we start with the State of Nevada because their
24 motion to dismiss was the first thing to be filed in respect to that and I think that's the
25 appropriate way to handle it. So go ahead.

1 MS. NICHOLS: Thank you, your Honor.

2 Having discussed this with Kevin Powers at the Legislature, he's much better at
3 oral argument than I am. We figured we would have about an hour. I was going to let him
4 have 45 minutes and I would take 15 at the end. So if it is all right with the court, I would
5 just as soon have the Legislature start. Our arguments really are basically the same.

6 THE COURT: The court has no objection to that.

7 Additionally, the court would note that we have until 5:00 o'clock. My intent is
8 to give everybody as much time in that period as possible to make your arguments and any
9 additional arguments you want to make in respect to that.

10 So Mr. Powers, do you want to proceed?

11 MR. POWERS: Thank you, your Honor.

12 For the record, Kevin Powers, Chief Litigation Counsel, Legislative Council
13 Bureau, Legal Division.

14 When the Legislature enacted the C tax system, it wanted to encourage the
15 formation of new general purpose governments that provided general purpose
16 governmental services which as the Legislature defined by statute to mean police
17 protection and two of the following three, fire protection, construction maintenance, repair
18 of roads and parks and recreation, it also wanted to discourage the formation of new local
19 governments that did not provide those general purposes services.

20 So to accomplish these legitimate services, the Legislature established a
21 classification. Beginning on July 1st, 1998, any local government that formed after that
22 date would not receive an increase in C tax services unless it provided those general
23 governmental services and that's set forth specifically in statute in N R S-360.740.

24 Also, the Legislature provided that if a newly created local government assumed
25 the functions or services from another local government, it was entitled to increase C tax

1 revenues. Finally, the Legislature --- by statute that two local governments or two or more
2 local governments could enter into cooperative agreements where one local government
3 would assume the functions of another local government and receive increased C tax
4 services.

5 This case is about Fernley wanting to receive additional C tax distributions but
6 not wanting to provide those additional governmental services. Essentially, Fernley is
7 attempting to do exactly what the Legislature wanted to discourage that is the formation of
8 new governments that don't provide those essential services as set forth in the statute.

9 THE COURT: Is there a catch 22 to that though from the standpoint if you're a
10 new entity and you don't have the money to come up with those services or provide those
11 services, seems to me then aren't you in a catch 22, so to speak?

12 MR. POWERS: I don't think the statutes are set up that way. They do provide a
13 system whereby the City can take action to show the State that it is going to provide those
14 services and then request a C tax distribution to fund those services because there's three
15 different methods. There's the method under 360.740 where you provide the police
16 protection and two of the other three. As long as you take some sort of legitimate action
17 moving towards providing those services, you can then file an application with the
18 Department of Taxation which is reviewed by the Committee on Local Government
19 Finances and then you can go through the process of receiving additional C tax.

20 The other one is if you assume the functions of the other local government, you
21 have an absolute right to require those C tax distributions. Finally, you can enter into a
22 cooperative agreement.

23 I think on the record in this case, it's clear Lyon County is willing to give up
24 some of its C tax revenue to Fernley if Fernley assumes one of more essential
25 governmental services. Fernley just doesn't want to assume those essential governmental

services. It wants to receive additional C tax revenue but not do what the statutes require and that's why the cities of Elko, Mesquite and Boulder City are not a comparable group of cities to the City of Fernley. They're in a different class. Those three cities, Elko, Mesquite and Boulder City have both fire protection and police protection they provide as cities. They're a completely different class of city, it's true that Fernley is the first city to incorporate after the enactment of the C tax statutes in 1997 but that means that they're currently a class of one. If another city were to incorporate, it would be subject to the same statutes, it would not receive additional C tax unless it followed the three avenues for receiving those additional C tax dollars.

Indeed after the last legislative session, the City of Laughlin was -- about a question for the voters of Laughlin as to whether it was going to become an incorporated city. Although ultimately the vote has rejected the City of Laughlin becoming a city, had it become a city, it would have been subject to the same C tax statutes as the City of Fernley thereby establishing that this is a general law, it would apply across the board to any city that falls into the same classification as the City of Fernley and that is being created after July 1st of 1998.

In reality, Fernley is asking the court to substitute its judgment of fairness for what the Legislature has determined is fair after 20 years of regularly and repeatedly and comprehensively reviewing the C tax statutes. Each session of the legislature has considered C tax bills. Most sessions they have enacted C tax bills. Most recently in 2013, they enacted A B 68 which revised certain provision of the C tax. But prior to that all through the 2011 to 2012 interim, the Legislature had an interim study where it considered every aspect of the C tax system. The City of Fernley was provided to participate in that discussion. After that analysis, after hearing from all local governments, the Legislature did not change the statutes in the way the City of Fernley wanted to but the City of Fernley

1 still has that viable process the legislative process to seek whatever redress it wants.

2 Those are three important points that we have to make that really cut any against
3 any constitutional claim here. One is no political subdivision has a constitutional right to
4 an equal or equitable distribution of tax revenues. The whole point of the tax system is the
5 Legislature collects state tax dollars and determines how to distribute those state tax dollars
6 across the state, and I want to emphasize these are state tax dollars. These are not local tax
7 dollars. These are state tax dollars that are collected from every taxpayer in the state.
8 They're put into a pool, the local government tax distribution account but nonetheless,
9 they're still state tax dollars.

10 The Legislature, if it wanted, could use all this money for another state purpose
11 and provide none of this money to local government. Alternatively, the Legislature could
12 come up with what it did, a statutory formula and determine how to distribute that money
13 according to the statutory formula and in doing so, the Legislature again set up a legitimate
14 classification. If you're a new local government, you have to provide these certain essential
15 services to receive increased C tax distributions.

16 The second important point is no political subdivision has a constitutional right
17 to obtain an adjustment in C tax revenues. The Legislature doesn't have to have an
18 adjustment mechanism. By law, it's established a statutory formula for distribution of the
19 C tax revenues, that's all it needs to do.

20 The final important point is no political subdivision is entitled to any process for
21 reviewing it's C tax distribution except the legislative process, and I just mentioned the
22 Legislature, for 20 years now, has repeatedly, regularly and comprehensively reviewed the
23 C tax system.

24 THE COURT: Well, in that regard, does the Tax Department, the Department
25 of Taxation, have any discretion whatsoever or are they required for follow the statute and

1 required to follow the legislative mandate in respect to specifically what they're mandated
2 to do?

3 MR. POWERS: I think Ms. Nichols, because she represents the Department of
4 Taxation would like to answer that.

5 MS. NICHOLS: Your Honor, the way it's been explained to me is that the
6 revenues come in to the Department. The Department verifies that the numbers are correct
7 and then they enter the numbers into a computer program that does the math and tells them
8 how much money to request the Treasurer to distribute each of the various entities.

9 THE COURT: Is the computer program predicated upon the exact statute in law
10 passed by the Nevada Legislature?

11 MS. NICHOLS: Yes, your Honor, that's correct.

12 THE COURT: Thank you.

13 MS. NICHOLS: And in their motions, the City of Fernley does point out that all
14 the Department does is apply a mathematical formula.

15 There is one item that they've brought up in response to our discretionary
16 immunity or actually our due care immunity argument. They have said that the
17 Department has a small amount of discretion. There is a statute whereby if the assessed
18 value and revenue or population and assessed value has gone down for three consecutive
19 years, the Director of the Department of Taxation can make a recommendation to the
20 Committee on Local Government Finance who can then make a recommendation to the
21 Tax Commission.

22 The City of Fernley asserts that this has happened I believe with Mesquite and
23 Boulder City recently and I'm not sure where they're getting those numbers from and
24 maybe they'll explain it but I hope that answered the question.

25 THE COURT: Mr. Powers?

1 MR. POWERS: Thank you, your Honor.

2 And as a springboard from that and based on the court's question, essentially the
3 Department of Taxation is executing clearly defined statutory standards and that renders
4 their separation of powers claim meritless. As long as the Legislature provides clearly
5 defined statutory standards, there is no improper delegation of legislative power.

6 Fernley argues that the Legislature somehow delegated it's appropriations power
7 to the Department of Taxation, simply not true. All that the Legislature has done is
8 enacted a statute that provides an ongoing recurrent future appropriation which it may do
9 as long as it sets forth specific statutory standards whereby the Department of Taxation can
10 determine the exact amount of the appropriation and which fund it will come from. The
11 statutes clearly lay that out. Again, as Ms. Nichols pointed out, Fernley does not dispute
12 that the Department has over the past 20 years mechanically applied the statutes.

13 So there cannot be a separation of powers violation here because there are
14 clearly defined statutory standards and to deal with the separation of power issue as well is
15 we don't believe Fernley has standing to even raise a separation of powers issue. There's a
16 limited group of state constitutional claims that a political subdivision can bring against the
17 state. One is them is for a violation of the special and local law provision.

18 So we believe that Fernley does have standing to raise their special and local law
19 claims because the City of Reno versus Washoe County case makes that clear. However,
20 in that case, the Nevada Supreme Court also said that a city does not have standing to raise
21 a state constitutional claim if that constitutional provision does not exist for their
22 protection. The special and local law provisions in Article IV, Sections 20 and 21 exist for
23 the protection of political subdivisions, therefore, the City of Fernley can bring those
24 claims.

25 However, the separation of powers provision of the Nevada Constitution doesn't

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF FERNLEY, NEVADA, a
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THE STATE OF NEVADA ex rel.
DEPARTMENT OF TAXATION;
THE HONORABLE DAN
SCHWARTZ, in his official capacity
as TREASURER OF THE STATE OF
NEVADA; and THE LEGISLATURE
OF THE STATE OF NEVADA,

Respondents.

Supreme Court No.: 66851

District Court Case No.: 12 OC 00168 1B

JOINT APPENDIX

VOLUME 23 PART 2

Filed By:

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| 1 | Affidavit of Service Taxation | City of Fernley | 07/02/12 | 17 |
| 1 | Affidavit of Service Treasurer | City of Fernley | 06/20/12 | 13-16 |
| 23 | Amended Memorandum of Costs and Disbursements | State of Nevada/Dept Taxation | 10/09/15 | 4058-4177 |
| 7 | Answer | State of Nevada/Dept Tax/ Treasurer | 02/01/13 | 1384-1389 |
| 7 | Answer to Plaintiff's Complaint | Nevada Legislature | 01/29/13 | 1378-1383 |
| 23 | Case Appeal Statement | City of Fernley | 11/07/14 | 4208-4212 |
| 1 | Complaint | City of Fernley | 06/06/12 | 1-12 |
| 21 | Defendant Nevada Legislature's Reply in Support of its Motion for Summary Judgment | Nevada Legislature | 07/25/14 | 3747-3768 |
| 21 | Defendant's Opposition to Motion to Retax Costs and Reply to Opposition to Motion for Costs | State of Nevada/Dept Taxation | 10/03/14 | 3863-3928 |
| 22 | Defendant's Opposition to Motion to Retax Costs and Reply to Opposition to Motion for Costs (Cont.) | State of Nevada/Dept Taxation | 10/03/14 | 3929-3947 |
| 1 | Exhibits to Joinder in Motion to Dismiss | Nevada Legislature | 08/16/12 | 104-220 |
| 2 | Exhibits to Joinder in Motion to Dismiss (Cont.) | Nevada Legislature | 08/16/12 | 221-332 |
| 1 | Joinder in Motion to Dismiss | Nevada Legislature | 08/16/12 | 62-103 |
| 7 | Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss | Nevada Legislature | 05/06/14 | 1421-1423 |
| 21 | Memorandum of Costs and Disbursements | State of Nevada/Dept Taxation | 09/19/14 | 3788-3793 |
| 21 | Motion for Costs | State of Nevada/Dept Taxation | 09/19/14 | 3776-3788 |
| 12 | Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order | City of Fernley | 06/18/14 | 2005-2045 |
| 7 | Motion for Summary Judgment | City of Fernley | 06/13/14 | 1458-1512 |
| 8 | Motion for Summary Judgment (Cont.) | City of Fernley | 06/13/14 | 1513-1732 |
| 9 | Motion for Summary Judgment (Cont.) | City of Fernley | 06/13/14 | 1733-1916 |
| 10 | Motion for Summary Judgment (Cont.) | City of Fernley | 06/13/14 | 1917-1948 |
| 11 | Motion for Summary Judgment (Cont.) | City of Fernley | 06/13/14 | 1949-2004 |
| 1 | Motion to Dismiss | State of Nevada/Dept Tax/ Treasurer | 08/03/12 | 41-58 |
| 1 | Motion to Intervene | Nevada Legislature | 08/03/12 | 18-40 |
| 21 | Motion to Retax Costs and Opposition to Motion for Costs | City of Fernley | 09/24/14 | 3794-3845 |
| 7 | Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss | State of Nevada/Dept Tax/ Treasurer | 05/05/14 | 1414-1420 |
| 7 | Nevada Department of Taxation and Nevada Treasurer's Reply to Response to Renewal of Motion to Dismiss | State of Nevada/Dept Tax/ Treasurer | 05/23/14 | 1433-1437 |
| 12 | Nevada Department of Taxation's Opposition to Plaintiff's Motion for Summary Judgment | State of Nevada/Dept Taxation | 07/11/14 | 2053-2224 |
| 13 | Nevada Department of Taxation's Opposition to Plaintiff's Motion for Summary Judgment (Cont.) | State of Nevada/Dept Taxation | 07/11/14 | 2225-2353 |

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| 23 | Notice of Appeal | City of Fernley | 11/07/14 | 4205-4207 |
| 22 | Notice of Entry of Order | Nevada Legislature | 10/08/14 | 4001-4057 |
| 23 | Notice of Entry of Order | State of Nevada/Dept | 10/17/14 | 4195-4204 |
| 7 | Notice of Entry of Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012 | State of Nevada/Dept Tax/ Treasurer | 12/19/12 | 1364-1370 |
| 7 | Notice of Entry of Order Granting A Continuance to Complete Discovery | City of Fernley | 10/19/12 | 1344-1350 |
| 3 | Notice of Entry of Order Granting Nevada Legislature's Motion to Intervene | Nevada Legislature | 09/04/12 | 651-657 |
| 7 | Notice of Entry of Order on Defendant's Motion for Extensions of Time to File Answer | State of Nevada/Dept Tax/ Treasurer | 11/15/12 | 1354-1360 |
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| 2 | Opposition to Motion to Dismiss and Motion for Continuance Pursuant to NRCP 56(F) | City of Fernley | 08/20/12 | 331-441 |
| 3 | Opposition to Motion to Dismiss and Motion for Continuance Pursuant to NRCP 56(F) (Cont.) | City of Fernley | 08/20/12 | 442-625 |
| 2 | Opposition to Motion to Nevada Legislature's Motion to Intervene | City of Fernley | 08/20/12 | 324-330 |
| 13 | Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss | City of Fernley | 07/11/14 | 2354-2445 |
| 14 | Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.) | City of Fernley | 07/11/14 | 2446-2665 |
| 15 | Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.) | City of Fernley | 07/11/14 | 2666-2819 |
| 16 | Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.) | City of Fernley | 07/11/14 | 2820-2851 |
| 17 | Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.) | City of Fernley | 07/11/14 | 2852-2899 |
| 4 | Opposition to Nevada Legislature's Joinder in Motion to Dismiss | City of Fernley | 09/28/12 | 662-881 |
| 5 | Opposition to Nevada Legislature's Joinder in Motion to Dismiss (Cont.) | City of Fernley | 09/28/12 | 882-1101 |
| 6 | Opposition to Nevada Legislature's Joinder in Motion to Dismiss (Cont.) | City of Fernley | 09/28/12 | 1102-1316 |
| 17 | Opposition to Nevada Legislature's Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss | City of Fernley | 07/11/14 | 2900-2941 |
| 20 | Opposition to Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order | Nevada Legislature | 07/11/14 | 3586-3582 |

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| 12 | Opposition to Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order and Countermotion for Order Dismissing Nevada Department of Taxation | State of Nevada/Dept Tax/ Treasurer | 07/11/14 | 2049-2052 |
| 17 | Opposition to Plaintiff's Motion for Summary Judgment | Nevada Legislature | 07/11/14 | 2942-3071 |
| 18 | Opposition to Plaintiff's Motion for Summary Judgment (Cont.) | Nevada Legislature | 07/11/14 | 3072-3292 |
| 19 | Opposition to Plaintiff's Motion for Summary Judgment (Cont.) | Nevada Legislature | 07/11/14 | 3292-3512 |
| 20 | Opposition to Plaintiff's Motion for Summary Judgment (Cont.) | Nevada Legislature | 07/11/14 | 3515-3567 |
| 7 | Order (Converting Motion to Dismiss to Motion for Summary Judgment, Setting Briefing Schedule and Dismissing Treasurer) | First Judicial District Court | 06/06/14 | 1451-1457 |
| 22 | Order and Judgment | First Judicial District Court | 10/06/14 | 3948-4000 |
| 7 | Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012 | First Judicial District Court | 12/17/12 | 1361-1363 |
| 7 | Order Granting A Continuance to Complete Discovery | First Judicial District Court | 10/15/12 | 1341-1343 |
| 7 | Order Granting in Part and Denying in Part Petition for Writ of Mandamus | Nevada Supreme Court | 01/25/13 | 1373-1377 |
| 23 | Order Granting Nevada Department of Taxation's Motion for Costs | First Judicial District Court | 10/15/14 | 4190-4194 |
| 3 | Order Granting Nevada Legislature's Motion to Intervene | First Judicial District Court | 08/30/12 | 648-650 |
| 7 | Order on Defendant's Motion for Extensions of Time to File Answer | First Judicial District Court | 11/13/12 | 1351-1353 |
| 7 | Order Pursuant to Writ of Mandamus | First Judicial District Court | 02/22/13 | 1390-1392 |
| 21 | Order Vacating Trial | First Judicial District Court | 09/03/14 | 3773-3775 |
| 23 | Plaintiff's Motion to Strike, or Alternatively, Motion to Retax Costs | City of Fernley | 10/14/14 | 4178-4189 |
| 21 | Plaintiff's Objections to Nevada Legislature's Proposed Order and Request to Submit Proposed Order and Judgment | City of Fernley | 10/02/14 | 3846-3862 |
| 7 | Pretrial Order | First Judicial District Court | 10/10/13 | 1393-1399 |
| 7 | Reply Concerning Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss | Nevada Legislature | 05/27/14 | 1438-1450 |
| 7 | Reply in Support of Joinder in Motion to Dismiss | Nevada Legislature | 10/08/12 | 1317-1340 |
| 3 | Reply in Support of Motion to Intervene | Nevada Legislature | 08/24/12 | 626-635 |
| 21 | Reply in Support of Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order as to Defendant Nevada Legislature | City of Fernley | 07/25/14 | 3709-3746 |

Index to Joint Appendix
City of Fernley v. State of Nevada et al., Case No. 66851

| Volume Number | Document | Filed By | Date | Bates Stamp Number |
|----------------------|---|---------------------------------------|-------------|---------------------------|
| 20 | Reply in Support of Plaintiff's Motion for Summary Judgment Against Defendants Nevada Department of Taxation and Nevada Treasurer | City of Fernley | 07/25/14 | 3674-3708 |
| 20 | Reply in Support of Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order as to Defendant's Nevada Department of Taxation and Nevada Treasurer; Plaintiff's Opposition to Countermotion for Order Dismissing Nevada Department of Taxation | City of Fernley | 07/25/14 | 3641-3673 |
| 20 | Reply in Support of Plaintiff's Motion for Summary Judgment Against Defendant Nevada Legislature | City of Fernley | 07/25/14 | 3606-3640 |
| 21 | Reply to Opposition to Countermotion for Order Dismissing Nevada Department of Taxation | State of Nevada/Dept Taxation | 08/01/14 | 3769-3772 |
| 3 | Reply to Opposition to Motion to Dismiss | State of Nevada/Dept Tax/ Treasurer | 08/27/12 | 636-647 |
| 20 | Reply to Plaintiff's Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss | State of Nevada/Dept Taxation | 07/25/14 | 3583-3605 |
| 7 | Response to Nevada Department of Taxation | City of Fernley | 05/16/14 | 1424-1432 |
| 7 | Second Stipulation and Order Regarding Change of Briefing Schedule | Parties/First Judicial District Court | 03/17/14 | 1406-1409 |
| 7 | Stipulation and Order for an Extension of Time to File Responses to Discovery Requests; Extend Certain Discovery Deadlines and Extend Time to File Dispositive Motions | Parties/First Judicial District Court | 04/11/14 | 1410-1413 |
| 7 | Stipulation and Order Regarding Change of Briefing Schedule and Plaintiff's Response to Defendant's Motion to Strike Plaintiff's Jury Demand | Parties/First Judicial District Court | 02/19/14 | 1403-1405 |
| 12 | Stipulation and Order Regarding Change of Briefing Schedule and Setting Hearing for Oral Argument | Parties/First Judicial District Court | 06/25/14 | 2046-2048 |
| 7 | Stipulation and Order Regarding Defendant's Motion to Strike Plaintiff's Jury Demand | Parties/First Judicial District Court | 10/23/13 | 1400-1402 |
| 3 | Stipulation and Order Regarding Joinder to Motion to Dismiss | Parties/First Judicial District Court | 09/18/12 | 658-661 |
| 23 | Transcript of Hearing | Court Reporter | 01/07/15 | 4213-4267 |
| 7 | Writ of Mandamus | Nevada Supreme Court | 01/25/13 | 1371-1372 |

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| 02 | 101 | 030-2000 | | | 2000 | | | | | | 01 | R1212132 | -\$202.50 |
| 22 | 101 | 030-2000 | 103110 | | 7060 | | | | | | 01 2014/01/12 PO5165 | R1212132 | \$202.50 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 02 | R1212132 | -\$171.40 |
| 22 | 101 | 030-2000 | 103110 | | 7060 | | | | | | 02 2014/01/12 PO5164 | R1212132 | \$171.40 |
| | | | | | | | | | | | | | |
| Total Amount | | | | | | | | | | | | | \$.00 |

EXHIBIT 7

EXHIBIT 7

Case No. 66851
JA 4114

1 Joshua J. Hicks, Nevada Bar No. 6679
Clark V. Vellis, Nevada Bar No. 5533
2 BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 West Liberty Street, Suite 1030
3 Reno, Nevada 89501
Telephone: 775-622-9450
4 Facsimile: 775-622-9554
Email: jhicks@bhfs.com
5 Email: cvellis@bhfs.com

6 Brandi L. Jensen, Nevada Bar No. 8509
Fernley City Attorney
7 OFFICE OF THE CITY ATTORNEY
595 Silver Lace Blvd.
8 Fernley, Nevada 89408

9 *Attorneys for the City of Fernley, Nevada*

10 **IN THE FIRST JUDICIAL DISTRICT COURT**
11 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

12 CITY OF FERNLEY, NEVADA, a
13 Nevada municipal corporation,

14 Plaintiff,

15 v.

16 STATE OF NEVADA ex rel. THE NEVADA
DEPARTMENT OF TAXATION; THE
17 HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
18 STATE OF NEVADA; and DOES 1-20,
inclusive,

19 Defendants,

20 NEVADA LEGISLATURE,

21 Intervenor.

Case No.: 12 OC 00168 1B

Dept. No.: I

22
23 **AMENDED NOTICE OF DEPOSITION OF GUY HOBBS**

24 **TO: Guy Hobbs, 3900 Paradise Road, Suite 152, Las Vegas, Nevada 89169**

25 PLEASE TAKE NOTICE that at 9:30 a.m. on Tuesday, December 17, 2013, at the law
26 offices of Brownstein Hyatt Farber Schreck LLP, 100 North City Parkway, Suite 1600, Las
27 Vegas, Nevada 89106, the City of Fernley will take the deposition of Guy Hobbs, upon

28 ///

1 oral examination, pursuant to Rule 26 and Rule 30 of the Nevada Rules of Civil Procedure,
2 before a Notary Public or before some other officer authorized by the law to administer oaths.

3 Oral examination will continue from day to day until completed. You are invited to
4 attend and cross-examine.

5 DATED this 17th day of November, 2013.

6 BROWNSTEIN HYATT FARBER SCHRECK, LLP

7
8 By: 

9 Joshua J. Hicks, Nevada Bar No. 6679

10 Clark V. Vellis, Nevada Bar No. 5533

11 50 West Liberty Street, Suite 1030

12 Reno, Nevada 89501

13 Telephone: 775-622-9450

14
15 *Attorneys for the City of Fernley, Nevada*
16
17
18
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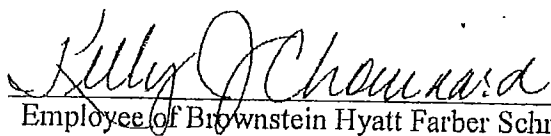
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 18th of November, 2013, I caused to be served via electronic mail and U.S. Mail, a true and correct copy of the above foregoing **Amended Notice of Deposition of Guy Hobbs** properly addressed to the following:

Guy Hobbs
3900 Paradise Road, Suite 152
Las Vegas, Nevada 89169
guy@hobbsong.com

Andrea Nichols, Esq.,
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
anichols@ag.nv.gov

Brenda J. Erdoes, Esq.
Kevin Powers, Esq.
kpowers@lcb.state.nv.us
J. Daniel Yu, Esq.
dan.yu@lcb.state.nv.us
Legislative Counsel Bureau
401 South Carson Street
Carson City, Nevada 89701


Employee of Brownstein Hyatt Farber Schreck, LLP

INVOICE



400 South Seventh Street
Suite 400, Box 7
Las Vegas, NV 89101

Tel. (702) 476-4500
info@oasisreporting.com
www.oasisreporting.com

Andrea H. Nichols
State of Nevada Office of the Attorney General - HHS
Health and Human Services Division
5420 Kietzke Lane
Suite 202
Reno NV 89511

Not to pay

| Invoice No. | Invoice Date | Job No. |
|--|----------------|---------|
| 12977 | 1/6/2014 | 8315 |
| Job Date | Case No. | |
| 12/17/2013 | 12 OC 00168 1B | |
| Case Name | | |
| City of Fernley, Nevada v. State of Nevada, et al. | | |
| Payment Terms | | |
| Due upon receipt | | |

Delawho-13657-1042 PO# 5231

1 CERTIFIED COPY OF TRANSCRIPT OF:

Guy Hobbs
Exhibit
Federal Express Delivery

110.00 Pages 357.50
24.00 Pages 12.00
30.00

TOTAL DUE >>> \$399.50
AFTER 2/5/2014 PAY \$439.45

PLEASE NOTE OUR NEW ADDRESS AS OF JANUARY 1, 2014:

All transcripts at Oasis Reporting Services are printed on recycled paper! Also, there is never a charge for word index pages at Oasis Reporting Services, which can save you and your clients up to 18% compared to other firms charging per page for word indexes.

All invoices due upon receipt. Past-due invoices accrue interest at a rate of 1.5% per month. Thank you for your business.

Original sent to Accounting on 1/10/14

Tax ID: 26-3403945

Phone: 775-850-4102 Fax: 775-688-1822

Please detach bottom portion and return with payment.

Andrea H. Nichols
State of Nevada Office of the Attorney General - HHS
Health and Human Services Division
5420 Kietzke Lane
Suite 202
Reno NV 89511

Invoice No. : 12977
Invoice Date : 1/6/2014
Total Due : \$ 399.50
AFTER 2/5/2014 PAY \$439.45

Remit To: **Oasis Reporting Services, LLC**
400 South Seventh Street
Suite 400, Box 7
Las Vegas NV 89101

Job No. : 8315
BU ID : 1-MAIN
Case No. : 12 OC 00168 1B
Case Name : City of Fernley, Nevada v. State of Nevada, et al.
JA 4118

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Phundai
COPY

Name Andrea Nichols, Sr. Deputy Attorney General (Reno)
 Internal ID No. 23889
 Department & Division BGA-BT
 Official Station Reno
 Client/Agency/Board/Comm: Dept. of Taxation
 Purpose of Travel: Depo. of Guy Hobbs-12/5/13 at 9:30 AM:
Law Offices of Brownstein Hyatt Farber
Schrek LLP
100 North City Pkwy., Suite 1600, Las Vegas, NV

Preparer: Renee Sheridan Date: 10/29/2013
 REGISTRATION FORM/LETTER: YES ☐ NO ☒
 (Include itinerary and any other backup documents)
 Traveler is:
☒ State Officer or Employee
☐ Board or Commission Member
☐ Independent Contractor Whose Contract Provides for Travel
☐ Witness
 Case Name, Court and Case No. City of Fernley v. State of Nevada
1st JD, Case No. 12-OC-00168-1B
 ProLaw Matter No. 13657-1042

| | | Transportation & Mileage Rates | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---------|--|----------|---|--|--|--|--|----------------|--|--|--|--|------------------|-------|--|--|---------|---|---|---|---------|---------|---------|----------|----------|
| <u>Transportation Codes:</u> | | State | 0.565 | You must Enter the GSA Rate below and attach a copy to this document | | | | | | | | | | | | | | | | | | | | | | |
| | | Pers | 0.2825 | | | | | | | | | | | | | | | | | | | | | | | |
| <p>P - Plane X - Passenger in Car</p> <p>PP - Private Plane PT - Public Trans: Subway, City Bus</p> <p>PC - Private Car SC - State Car: Motor Pool or Agency Car</p> <p>OT - Other: Limousine, Taxi, Shuttle, Rental Car, Inter-City Bus, RR</p> <p><u>Miscellaneous Codes:</u></p> <p>A - ATM Fees* I - Incidental Expense PR - Parking</p> | | When traveling in pers vehicle for your convenience it is at the Pers Rate | | <table border="1"> <tr> <th colspan="5">Daily Expenses</th> </tr> <tr> <th rowspan="2">Incidental Costs</th> <th colspan="3">Meals</th> <th rowspan="2">Lodging</th> </tr> <tr> <th>B</th> <th>L</th> <th>D</th> </tr> <tr> <td>\$ 5.00</td> <td>\$12.00</td> <td>\$18.00</td> <td>\$ 36.00</td> <td>\$ 92.00</td> </tr> </table> | | | | | Daily Expenses | | | | | Incidental Costs | Meals | | | Lodging | B | L | D | \$ 5.00 | \$12.00 | \$18.00 | \$ 36.00 | \$ 92.00 |
| Daily Expenses | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Incidental Costs | Meals | | | Lodging | | | | | | | | | | | | | | | | | | | | | | |
| | B | L | D | | | | | | | | | | | | | | | | | | | | | | | |
| \$ 5.00 | \$12.00 | \$18.00 | \$ 36.00 | \$ 92.00 | | | | | | | | | | | | | | | | | | | | | | |

| Date | Destination | Travel Time | | Transportation | | | | Miscellaneous Expenses | | Daily Expenses | | | | Total For Day |
|---|-------------------------|-------------|---------|----------------|---------------|-----------------|------|------------------------|-------|----------------|-------|-------|---------|---------------|
| | | Started | Ended | Code | PC/PP Mileage | Rate from above | Cost | Code | Cost | Meals | | | Lodging | |
| | | | | | | | | | | B | L | D | | |
| 12/5/2013 | RNO to LV & Rtn Airport | 5:00 AM | 8:00 PM | P/SC | | | 0.00 | I | 5.00 | 12.00 | 18.00 | 36.00 | | 71.00 |
| 12/5/2013 | Parking | | | | | | 0.00 | PR | 14.00 | | | | | 14.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
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| | | | | | | | 0.00 | | | | | | | 0.00 |
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| | | | | | | | 0.00 | | | | | | | 0.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
| Total Request for Mileage, Per Diem and Lodging (Will be Encumbered under TR#): | | | | | | | | | | | | | | 85.00 |

| | | | | | | | | | |
|---|--|--|--|--|--|--|--|--|--|
| Total Request for Mileage, Per Diem and Lodging (Will be Encumbered under TR#): | | | | | | | | | |
|---|--|--|--|--|--|--|--|--|--|

| | |
|--------------------------------------|------|
| REGISTRATION-7302 (Do not Encumber): | 0.00 |
|--------------------------------------|------|

| | |
|---|-------|
| MOTORPOOL GL 6110/6210 (Do not Encumber): \$27.00 per day | 27.00 |
|---|-------|

| | |
|-----------------------------------|------|
| WITNESS FEE (Encumber under TR#): | 0.00 |
|-----------------------------------|------|

| | | |
|--|-----------------------------|--------|
| AIRFARE: GL 6150/8250 (Encumber under TRA#): | \$383.80 as of January 2013 | 400.00 |
|--|-----------------------------|--------|

| | | |
|---------------|--|---------|
| TOTAL REQUEST | | \$12.00 |
|---------------|--|---------|

| | | | |
|--|--------------------------|-------------------|-------|
| SIGNATURE OF TRAVELER: <i>A. Nichols</i> | Date: <i>10-29-13</i> | FUNDING APPROVAL: | Date: |
| SIGNATURE OF SUPERVISOR: <i>[Signature]</i> | Date: | | |
| PRINT NAME OF PERSON SIGNING: | | | |

RECEIPTS ARE REQUIRED FOR: Other Transportation; All Lodging Above CONUS Rate; ATM and Bank Transactions and all Out-of-State Transportation.

ONCE ALL APPROVALS ARE RECEIVED - ATTACH YOUR GSA RATES IF REQUESTING PER DIEM REIMBURSEMENT AND SUBMIT TO FISCAL FOR APPROVAL AND PROCESSING

For Accounting Purposes Only

Budget Coding:

TR-

Effective 4/11/08

Last Revision Date: 01/

Case No. 66851

LA 10472630

TRAVEL ADVANCE REQUEST

| | | |
|---|--|------------------|
| Traveler's Signature for Travel Advance Only: | Direct Deposit: <input type="checkbox"/> | Agency Approval: |
| | Check: <input type="checkbox"/> | |

If a Travel Advance is requested, this section must be signed by the traveler:

Note: An advance is only available if traveler does not have a State issued Diner's Club card (per SAM: 0252.0 and NRS 281.171). Amount of advance cannot exceed 85% of subtotal.

CONTACT INFORMATION

Name and phone number of contact person for traveler, should there be any questions regarding travel:
Rhonda Collins, (775) 850-4114

Date(s), time(s) and location of conference/meeting/hearing:
12/5/2013, Reno to Las Vegas, Depo at 9:30 am

Please check the items that you require the Travel Coordinator to make:

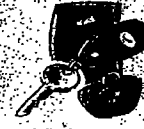


☒ **AIRLINE:** Name on Gov ID Andrea [redacted] Nichols Date of Birth [redacted] Gender F

Departure Date: 12/5/2013 Time: 6:00 AM

Return Date: 12/5/2013 Time: 6:10 PM

Airport: Reno to Las Vegas and Return



☐ **HOTEL/MOTEL:**

If the Travel Coordinator will be making hotel reservations, please list preferred accommodations:

1st Choice:

Phone No. _____

Rate: _____

2nd Choice:

Phone No. _____

Rate: _____



☒ **AUTOMOBILE TRANSPORTATION:** Pick up Location: Las Vegas Fleet Services

☒ Motor Pool Car: Intermediate

☐ Rental Car:

(Type of car)

(Type of car)

Pick up Date: 12/5/2013 Time: 7:15 AM

Return Date: 12/5/2013 Time: 5:00 PM

FOR TRAVEL COORDINATOR USE ONLY

Airfare: _____

Airfare Confirmation #: _____

Hotel Conf. #: _____

Car Rental Confirmation #: _____

Training/Seminar Registration: _____

Purchase Order #: _____

Date Faxed: _____

Case No. 66851
JA 4121

Case No. 66851
JA **4122**

STATE OF NEVADA
Office of the State Controller

For Document Number: PV 030 00001312916

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| 12/27/2013 | 12/27/2013 | 2014 | 06/2014 | 23889 NICHOLS, ANDREA H |

[illegible]

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SWABIZ - Southwest Airlines® Receipt and Itinerary as of November 1, 2013 11:02 AM

Confirmation Number: Z22GG6

Company ID: 99594132

Confirmation Date: November 1, 2013

| Passenger Name | Account Number | Ticket# | Expiration ¹ | Estimated Points Earned |
|----------------|------------------|---------------|-------------------------|-------------------------|
| NICHOLS/ANDREA | - None Entered - | 5262168608151 | Nov 1, 2014 | 3760 |

¹ All travel involving funds from this Confirmation Number must be completed by the expiration date.**Itinerary**

| Date | Flight | Routing Details |
|-----------|--------|---|
| Thu Dec 5 | # 3246 | Depart RENO/TAHOE, NV (RNO) on Southwest Airlines at 06:00 AM Arrive in LAS VEGAS, NV (LAS) at 07:15 AM Travel Time 1 hrs 15 mins |
| Thu Dec 5 | # 435 | Depart LAS VEGAS, NV (LAS) on Southwest Airlines at 6:10 PM Arrive in RENO/TAHOE, NV (RNO) at 7:30 PM Travel Time 1 hrs 20 mins |

Carry-on Items: 1 Bag + small personal item are free. Checked Items: First and second bags are free.
Visit <http://www.southwest.com/html/customer-service/baggage/checked-bags-pol.html>

What you need to know to travel:

- Don't forget to check in for your flight(s) 24 hours before your trip on southwest.com or your mobile device. This will secure your boarding position on your flights.
- Southwest Airlines does not have assigned seats, so you can choose your seat when you board the plane. You will be assigned a boarding position based on your checkin time. The earlier you check in, within 24 hours of your flight, the earlier you get to board.

Cost and Payment Summary

| | |
|-------------------------------|------------------|
| Base Fare | \$ 349.76 |
| + Excise Taxes | \$ 26.24 |
| + Segment Fee | \$ 7.80 |
| + Passenger Facility Charge | \$ 9.00 |
| + September 11th Security Fee | \$ 5.00 |
| Total Air Cost | \$ 397.80 |

Current Payment(s):

Nov 1, 2013 Visa XXXXXXXXXXXX4659 \$397.80

Fare Calculation:

RNO WN LAS174.88YL WN RNO174.88YL 349.76 END ZPRNOLA6 XFRNO4.5LAS4.5 AY5.00\$RNO2.50 LAS2.50

SOUTHWEST AIRLINES CO. NOTICE OF INCORPORATED TERMS: Air transportation by Southwest Airlines is subject to Southwest Airlines' Passenger Contract of Carriage, the terms of which are incorporated by reference. Incorporated terms include but are not limited to: (1) Limits on liability for loss, damage to, or delayed delivery of passenger baggage, including fragile, perishable, and certain other irreplaceable and/or high value goods or contents, as specified in Article 75 of the Contract of Carriage. Baggage liability for covered items (except disability assistive devices) is limited to \$9,300.00 per fare paying Customer unless excess valuation coverage is purchased. (2) Claims restrictions, including time periods in which Customers must file a claim or bring an action against Southwest. (3) Our rights to change terms of the Contract. (4) Rules on reservations, checkin times, refusal to carry, and smoking. (5) Our rights and limits of liability for delay or failure to perform service, including schedule changes, substitution of alternate air carriers or aircraft, and rerouting. (6) Overbooking: If we deny you boarding due to an oversale and you have obtained your boarding pass and are present and available for boarding in the departure gate area at least ten minutes before scheduled departure, with few exceptions, we compensate you. You may inspect Southwest's Contract of Carriage and Customer Service Commitment at any Southwest ticket counter or online at southwest.com, or obtain a copy by sending a request to: Southwest Airlines, V.P. Customer Relations, PO Box 36847, Dallas, TX 75235-1847. Note: When traveling on any flight operated by another carrier, that operating carrier's contract of carriage applies.

CHECKIN RULES: Passengers who do not obtain a boarding pass and are not present and available for boarding in the departure gate area at least ten minutes prior to scheduled departure time may have their reserved space cancelled and will not be eligible for denied boarding compensation.

REFUND AND EXCHANGES: 5262168608151: NONTRANSFERABLE.

Valid only on Southwest Airlines. All travel involving funds from this Confirmation Number must be completed by the expiration date. Unused travel funds may only be applied toward the purchase of future travel for the individual named on the ticket. Any change to this itinerary may result in a fare increase.

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| 12/17/2013 | 12/18/2013 | 2014 | 06/2014 | T32000871A US BANCORP DBA |

| Acct Type | Fund | Agy/Org/Sub | Appr | Job # | BS/Obj/Rev | Sub | Func | Activity | Rpt Cat | Ref Doc/Line | Line #/Desc | Comments/Invoice | Amount |
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| 02 | 101 | 030-1000 | | | 2000 | | | | | | 01 | TRA01318 | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 01 4730774555566495 | TRA01318 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 02 | TRA01330 | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 02 4730774555566495 | TRA01330 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 03 | TRA01249 | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 03 4730774555566495 | TRA01249 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 04 | TRA01261 | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 04 4730774555566495 | TRA01261 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 05 | TRA01305 | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 05 4730774555566495 | TRA01305 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 06 | TRA01304 | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 06 4730774555566495 | TRA01304 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 07 | TRA01306 | -\$407.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 07 4730774555566495 | TRA01306 | \$407.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 08 | TRA01333 | -\$198.90 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 08 4730774555566495 | TRA01333 | \$198.90 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 09 | TRA01277 | -\$5.00 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 09 4730774555566495 | TRA01277 | \$5.00 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 10 4730774555566495 | TRA01209CRT | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 10 | TRA01209CRT | \$397.80 |
| 02 | 101 | 030-3805 | 103019 | 124210WF | 7760 | | | | | | 11 4730774555566495 | TRA01176BCRT | -\$1,041.60 |
| 22 | 101 | 030-3805 | | 124210WF | 2000 | | | | | | 11 | TRA01176BCRT | \$1,041.60 |
| 02 | 101 | 030-3805 | 103019 | 124210WF | 7760 | | | | | | 12 4730774555566495 | TRA01176ACRT | -\$1,041.60 |
| 22 | 101 | 030-3805 | | 124210WF | 2000 | | | | | | 12 | TRA01176ACRT | \$1,041.60 |
| 02 | 101 | 030-3805 | 103019 | 124210WF | 7760 | | | | | | 13 4730774555566495 | TRA01176CCRT | -\$1,171.60 |
| 22 | 101 | 030-3805 | | 124210WF | 2000 | | | | | | 13 | TRA01176CCRT | \$1,171.60 |
| 02 | 101 | 030-3805 | 103019 | 124210WF | 7760 | | | | | | 14 4730774555566495 | TRA01176DCRT | -\$421.80 |
| 22 | 101 | 030-3805 | | 124210WF | 2000 | | | | | | 14 | TRA01176DCRT | \$421.80 |
| 02 | 101 | 030-3805 | 103019 | 124210WF | 7760 | | | | | | 15 4730774555566495 | TRA01176ECRT | -\$1,152.30 |
| 22 | 101 | 030-3805 | | 124210WF | 2000 | | | | | | 15 | TRA01176ECRT | \$1,152.30 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 16 | TRA01272 | -\$515.60 |
| 22 | 101 | 030-1000 | 103030 | | 6150 | | | | | | 16 4730774555566495 | TRA01272 | \$515.60 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 17 | TRA01209CRT | -\$685.00 |

| | | | | | | | | | | | | |
|----|-----|----------|--------|---------|------|--|--|--|--|---------------------|-----------------------|-------------|
| 22 | 101 | 030-2000 | 103003 | | 6250 | | | | | 17 4730774555566495 | TRA01296 | \$397.80 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 18 | TRA01319 | -\$397.80 |
| 22 | 101 | 030-6000 | 103003 | | 6250 | | | | | 18 4730774555566495 | TRA01319 | \$397.80 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 19 | TRA01283 | -\$397.80 |
| 22 | 101 | 030-6000 | 103003 | | 6250 | | | | | 19 4730774555566495 | TRA01283 | \$397.80 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 20 | TRA01322 | -\$397.80 |
| 22 | 101 | 030-6000 | 103003 | | 6250 | | | | | 20 4730774555566495 | TRA01322 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | 21 | TRA01275 | -\$397.80 |
| 22 | 101 | 030-1000 | 103110 | | 6250 | | | | | 21 4730774555566495 | TRA01275 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | 22 | TRA01274 | -\$397.80 |
| 22 | 101 | 030-1000 | 103110 | | 6250 | | | | | 22 4730774555566495 | TRA01274 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | 23 | TRA01259 | -\$437.80 |
| 22 | 101 | 030-1000 | 103111 | | 6150 | | | | | 23 4730774555566495 | TRA01259 | \$437.80 |
| 22 | 101 | 030-2000 | 103110 | | 6250 | | | | | 24 4730774555566495 | TRA01213CRT | -\$397.80 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | 24 | TRA01213CRT | \$397.80 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | 25 | TRA01269 | -\$397.80 |
| 22 | 101 | 030-2000 | 103110 | | 6250 | | | | | 25 4730774555566495 | TRA01269 | \$397.80 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | 26 | TRA01268 | -\$397.80 |
| 22 | 101 | 030-2000 | 103110 | | 6250 | | | | | 26 4730774555566495 | TRA01268 | \$397.80 |
| 22 | 101 | 030-2000 | 103110 | | 6150 | | | | | 27 4730774555566495 | TRA01078CRT | -\$407.60 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | 27 | TRA01078CRT | \$407.60 |
| 22 | 101 | 030-1000 | 103110 | | 6150 | | | | | 28 4730774555566495 | TRA01205CRT | -\$771.60 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | 28 | TRA01205CRT | \$771.60 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 29 | TRA01315 | -\$397.80 |
| 22 | 101 | 030-6000 | 103110 | | 6250 | | | | | 29 4730774555566495 | TRA01315 | \$397.80 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 30 | TRA01314 | -\$397.80 |
| 22 | 101 | 030-6000 | 103110 | | 6250 | | | | | 30 4730774555566495 | TRA01314 | \$397.80 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 31 | TRA01282 | -\$397.80 |
| 22 | 101 | 030-6000 | 103110 | | 6250 | | | | | 31 4730774555566495 | TRA01282 | \$397.80 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 32 | TRA01284 | -\$498.30 |
| 22 | 101 | 030-6000 | 103110 | | 6150 | | | | | 32 4730774555566495 | TRA01284 | \$498.30 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 33 | TRA01284A | -\$575.40 |
| 22 | 101 | 030-6000 | 103110 | | 6150 | | | | | 33 4730774555566495 | TRA01284A | \$575.40 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 34 | TRA01332 | -\$1,152.30 |
| 22 | 101 | 030-6000 | 103110 | | 6150 | | | | | 34 4730774555566495 | TRA01332 | \$1,152.30 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 35 | TRA01294A | -\$1,152.30 |
| 22 | 101 | 030-6000 | 103110 | | 7760 | | | | | 35 4730774555566495 | TRA01294A | \$1,152.30 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 36 | TRA01294B | -\$1,152.30 |
| 22 | 101 | 030-6000 | 103110 | | 7760 | | | | | 36 4730774555566495 | TRA01294B | \$1,152.30 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 37 | TRA01294C | -\$1,152.30 |
| 22 | 101 | 030-6000 | 103110 | | 7760 | | | | | 37 4730774555566495 | TRA01294C | \$1,152.30 |
| 02 | 101 | 030-1000 | | 9377514 | 2000 | | | | | 38 | TRA01300 | -\$397.80 |
| 22 | 101 | 030-1000 | 103709 | 9377514 | 6250 | | | | | 38 4730774555566495 | TRA01300 | \$397.80 |
| 02 | 101 | 030-1000 | | 9377514 | 2000 | | | | | 39 | TRA01313 | -\$397.80 |
| 22 | 101 | 030-1000 | 103709 | 9377514 | 6250 | | | | | 39 4730774555566495 | TRA01313 | \$397.80 |
| 02 | 101 | 030-6000 | | 9377514 | 2000 | | | | | 40 | TRA01252 | -\$397.80 |
| 22 | 101 | 030-6000 | 103703 | 9377514 | 6250 | | | | | 40 4730774555566495 | TRA01252 | \$397.80 |
| 02 | 101 | 030-6000 | | 9377514 | 2000 | | | | | 41 | TRA01300ase No. 66850 | -\$397.80 |

| | | | | | | | | | | | | | |
|--------------|-----|----------|--------|----------|------|--|--|--|--|--|---------------------|-------------|-----------|
| 22 | 101 | 030-6000 | 103703 | 9377514 | 6250 | | | | | | 41 4730774555566495 | TRA01334 | \$397.80 |
| 02 | 101 | 030-6000 | | 9377514 | 2000 | | | | | | | | |
| 22 | 101 | 030-6000 | 103703 | 9377514 | 6250 | | | | | | 42 | TRA01263 | -\$397.80 |
| 02 | 101 | 030-6000 | | 9377514 | 2000 | | | | | | 42 4730774555566495 | TRA01263 | \$397.80 |
| 22 | 101 | 030-6000 | 103702 | 9377514 | 6150 | | | | | | 43 | TRA01308 | -\$160.80 |
| 02 | 101 | 030-6000 | | 9377514 | 2000 | | | | | | 43 4730774555566495 | TRA01308 | \$160.80 |
| 22 | 101 | 030-6000 | 103702 | 9377514 | 6150 | | | | | | 44 | TRA01308A | -\$166.80 |
| 02 | 101 | 030-6000 | | 9377514 | 2000 | | | | | | 44 4730774555566495 | TRA01308A | \$166.80 |
| 22 | 101 | 030-6000 | 103702 | 9377514 | 6150 | | | | | | 45 | TRA01308B | -\$89.90 |
| 02 | 101 | 030-6000 | | 9377514 | 2000 | | | | | | 45 4730774555566495 | TRA01308B | \$89.90 |
| 22 | 101 | 030-7042 | | 1658910 | 2000 | | | | | | 46 | TRA01244 | -\$471.70 |
| 02 | 101 | 030-7042 | 104016 | 1658910 | 6150 | | | | | | 46 4730774555566495 | TRA01244 | \$471.70 |
| 22 | 101 | 030-2000 | | | 2000 | | | | | | 47 | TRA01280 | -\$399.60 |
| 02 | 101 | 030-2000 | 104110 | | 6150 | | | | | | 47 4730774555566495 | TRA01280 | \$399.60 |
| 22 | 101 | 030-2000 | | | 2000 | | | | | | 48 | TRA01280EXC | -\$30.00 |
| 02 | 101 | 030-2000 | 104110 | | 6150 | | | | | | 48 4730774555566495 | TRA01280EXC | \$30.00 |
| 22 | 101 | 030-2000 | | | 2000 | | | | | | 49 | TRA01327 | -\$397.80 |
| 02 | 101 | 030-2000 | 104210 | | 6250 | | | | | | 49 4730774555566495 | TRA01327 | \$397.80 |
| 22 | 101 | 030-2000 | | | 2000 | | | | | | 50 | TRA01328 | -\$397.80 |
| 02 | 101 | 030-2000 | 104210 | | 6250 | | | | | | 50 4730774555566495 | TRA01328 | \$397.80 |
| 22 | 101 | 030-2000 | | | 2000 | | | | | | 51 | TRA01324 | -\$397.80 |
| 02 | 101 | 030-2000 | 104210 | | 7750 | | | | | | 51 4730774555566495 | TRA01324 | \$397.80 |
| 22 | 101 | 030-2000 | | | 2000 | | | | | | 52 | TRA01326 | -\$397.80 |
| 02 | 101 | 030-2000 | 104210 | | 7750 | | | | | | 52 4730774555566495 | TRA01326 | \$397.80 |
| 22 | 340 | 030-9005 | | 001NMS13 | 2000 | | | | | | 53 | TRA01309 | -\$397.80 |
| 02 | 340 | 030-9005 | 104517 | 001NMS13 | 6250 | | | | | | 53 4730774555566495 | TRA01309 | \$397.80 |
| Total Amount | | | | | | | | | | | | | \$0.00 |

[Return to Selection Screen](#) [Download the Report](#)

Changed
11/18/13

FLEET SERVICES DIVISION
RENTAL REQUEST FORM
Alteration of this form is prohibited

Department: Nevada Attorney General's Office

Division: 1031-10

Requested Date/Time: 12/15/2013 @ 7:15 AM 12/17/13 @ 8:30 PM
mandatory

Return Date/Time: 12/15/2013 @ 5:00 PM 12/17/13 @ 5:00 PM
mandatory

Destination: Las Vegas

Type of Vehicle: Intermediate

Contact Name & Phone No.: Renee Sheridan @ 775-688-1818

E Mail Address: rsheridan@ag.nv.gov

Fax No.: 775-688-1822

Driver's Name: Andrea Nichols

Driver's License Expiration Date:

Vehicle received by:

Telephone/Email: Carson City (775) 684-1880
CCMPOOL@admin.nv.gov
Las Vegas (702) 486-7050
LVMP@admin.nv.gov
Reno (775) 688-1325
RNOMP@admin.nv.gov

Fax: Carson City (775) 684-1888
Las Vegas (702) 486-7042
Reno (775) 688-1309

To be completed by Fleet Services

License: _____

Conf. No.: _____

Mileage: _____

Budget Account # (limit 4 digits)

(agency invoice #)
(limit of 5 characters)

NOTE: By signature, driver certifies that they have a valid operator's license, as defined by the Nevada Department of Motor Vehicles, in their possession while operating a state vehicle and that they are cognizant of state law concerning misuse of state owned vehicles.

Signature of driver
Signature of Approving Authority

Approved by:

FILL IN BELOW FOR CODING

| Line # | Fund | Agency | Org | Sub Org | Appr Unit | Activity | Object | Job No. | Percentage |
|----------------------------------|------|--------|------|---------|-----------|----------|--------|---------|------------|
| 1 | 101 | 030 | 2000 | | 1031-10 | | 6210 | | 100 |
| 2 | | | | | | | | | |
| Total Percentage must equal 100% | | | | | | | | | 100 |

Case No. 6851
128

CONTACT TERMS AND CONDITIONS: The renting agency agrees to exercise all reasonable care and observe all traffic laws while using a state vehicle. Except for Acts of God, mechanical failure or identifiable third party accident fault, the renting agency will return state vehicles in the same condition as received, less normal wear and tear, and will be financially responsible for all abuse or physical damage expense. All non-reported accidents/incidents, including accidents/incidents reported after the reporting time requirements, will result in billing to the renting agency for total physical damage sustained by the state vehicle.

To Be completed by
Fleet Services

Amount

Form MP-2 (Rev 7/13)

Dly Rental Charges**Fleet Services**

Report Date: 12/17/2013

Reservation ID: 198111

Reservation Date: 12-12-2013 15:15 Originally Due: 12-17-2013 17:00 Expected Return: 12-17-2013 17:00
Out Date: 12-17-2013 09:02 Return: 12-17-2013 13:34

Dispatch Location: LVDISP: LAS VEGAS FACILITY Account to Charge: 103110-030-101-2000XXS: ATTY GEN:SPECIAL
LITIGATION AC
Return Location: LVDISP: LAS VEGAS FACILITY Department. to Charge: 103112-030: ATTY GEN:SPECIAL LITIGATION AC

Equipment: 62349 Pool Type Rental Rate: INTER SDN Pool AvailabilityType: INTER SDN

Begin Miles 5,983 End Miles 6,006

Primary Operator ID/Name: NI026: NICHOLS ANDREA

Comment:

| Type | Usage | Charges |
|--------------|-------|----------------|
| Meter | 23 | \$4.60 |
| Days | 1 | \$26.00 |
| Total | | \$30.60 |

Department of Administration
Fleet Services Division
Daily Billing Advice

Month 12 FY 2014

To: ATTY GEN:SPECIAL LITIGATION AC 1031

1/15/2014

Billing No: MT004105

Type of Cost: FLEET SERVICES BILLING

Instructions

Please review the enclosed backup material.

For any errors or questions contact:

Fleet Services (775) 684-1880
750 E King St, Carson City NV 89701

ATTORNEY GENERAL'S
OFFICE

JAN 16 2014

Billing Period: For the Month Beginning 12/1/2013

ACCOUNTING

| Appr Unit | Agency | Fund | Org/Sub | Object | Job Nbr | Amount |
|----------------|--------|------|---------|--------|---------|--------|
| 103110 | 030 | 101 | 1000XX | 6210 | | 142.10 |
| 103110 | 030 | 101 | 2000XX | 6210 | | 261.40 |
| 103110 | 030 | 101 | 6000XX | 6210 | | 338.50 |
| Total Billing: | | | | | | 742.00 |

DATE CI FAREN BSR
JAN 24 2014
BY 6

Case No. 66851
JA 4130

Nevada State Fleet Services

12/1/2013

1031

ATTY GEN:SPECIAL LITIGATION AC

Daily Rentals

| Reservation ID | Date Out | Returned | Driver | Charge |
|----------------|------------|------------|------------------|----------|
| 197680 ✓ | 12/3/2013 | 12/4/2013 | MACKEY CHARLES | \$65.25 |
| 197973 ✓ | 12/9/2013 | 12/9/2013 | DICKERSON KAREN | \$74.04 |
| 197464 ✓ | 12/11/2013 | 12/12/2013 | ARMSTRONG ROSS | \$175.60 |
| 198054 ✓ | 12/12/2013 | 12/13/2013 | RICHARDS SHANNON | \$98.84 |
| 198153 ✓ | 12/17/2013 | 12/17/2013 | DICKERSON KAREN | \$68.06 |
| 198111 ✓ | 12/17/2013 | 12/17/2013 | NICHOLS ANDREA | \$30.60 |
| 197681 ✓ | 12/16/2013 | 12/17/2013 | MACKEY CHARLES | \$51.44 |
| 198164 ✓ | 12/17/2013 | 12/18/2013 | RICHARDS SHANNON | \$122.97 |
| 197671 ✓ | 12/23/2013 | 12/23/2013 | BENSON SHARON | \$55.20 |

Total Daily Rental Charges: \$742.00**Grand Total: \$742.00**

Case No. 66851

JA 4131

EXHIBIT 8

EXHIBIT 8

Case No. 66851
JA 4132

1 CATHERINE CORTEZ MASTO

Attorney General

2 GINA C. SESSION

Chief Deputy Attorney General

3 Nevada Bar No. 5493

Email: gsession@ag.nv.gov

4 ANDREA NICHOLS

Senior Deputy Attorney General

5 Nevada Bar No. 6436

5420 Kietzke Lane, Suite 202

6 Reno, Nevada 89511

(775) 688-1818

7 anichols@ag.nv.gov

8 *Attorneys for Defendants Nevada Department*
9 *of Taxation and Kate Marshall, State Treasurer*

10 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

11 **IN AND FOR CARSON CITY**

12 CITY OF FERNLEY, NEVADA, a Nevada
13 municipal corporation,

14 Plaintiff,

15 v.

16 STATE OF NEVADA, ex rel. THE NEVADA
17 DEPARTMENT OF TAXATION; THE
18 HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
STATE OF NEVADA; and DOES 1-20,
Inclusive,

19 Defendants,

20 NEVADA LEGISLATURE,

21 Intervener.

Case No.: 12 OC 00168 1B

Dept. No.: I

22
23 **AMENDED NOTICE OF DEPOSITION**

24 Please take notice that Defendants, the State of Nevada ex rel. its Department of
25 Taxation and Kate Marshall, in her official capacity as Treasurer of the State of Nevada, by
26 and through their attorneys, will take the deposition upon oral examination of LeRoy
27 Goodman on the 10th day of January, 2014, at the hour of 9:30 a.m.

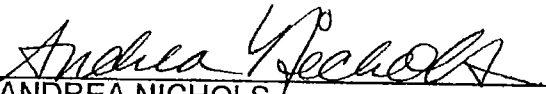
28 ///

1 Said deposition shall be taken by stenographic means before the court reporting firm
2 of Sunshine Reporting Services, 151 Country Estates Circle, Reno, Nevada 89511.

3 DATED this 20th day of November, 2013.

4 CATHERINE CORTEZ MASTO
5 Attorney General

6
7 By:



8 ANDREA NICHOLS
9 Senior Deputy Attorney General
10 Nevada Bar No. 6436
11 5420 Kietzke Lane, Suite 202
12 Reno, Nevada 89511
13 (775) 688-1818

14 *Attorneys for Defendants.*

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Office of the Attorney General
5420 Kietzke Lane, Suite 202
Reno, NV 89511

CERTIFICATE OF SERVICE

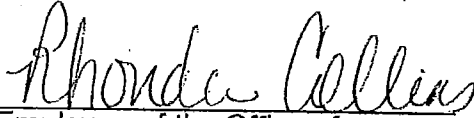
I hereby certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 21st day of November, 2013, I served a copy of the foregoing

AMENDED NOTICE OF DEPOSITION by electronic mail directed to the following:

Joshua Hicks, Esq.
Clark Vellis, Esq.
Brownstein Hyatt Farber Schreck, LLP
50 W. Liberty Street, Suite 1030
Reno, NV 89501
jhicks@bhfs.com
cvellis@bhfs.com

Kevin Powers, Esq.
Dan Yu, Esq.
Legislative Counsel Bureau
401 S. Carson Street
Carson City, NV 89701
kpowers@lcb.state.nv.us
dan.yu@lcb.state.nv.us

Brandi Jensen, Fernley City Attorney
Office of the City Attorney
595 Silver Lace Blvd.
Fernley, NV 89408
bjensen@cityoffernley.org


Employee of the Office of
the Attorney General

INVOICE



151 Country Estates Circle
Reno, NV 89511
Phone: 800-330-1112
Fax: 702-631-1735
www.litigation-services.com

Andrea Nichols, Esq.
Office of the Attorney General
5420 Kietzke Lane
Suite 202
Reno, NV 89511

ok to pay

| | | |
|---|---------------------|----------------|
| Invoice No. | Invoice Date | Job No. |
| 946303 | 1/24/2014 | 197783 |
| Job Date | Case No. | |
| 1/10/2014 | 12 OC 00168 1B | |
| Case Name | | |
| City of Fernley, Nevada vs. State of Nevada, et al. | | |
| Payment Terms | | |
| Due upon receipt | | |

Andrew No. 13657-1042 PO #5324

ORIGINAL AND 1 CERTIFIED COPY OF TRANSCRIPT OF:
LeRoy Goodman

604.00
TOTAL DUE >>> \$604.00
AFTER 2/23/2014 PAY \$664.40

Thank you for your business!

Payment is not contingent upon client or insurance carrier reimbursement.
Any questions about billing should be received in writing within 30 days of invoice date.

1/31/14 - Original sent to Carson - Accounting

Tax ID: 20-3835523

Phone: 775-688-1818 Fax: 775-688-1822

Please detach bottom portion and return with payment.

Andrea Nichols, Esq.
Office of the Attorney General
5420 Kietzke Lane
Suite 202
Reno, NV 89511

Job No. : 197783 BU ID : RN-CR
Case No. : 12 OC 00168 1B
Case Name : City of Fernley, Nevada vs. State of Nevada, et al.

Invoice No. : 946303 Invoice Date : 1/24/2014
Total Due : \$ 604.00
AFTER 2/23/2014 PAY \$664.40

Remit To: **Sunshine Reporting and Litigation Services, LLC**
PO Box 98859
Las Vegas, NV 89193-8859

PAYMENT WITH CREDIT CARD



Cardholder's Name: _____
Card Number: _____
Exp. Date: _____ Phone#: _____
Billing Address: _____
Zip: _____ Card Security Code: _____ Case No. 66851
Amount to Charge: _____ JA 4136
Cardholder's Signature: _____

For Document Number: PV 030 00001320489

JA 4137
9/25/2014

EXHIBIT 9

EXHIBIT 9

Case No. 66851
JA 4138

1 Joshua J. Hicks, Nevada Bar No. 6679
2 Clark V. Vellis, Nevada Bar No. 5533
3 BROWNSTEIN HYATT FARBER SCHRECK, LLP
4 50 West Liberty Street, Suite 1030
5 Reno, Nevada 89501
6 Telephone: 775-622-9450
7 Facsimile: 775-622-9554
8 Email: jhicks@bhfs.com
9 Email: cvellis@bhfs.com

6 Brandi L. Jensen, Nevada Bar No. 8509
7 Fernley City Attorney
8 OFFICE OF THE CITY ATTORNEY
9 595 Silver Lace Blvd.
10 Fernley, Nevada 89408

11 *Attorneys for the City of Fernley, Nevada*

12 **IN THE FIRST JUDICIAL DISTRICT COURT**

13 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

14 CITY OF FERNLEY, NEVADA, a
15 Nevada municipal corporation,

16 Plaintiff,

17 v.

18 STATE OF NEVADA ex rel. THE NEVADA
19 DEPARTMENT OF TAXATION; THE
20 HONORABLE KATE MARSHALL, in her
21 official capacity as TREASURER OF THE
22 STATE OF NEVADA; and DOES 1-20,
23 inclusive,

24 Defendants,

25 NEVADA LEGISLATURE,

26 Intervenor.

Case No.: 12 OC 00168 1B

Dept. No.: I

27 **NOTICE OF DEPOSITION OF ALLEN VEIL**

28 **TO: ALLEN VEIL, SHERIFF, LYON COUNTY NEVADA**

PLEASE TAKE NOTICE that at 9:00 a.m. on Thursday, March 13, 2014, at the
Fernley City Hall, 595 Silver Lace Blvd., Fernley, Nevada 89408, Plaintiff City of Fernley,
Nevada will take the oral deposition of Allen Veil, upon oral examination, pursuant to Rule 26
and Rule 30 of the Nevada Rules of Civil Procedure, before a Notary Public or before some

015342\0001\11005161.1

BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 WEST LIBERTY STREET, SUITE 1030
RENO, NEVADA 89501
(702) 382-2101

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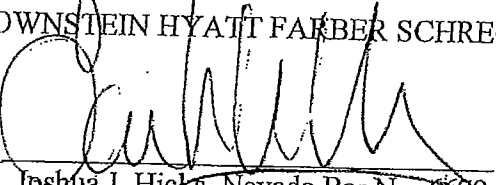
other officer authorized by the law to administer oaths.

Oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

DATED this 14th day of February, 2014.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By:


Joshua J. Hicks, Nevada Bar No. 6679
Clark V. Vellis, Nevada Bar No. 5533
50 West Liberty Street, Suite 1030
Reno, Nevada 89501
Telephone: 775-622-9450

Attorneys for the City of Fernley, Nevada

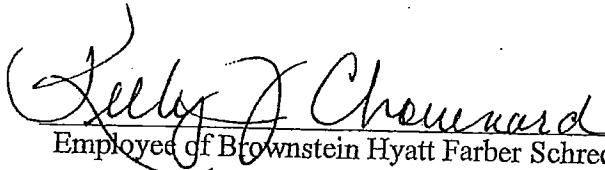
BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 WEST LIBERTY STREET, SUITE 1030
RENO, NEVADA 89501
(702) 382-2101

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER
SCHRECK, LLP, and that on this 18th of February, 2014, I caused to be served via
electronic mail and U.S. Mail, a true and correct copy of the above foregoing Notice of
Deposition of Allen Veil properly addressed to the following:

Andrea Nichols, Esq.,
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
anichols@ag.nv.gov

Brenda J. Erdoes, Esq.
Kevin Powers, Esq.
kpowers@lcb.state.nv.us
J. Daniel Yu, Esq.
dan.yu@lcb.state.nv.us
Legislative Counsel Bureau
401 South Carson Street
Carson City, Nevada 89701


Employee of Brownstein Hyatt Farber Schreck, LLP

Molezzo Reporters

Certified Court Reporters
201 West Liberty Street
Suite 202
Reno, Nevada 89501

Invoice

| Date | Invoice # |
|----------|-----------|
| 4/4/2014 | TA0313142 |

Andrea Nichols, Esq.
ATTORNEY GENERAL'S OFFICE
LITIGATION DIVISION
100 North Carson Street
Carson City, Nevada 89701

Terms

Net 30

| Description | Qty | Amount |
|--|-----|--------|
| Fernley v State of NV - March 13, 2014 | | |
| Depo of Allen Veil | | |
| One Copy | 76 | 171.00 |
| Exhibits & Tabs | 8 | 2.80 |
| E-Transcripts | | 15.00 |
| Free PDF | | |

THANK YOU!

Federal Tax ID: 88-0504825

Total \$188.80

15% LATE CHARGE WILL APPLY IF NOT PAID BY DUE DATE

| Phone # | Fax # | E-mail | Web Site |
|----------------|----------------|----------------------------|-----------------|
| (775) 322-3334 | (775) 322-8887 | molezzoreporters@gmail.com | www.molezzo.com |

Case No. 66851
JA 4142

For Document Number: PV 030 00001335908

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(SEE STATE ADMINISTRATIVE MANUAL 0200 FOR TRAVEL REGULATIONS)

Preparer: Rhonda Collins Date: 2/21/14

REGISTRATION FORM/LETTER: YES ☐ NO ☒
(Include itinerary and any other backup documents)

| | | |
|--------------|-------------------------------------|---|
| Traveler is: | <input checked="" type="checkbox"/> | State Officer or Employee |
| | <input type="checkbox"/> | Board or Commission Member |
| | <input type="checkbox"/> | Independent Contractor Whose Contract Provides for Travel |
| | <input type="checkbox"/> | Witness |

| | |
|-------------------------------|---|
| Case Name, Court and Case No. | City of Fernley v. State of Nevada 1st JD, Case No. 12-OC-00168-1B |
|-------------------------------|---|

| | |
|-------------------|------------|
| ProLaw Matter No. | 13657-1042 |
|-------------------|------------|

| | | | | | | | |
|---|--------|--|----------------|----------------|-----------------|--|-----------------|
| | | M&IE (Meals & Incidental Expenses) | | | | | |
| Transportation & Mileage Rates | | You must Enter the GSA Rate below and attach a copy to this document | | | | | |
| State | 0.565 | | | | | | |
| Pers | 0.2825 | | | | | | |
| When traveling in pers vehicle for your convenience it s at the Pers Rate | | Daily Expenses | | | | | |
| | | Incidental Costs | Meals | | | | Lodging |
| | | | B | L | D | | |
| | | | | | | | |
| | | | \$ 5.00 | \$ 7.00 | \$ 11.00 | | \$ 23.00 |

| Date | Destination | Travel Time | | Transportation | | | | Miscellaneous Expenses | | Daily Expenses | | | | Total For Day |
|---|-------------|-------------|---------|----------------|---------------|-----------------|------|------------------------|------|----------------|-------|---|---------|---------------|
| | | Started | Ended | Code | PC/PP Mileage | Rate from above | Cost | Code | Cost | Meals | | | Lodging | |
| | | | | | | | | | | B | L | D | | |
| 3/13/2014 | Fernley, NV | 7:30 AM | 6:00 PM | SC | | | 0.00 | I | 5.00 | | 11.00 | | | 16.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
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| | | | | | | | 0.00 | | | | | | | 0.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
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| | | | | | | | 0.00 | | | | | | | 0.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
| | | | | | | | 0.00 | | | | | | | 0.00 |
| Total Request for Mileage, Per Diem and Lodging (Will be Encumbered under TR#): | | | | | | | | | | | | | | 16.00 |

| | |
|--------------------------------------|------|
| REGISTRATION 7302 (Do not Encumber): | 0.00 |
|--------------------------------------|------|

| | |
|---|-------|
| MOTORPOOL GL 6110/6210 (Do not Encumber): \$25.50 per day | 25.50 |
|---|-------|


| | |
|-----------------------------------|-------|
| WITNESS FEE (Encumber under TR#): | 25.50 |
| | 0.00 |

| | |
|--|--|
| AIRFARE: GL 6150/6250 (Encumber under TRA#): \$383.80 as of January 2013 | |
|--|--|

| | |
|---------------|-------|
| TOTAL REQUEST | 41.50 |
|---------------|-------|

| | | | |
|------------------------|---------------|-------------------|-------|
| SIGNATURE OF TRAVELER: | Date: 2/21/14 | FUNDING APPROVAL: | Date: |
|------------------------|---------------|-------------------|-------|

Andrea Lewis 2 21-14

| | | |
|--|--|--|
| SIGNATURE OF SUPERVISOR:  Date:  | |  |
|  | | |

PRINT NAME OF PERSON SIGNING: Wesley 7/24/14

RECEIPTS ARE REQUIRED FOR: Other Transportation; All Lodging Above CONUS Rate; ATM and Bank Transactions and all Out-of-State Transportation.

ONCE ALL APPROVALS ARE RECEIVED - ATTACH YOUR GSA RATES IF REQUESTING PER DIEM REIMBURSEMENT AND SUBMIT TO FISCAL FOR APPROVAL AND PROCESSING

For Accounting Purposes Only

Budget Coding:

TR-

Effective 4/11/08
Case No. 66851
Last Revision Date: 01
JA 4144

Case No. 66851
JA **4145**

[Main Menu](#) > [Document History Input](#) > [Document History Inquiry](#)
REPORT DATE AS OF: 09/24/2014
PROC ID: PRC_DOC_HIST

STATE OF NEVADA
Office of the State Controller

Document History Inquiry

For Document Number: PV 030 00001335939

[Back](#)

| Record Date | Process Date | BFY | Acct Per | Vendor/Provider |
|-------------|--------------|------|----------|-------------------------|
| 04/14/2014 | 04/16/2014 | 2014 | 10/2014 | 23889 NICHOLS, ANDREA H |

| Acct Type | Fund | Agy/Org/Sub | Appr | Job # | BS/Obj/Rev | Sub | Func | Activity | Rpt Cat | Ref Doc/Line | Line #/Desc | Comments/Invoice | Amount |
|--------------|------|-------------|--------|-------|------------|-----|------|----------|---------|--------------|-----------------------------|------------------|----------|
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 01 | TR01646 | -\$16.00 |
| 22 | 101 | 030-2000 | 103110 | | 6200 | | | | | | 01 2014/03/13 1 RN FN CA | TR01646 | \$16.00 |
| Total Amount | | | | | | | | | | | | | \$0.00 |

[Return to Selection Screen](#) [Download the Report](#)

FLEET SERVICES DIVISION RENTAL REQUEST FORM

Alteration of this form is prohibited

Department:

Nevada Attorney General's Office

Division:

1031-10

Requested Date/Time:

3/13/2014 @ 7:30 AM

Return Date/Time:

3/13/2014 @ 6:00 PM

Destination:

Reno to Fernley & Return

Type of Vehicle:

Compact

(compact sedan, intermediate sedan, 4x4 SUV, etc.)

Contact Name & Phone No.:

Renee Sheridan@775-688-1818

E Mail Address:

rsheridan@ag.nv.gov

Fax No.:

775-688-1822

Driver's Name :

Andrea Nichols

* Please print or type

Driver's License Expiration Date:

Vehicle received by:

Signature of driver
Signature of Approving Authority

Approved by:

FILL IN BELOW FOR CODING

| Line # | Fund | Agency | Org | Sub Org | Appr Unit | Activity | Object | Job No. | Percentage |
|--------|------|--------|------|---------|-----------|----------|--------|---------|------------|
| 1 | 101 | 030 | 2000 | | 1031-10 | | 6210 | | 100 |
| 2 | | | | | | | | | |
| 3 | | | | | | | | | |

Total Percentage must equal 100%

100

MP

Budget Account #
(limit 4 digits)

(agency invoice #)
(limit of 5 characters)

To be completed by Fleet Services

License:

Conf. No.:

Mileage:

Case No. 6851
4147

Telephone/Email:

Fax:

Carson City (775) 684-1880
CCMPOOL@admn.nv.gov
Las Vegas (702) 486-7050
LVMP@admn.nv.gov
Reno (775) 688-1325
RNOMP@admn.nv.gov

Las Vegas (702) 486-7042
Reno (775) 688-1309

*NOTE: By signature, driver certifies that they have a valid operator's license, as defined by the Nevada Department of Motor Vehicles, in their possession while operating a state vehicle and that they are cognizant of state law concerning misuse of state owned vehicles.

To Be completed by
Fleet Services

Amount

Form MP-2 (Rev 7/11)

CONTRACT TERMS AND CONDITIONS: The renting agency agrees to exercise all reasonable care and observe all traffic laws while using a state vehicle. Except for Acts of God, mechanical failure or identifiable third party accident fault, the renting agency will return state vehicles in the same condition as received, less normal wear and tear, and will be financially responsible for all abuse or physical damage expense. All non-reported accidents/incidents, including accidents/incidents reported after the reporting time requirements, will result in billing to the renting agency for total physical damage sustained by the state vehicle.

Dly Rental Charges**Fleet Services**

Report Date: 3/13/2014

Reservation ID: 199599

Reservation Date: 02-27-2014 11:43 Originally Due: 03-13-2014 18:00 Expected Return: 03-13-2014 18:00
Out Date: 03-13-2014 07:30 Return: 03-13-2014 12:20
Dispatch Location: RNDISP: RENO FACILITY Account to Charge: 103110-030-101-2000XXS: ATTY GEN:SPECIAL
Return Location: RNDISP: RENO FACILITY Department to Charge: 103112-030: ATTY GEN:SPECIAL LITIGATION AC

Equipment: 64299 Pool Type Rental Rate: COMPACT SDN Pool AvailabilityType: COMPACT SDN
Begin Miles 729 End Miles 801
Primary Operator ID/Name: NI026: NICHOLS ANDREA

Comment:

| Type | Usage | Charges |
|--------------|-------|----------------|
| Meter | 72 | \$13.68 |
| Days | 1 | \$25.50 |
| Total | | \$39.18 |

**Department of Administration
Fleet Services Division
Daily Billing Advice**

Month 3 FY 2014

To: ATTY GEN:SPECIAL LITIGATION AC 1031

4/8/2014

Billing No: MT004696

Type of Cost: FLEET SERVICES BILLING

Instructions

Please review the enclosed backup material.

For any errors or questions contact:

Fleet Services (775) 684-1880

750 E King St, Carson City NV 89701

Billing Period: For the Month Beginning 3/1/2014

| Appr Unit | Agency | Fund | Org/Sub | Object | Job Nbr | Amount |
|----------------|--------|------|---------|--------|---------|----------|
| 103110 | 030 | 101 | 1000XX | 6210 | | 524.89 ✓ |
| 103110 | 030 | 101 | 1000XX | 6215 | | 44.93 |
| 103110 | 030 | 101 | 2000XX | 6210 | | 151.78 ✓ |
| 103110 | 030 | 101 | 6000XX | 6215 | | 78.37 |
| Total Billing: | | | | | | 799.97 |

ATTORNEY GENERAL'S
OFFICE

APR 09 2014

ACCOUNTING

DATE CLEARED BSR

APR 11 2014

BY

C

Case No. 66851

JA

4149

Nevada State Fleet Services

3/1/2014

1031

ATTY GEN:SPECIAL LITIGATION AC

Daily Rentals

| Reservation ID | Date Out | Returned | Driver | Charge |
|----------------|-----------|-----------|----------------|----------|
| 199242 ✓ | 3/3/2014 | 3/3/2014 | BENSON SHARON | \$61.20 |
| 199506 ✓ | 3/4/2014 | 3/4/2014 | BENSON K KEVIN | \$29.49 |
| 199702 ✓ | 3/11/2014 | 3/12/2014 | WARD HARRY | \$175.64 |
| 199446 ✓ | 3/12/2014 | 3/13/2014 | FROST JARED | \$179.36 |
| 199599 ✓ | 3/13/2014 | 3/13/2014 | NICHOLS ANDREA | \$39.18 |
| 198876 ✓ | 3/13/2014 | 3/14/2014 | WIELAND ROBERT | \$140.40 |
| 199735 ✓ | 3/28/2014 | 3/28/2014 | BENSON SHARON | \$51.40 |

Total Daily Rental Charges: \$676.67**Outside Rentals**

| Reservation ID | Date Out | Returned | Driver | Rental Type | Charge |
|----------------|-----------|-----------|-----------------|-------------|---------|
| 200023 ✓ | 3/18/2014 | 3/18/2014 | DICKERSON KAREN | ENT-INTER | \$44.93 |
| 199869 ✓ | 3/19/2014 | 3/20/2014 | GOVER THOM | ENT-INTER | \$78.37 |

Total Outside Rental Charges: \$123.30**Grand Total: \$799.97**

Dly Rental Charges**Fleet Services**

Report Date: 3/13/2014

Reservation ID: 199599

Reservation Date: 02-27-2014 11:43 Originally Due: 03-13-2014 18:00 Expected Return: 03-13-2014 18:00
Out Date: 03-13-2014 07:30 Return: 03-13-2014 12:20

Dispatch Location: RNDISP: RENO FACILITY Account to Charge: 103110-030-101-2000XXS: ATTY GEN:SPECIAL
Return Location: RNDISP: RENO FACILITY Department to Charge: 103112-030: ATTY GEN:SPECIAL LITIGATION AC
LITIGATION AC

Equipment: 64299 Pool Type Rental Rate: COMPACT SDN Pool AvailabilityType: COMPACT SDN
Begin Miles 729 End Miles 801

Primary Operator ID/Name: NI026: NICHOLS ANDREA

Comment:

| Type | Usage | Charges |
|--------------|-------|----------------|
| Meter | 72 | \$13.68 |
| Days | 1 | \$25.50 |
| Total | | \$39.18 |

EXHIBIT 10

EXHIBIT 10

AFFIDAVIT OF MOLLY A. COLLINS

STATE OF NEVADA)

) ss:

CARSON CITY, NEVADA)

I Molly A. Collins, being duly sworn, states as follows:

1. I am over the age of 18;

2. Currently, I am employed by the Attorney General's Office ("AGO") of the State of Nevada as a Legal Researcher, and have been so employed since November 2006 in the Carson City Office;

3. In April 2014, I and fellow Legal Researcher Lorin Taylor were requested and assigned to assist with indexing documents from the City of Fernley and the Legislative Counsel Bureau ("LCB") in the matter *City of Fernley, Nevada v State of Nevada, et al* case number 12 OC 00168 1B;

4. Ms. Taylor and I both drove to the Reno Attorney General's Office to index the documents sent to the Attorney General's Office from the City of Fernley and LCB by driving the AGO company car;

5. On or about April 28, 2014 in preparing to make a drive to the Reno AGO to index additional discovery documents the company car was in use and unavailable;

6. Therefore, I used my own personal vehicle to drive to the Reno AGO to index the discovery documents from the City of Fernley and LCB in this matter and was reimbursed by the Attorney General's office for my travel expenses;

///

///

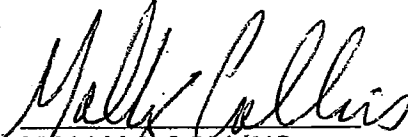
///

///

///

1 7. Ms. Taylor and I indexed a total of 6,753 pages of discovery documents from the
2 City of Fernley and about 13,515 pages of discovery documents provided by the LCB for the
3 above entitled matter.

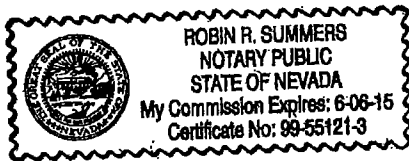
4 FURTHER AFFIANT SAYETH NAUGHT.


MOLLY A. COLLINS

5
6 Dated: September 29 2014

7 SIGNED AND SWORN to before me on
8 this 29 day of September 2014.
9 by Molly A. Collins


10 NOTARY PUBLIC



Melissa A. Hogue

From: Molly A. Collins
Sent: Friday, April 25, 2014 1:23 PM
To: Melissa A. Hogue
Subject: FW: Car

Here you go! thanks

From: Amanda L. White
Sent: Monday, April 21, 2014 2:52 PM
To: Molly A. Collins
Subject: RE: Car

Hi Molly
The car is unavailable on Monday, April 28th. Thanks.

From: Molly A. Collins
Sent: Monday, April 21, 2014 2:09 PM
To: Amanda L. White
Subject: Car

Hi Amanda,

Could you please advise if Monday, April 28th is available to take the car to the Reno Office? If so, can you please reserve it for me?

Thank you,
Molly

Molly Collins
Paralegal/Legal Researcher
State of Nevada | Office of the Attorney General
Bureau of Litigation | Public Safety Division
100 N. Carson Street, Carson City, NV 89701-4717
☎ (775) 684-1241 | 📠 (775) 684-1275 | ✉ mcollins@ag.nv.gov

Melissa A. Hogue

From: Melissa A. Hogue
Sent: Friday, April 25, 2014 3:17 PM
To: Molly A. Collins
Cc: Judy L. Fishburn
Subject: Travel 04/28/2014 Molly Collins

Good Afternoon,

Travel to Reno on 04/28/2014 has been approved for Molly Collins. No reservations were requested of the travel desk. Please let me know if you have any questions.

Thank you, have a great day

Melissa Hogue
Accounting Assistant II
Nevada Attorney Generals Office
100 North Carson Street
Carson City, NV 89701
(775) 684-1122
mhogue@ag.nv.gov

Melissa A. Hogue

From: Melissa A. Hogue
Sent: Monday, June 23, 2014 12:31 PM
To: Molly A. Collins
Subject: FY14 TRAVEL CLAIM DUE-COLLINS

Importance: High

Good Afternoon,

The following Travel Request is due for a Travel Claim. Please advise if a claim will be filed, as Fiscal Year 14 claims must be received prior to July 1st.

- MOLLY COLLINS 04/28/2014 RENO

Your prompt response is appreciated.

Thank you,

Melissa Hogue
Accounting Assistant II
Nevada Attorney Generals Office
100 North Carson Street
Carson City, NV 89701
(775) 684-1122
mhogue@ag.nv.gov

TRAVEL EXPENSE REIMBURSEMENT CLAIM
(SEE STATE ADMINISTRATIVE MANUAL 0200 FOR TRAVEL REGULATIONS)

I declare under penalties of perjury that to the best of my knowledge this is a true and correct claim in conformance with the governing statutes and the State Administrative Manual and its updates.

X _____ I do not have a travel advance

_____ I do have a travel advance from my agency or State Treasurer

Date _____

Date _____

☒ State Officer or Employee
Board or Commission Member
Independent Contractor Whose Contract
Provides for Travel

Transportation Codes:

| | |
|---|--|
| P - Plane | X - Passenger In Car |
| PP - Private Plane | PT - Public Trans: Subway, City Bus |
| PC - Private Car | SC - State Car: Motor Pool or Agency Car |
| OT - Other*: Limousine, Taxi, Shuttle, Rental Car, Inter-City Bus, Railroad | |

Miscellaneous Codes:

| | | |
|---------------|------------------------|-----------|
| A - ATM Fees* | I - Incidental Expense | PR - Park |
|---------------|------------------------|-----------|

ATTORNEY GENERAL'S
OFFICE
JUN 23 2014
ACCOUNTING

Case No. 66851
JA **4159**

ADVANTAGE Desktop - FSC

File Edit Display Process Window Help

Batch: Documents PVE 030 00001351751

Date of Record: 06/24/14 Accounting Period: / Budget FY: 14 Test Flag: ☐

Document Total: 29.12 Calculated Total: 29.12

Vendor Code: 37781

Vendor Name: COLLINS, MOLLY A

Vendor Address: ATTORNEY GENERAL OFFICE
100 N CARSON ST
CARSON CITY NV 89701-4717

Payment Options:
Single Check: ☒ Check Cat: ☐
EFT Indicator: Yes App Type: 19
Scheduled Pay Date: / /

| Line | Fund | Agency | Org / Sub | App/Unit | Activity | Function | Object / Sub | Rev | Job Number | Rept Cat |
|------|------|--------|-----------|----------|----------|----------|--------------|-----|------------|----------|
| 101 | 101 | 030 | 1000 | / | 103003 | | 6240 | / | | |

Invoice: TR01842 Desc: 2014/04/28 TCCR NM Amt: 29.12 Inc C Desc

1 of 2: APPROVAL 3 APPLIED

Messages: Status: PENDING ACTION

UNRECORDED

| | |
|------------|------------|
| Check# | EE9447044 |
| Check Date | 06/25/2014 |

OFFICE OF THE ATTORNEY GENERAL
BILL PROCESSING DOCUMENT

| | |
|--------------------------|---------------------|
| P.O./Travel # TR01842 | Monthly Spreadsheet |
|--------------------------|---------------------|

| ACTION | INITIALS | DATE |
|---------------------------------|----------|-------------|
| Posted to contract spreadsheet: | | |
| Vouchered and keyed by: | MAA | 6/24/14 |
| Reviewed by (Level 3): | MW | 6/25/14 |
| Reviewed by (Level 4): | WVR | 6/25/14 |
| Cleared BSR | C | JUN 25 2014 |
| Enter Into ProLaw | Yes: | No: |

LRS 2011 P/B JMC

Get Check Back: _____

COPY TO

REASON

Case No. 66851
JA 4160

Main Menu > Document History Input > Document History Inquiry
REPORT DATE AS OF: 09/24/2014
PROC ID: PRC_DOC_HIST

STATE OF NEVADA
Office of the State Controller

Document History Inquiry

For Document Number: PV 030 00001351781

Back

| Record Date | Process Date | BFY | Acct Per | Vendor/Provider |
|-------------|--------------|------|----------|------------------------|
| 06/24/2014 | 06/25/2014 | 2014 | 12/2014 | 37781 COLLINS, MOLLY A |

| Acct Type | Fund | Agy/Org/Sub | Appr | Job # | BS/Obj/Rev | Sub | Func | Activity | Rpt Cat | Ref Doc/Line | Line #/Desc | Comments/Invoice | Amount |
|--------------|------|-------------|--------|-------|------------|-----|------|----------|---------|--------------|-----------------------------|------------------|----------|
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 01 | TR01842 | -\$29.12 |
| 22 | 101 | 030-1000 | 103003 | | 6240 | | | | | | 01 2014/04/28 1 CC RN MT | TR01842 | \$29.12 |
| Total Amount | | | | | | | | | | | | | \$0.00 |

[Return to Selection Screen](#) [Download the Report](#)

EXHIBIT 11

EXHIBIT 11

Case No. 66851
JA 4162

AFFIDAVIT OF TERRY RUBALD

STATE OF NEVADA)
) ss.
COUNTY OF CARSON CITY)

1. The statements contained herein, except where otherwise indicated to be upon information and belief, are based on my personal knowledge, are true, accurate and correct, are made under penalty of perjury, and if I am called to testify regarding the matters herein, I would testify consistently therewith;

2. I am employed by the State of Nevada, Department of Taxation as Deputy Executive Director;

3. I have been employed by the Nevada Department of Taxation ("Department") since 1997;

4. The Department received the City of Fernley's Second Request for Production of Documents late in the afternoon on March 11, 2014;

5. The City of Fernley requested a tremendous amount of documentation including, all tentative and final budget files submitted by each local government entity and special district for fiscal years 2013 and 2014;

6. The request was burdensome because this is a particularly busy time of year for the Department of Taxation;

7. Eight people worked on gathering and scanning documents in order to produce a disc with copies of everything requested by the City of Fernley, three budget analysts, two program officers, two administrative assistants and myself;

8. The Three Budget Analysts, Warner Ambrose, Susan Lewis and Penny Hampton worked on this for 34 hours at the rate of \$33.91 per hour for a total of \$1,152.94;

9. The two Administrative Assistants, Janie Ware and Leona Hopper spent a total of 96 hours on this project at the rate of \$22.80 per hour for a total of \$2,188.80;

10. The two Program Officers Keri Gransbery and Anita Moore spent 36 hours at the rate of \$25.96 per hour for a total of \$934.56;

11. I worked on this project for four hours at the rate of \$51.00 per hour for a total of \$204.00;

12. The total spent in responding to Fernley's Second Request for Production of Documents came to a grand total of \$4,480.30.

13. This does not include time spent responding to Fernley's First Request for Production of Documents nor does it take into account the amount of time employees spent responding to interrogatories and requests for admissions;

14. Several Department employees were also taken away from their regular duties in order to be deposed; and

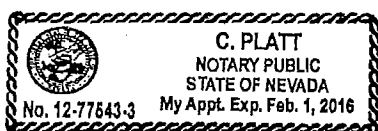
I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

EXECUTED this 1st day of October, 2014.

Terry E Rubald
TERRY RUBALD

SIGNED AND SWORN (or affirmed) to before me
by Terry Rubald on this 1st day
of October, 2014.

C. Platt
NOTARY PUBLIC



| | |
|--|--|
| State of Nevada | <u>Carson</u> |
| County of | |
| This instrument was acknowledged before me on: | |
| <u>10/1/14</u> (Date) | by <u>Terry Rubald</u> (Name of Person) |

EXHIBIT 12

EXHIBIT 12

Case No. 66851
JA 4165

1 Joshua J. Hicks, Nevada Bar No. 6679
2 Clark V. Vellis, Nevada Bar No. 5533
3 BROWNSTEIN HYATT FARBER SCHRECK, LLP
4 50 West Liberty Street, Suite 1030
5 Reno, Nevada 89501
6 Telephone: 775-622-9450
7 Facsimile: 775-622-9554
8 Email: jhicks@bhfs.com
9 Email: cvellis@bhfs.com

6 Brandi L. Jensen, Nevada Bar No. 8509
7 Fernley City Attorney
8 OFFICE OF THE CITY ATTORNEY
9 595 Silver Lace Blvd.
10 Fernley, Nevada 89408
11 *Attorneys for the City of Fernley, Nevada*

12 **IN THE FIRST JUDICIAL DISTRICT COURT**

13 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

12 CITY OF FERNLEY, NEVADA, a
13 Nevada municipal corporation,

14 Plaintiff,

15 v.

16 STATE OF NEVADA ex rel. THE NEVADA
17 DEPARTMENT OF TAXATION; THE
18 HONORABLE KATE MARSHALL, in her
19 official capacity as TREASURER OF THE
20 STATE OF NEVADA; and DOES 1-20,
21 inclusive,

22 Defendants,

23 NEVADA LEGISLATURE,

24 Intervenor.

Case No.: 12 OC 00168 1B

Dept. No.: I

**PLAINTIFF'S SECOND REQUEST
FOR PRODUCTION OF
DOCUMENTS TO THE STATE OF
NEVADA DEPARTMENT OF
TAXATION**

23 TO: STATE OF NEVADA

24 TO: Andrea Nichols, Esq., Office of the Attorney General, Attorneys for the State of
25 Nevada

26 Plaintiff CITY OF FERNLEY, (hereinafter "Plaintiff"), by and through their attorneys of
27 record, Brownstein Hyatt Farber Schreck, LLP, pursuant to Rule 34 of the Nevada Rules of Civil

28 ///

1 Procedure, hereby demands that Defendant State of Nevada, respond to the following requests
2 for production of documents within thirty (30) days of service.

3 INSTRUCTIONS

4 1. You are requested to produce not only those documents in your possession,
5 custody or control, but also those documents reasonably available to you, including those in
6 possession, custody and control of your attorneys, agents or other persons acting on your behalf.

7 2. You are requested to produce all documents in the same form as they were kept
8 prior to this Request for Production of Documents.

9 3. In the event you are able to produce only some of the documents called for in a
10 particular request, produce all the documents you are able.

11 4. If you object to a portion of the request, please produce all documents called for by
12 that portion of the request to which you do not object.

13 DEFINITIONS

14 The following definitions are applicable through this Request:

15 1. As used herein, the term "you," or "your", or "Taxation", or "Defendant" refers to
16 Defendant, the Nevada Department of Taxation, as well as all of its present or past employees,
17 agents, attorneys, investigators, and any other person or entity directly or indirectly subject to the
18 Taxation's control.

19 2 "Document" includes, but is not limited to, written reports, letters, correspondence,
20 books, telegrams, memoranda, drawings, notes, audio tapes, video tapes, computer tapes,
21 computer discs, electromagnetic records of any nature, photographs, negatives, films, minutes,
22 agreements, contracts, maps, diagrams, illustrations, photographs, reports, recordings of any
23 nature, statements, transcriptions, personal notes, inter-office communications, papers, and any
24 record or any other written or graphic material or communication however denominated. The
25 term "document" also includes the original and any copy or drafts thereof.

26 3. "All documents which may support or contradict Plaintiff's allegations and/or
27 defenses ..." calls for all documents (as that term is defined in paragraph 1 above) which refer to
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Appellant,

vs.

THE STATE OF NEVADA ex rel.
DEPARTMENT OF TAXATION;
THE HONORABLE DAN
SCHWARTZ, in his official capacity
as TREASURER OF THE STATE OF
NEVADA; and THE LEGISLATURE
OF THE STATE OF NEVADA,

Respondents.

Electronically Filed
May 20 2015 10:36 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

Supreme Court No.: 66851

District Court Case No.: 12 OC 00168 1B

JOINT APPENDIX
VOLUME 23 PART 1

Filed By:

Joshua J. Hicks, Esq.
Nevada Bar No. 6678
BROWNSTEIN HYATT
FARBER SCHRECK, LLP
50 West Liberty Street, Suite 1030
Reno, Nevada 89501
Telephone: (775) 622-9450
Email: jhicks@bhfs.com

*Attorneys for Appellant City of Fernley,
Nevada*

Index to Joint Appendix
City of Fernley v. State of Nevada et al., Case No. 66851

| Volume Number | Document | Filed By | Date | Bates Stamp Number |
|---------------|--|-------------------------------------|----------|--------------------|
| 1 | Affidavit of Service Taxation | City of Fernley | 07/02/12 | 17 |
| 1 | Affidavit of Service Treasurer | City of Fernley | 06/20/12 | 13-16 |
| 23 | Amended Memorandum of Costs and Disbursements | State of Nevada/Dept Taxation | 10/09/15 | 4058-4177 |
| 7 | Answer | State of Nevada/Dept Tax/ Treasurer | 02/01/13 | 1384-1389 |
| 7 | Answer to Plaintiff's Complaint | Nevada Legislature | 01/29/13 | 1378-1383 |
| 23 | Case Appeal Statement | City of Fernley | 11/07/14 | 4208-4212 |
| 1 | Complaint | City of Fernley | 06/06/12 | 1-12 |
| 21 | Defendant Nevada Legislature's Reply in Support of its Motion for Summary Judgment | Nevada Legislature | 07/25/14 | 3747-3768 |
| 21 | Defendant's Opposition to Motion to Retax Costs and Reply to Opposition to Motion for Costs | State of Nevada/Dept Taxation | 10/03/14 | 3863-3928 |
| 22 | Defendant's Opposition to Motion to Retax Costs and Reply to Opposition to Motion for Costs (Cont.) | State of Nevada/Dept Taxation | 10/03/14 | 3929-3947 |
| 1 | Exhibits to Joinder in Motion to Dismiss | Nevada Legislature | 08/16/12 | 104-220 |
| 2 | Exhibits to Joinder in Motion to Dismiss (Cont.) | Nevada Legislature | 08/16/12 | 221-332 |
| 1 | Joinder in Motion to Dismiss | Nevada Legislature | 08/16/12 | 62-103 |
| 7 | Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss | Nevada Legislature | 05/06/14 | 1421-1423 |
| 21 | Memorandum of Costs and Disbursements | State of Nevada/Dept Taxation | 09/19/14 | 3788-3793 |
| 21 | Motion for Costs | State of Nevada/Dept Taxation | 09/19/14 | 3776-3788 |
| 12 | Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order | City of Fernley | 06/18/14 | 2005-2045 |
| 7 | Motion for Summary Judgment | City of Fernley | 06/13/14 | 1458-1512 |
| 8 | Motion for Summary Judgment (Cont.) | City of Fernley | 06/13/14 | 1513-1732 |
| 9 | Motion for Summary Judgment (Cont.) | City of Fernley | 06/13/14 | 1733-1916 |
| 10 | Motion for Summary Judgment (Cont.) | City of Fernley | 06/13/14 | 1917-1948 |
| 11 | Motion for Summary Judgment (Cont.) | City of Fernley | 06/13/14 | 1949-2004 |
| 1 | Motion to Dismiss | State of Nevada/Dept Tax/ Treasurer | 08/03/12 | 41-58 |
| 1 | Motion to Intervene | Nevada Legislature | 08/03/12 | 18-40 |
| 21 | Motion to Retax Costs and Opposition to Motion for Costs | City of Fernley | 09/24/14 | 3794-3845 |
| 7 | Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss | State of Nevada/Dept Tax/ Treasurer | 05/05/14 | 1414-1420 |
| 7 | Nevada Department of Taxation and Nevada Treasurer's Reply to Response to Renewal of Motion to Dismiss | State of Nevada/Dept Tax/ Treasurer | 05/23/14 | 1433-1437 |
| 12 | Nevada Department of Taxation's Opposition to Plaintiff's Motion for Summary Judgment | State of Nevada/Dept Taxation | 07/11/14 | 2053-2224 |
| 13 | Nevada Department of Taxation's Opposition to Plaintiff's Motion for Summary Judgment (Cont.) | State of Nevada/Dept Taxation | 07/11/14 | 2225-2353 |

Index to Joint Appendix
City of Fernley v. State of Nevada et al., Case No. 66851

| Volume Number | Document | Filed By | Date | Bates Stamp Number |
|----------------------|---|--|-------------|---------------------------|
| 23 | Notice of Appeal | City of Fernley | 11/07/14 | 4205-4207 |
| 22 | Notice of Entry of Order | Nevada Legislature | 10/08/14 | 4001-4057 |
| 23 | Notice of Entry of Order | State of Nevada/Dept | 10/17/14 | 4195-4204 |
| 7 | Notice of Entry of Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012 | State of Nevada/Dept Tax/ Treasurer | 12/19/12 | 1364-1370 |
| 7 | Notice of Entry of Order Granting A Continuance to Complete Discovery | City of Fernley | 10/19/12 | 1344-1350 |
| 3 | Notice of Entry of Order Granting Nevada Legislature's Motion to Intervene | Nevada Legislature | 09/04/12 | 651-657 |
| 7 | Notice of Entry of Order on Defendant's Motion for Extensions of Time to File Answer | State of Nevada/Dept Tax/ Treasurer | 11/15/12 | 1354-1360 |
| 1 | Notice of Non-Opposition to Legislature's Motion to Intervene | State of Nevada/Dept Tax/ Treasurer | 08/06/12 | 59-61 |
| 2 | Opposition to Motion to Dismiss and Motion for Continuance Pursuant to NRCP 56(F) | City of Fernley | 08/20/12 | 331-441 |
| 3 | Opposition to Motion to Dismiss and Motion for Continuance Pursuant to NRCP 56(F) (Cont.) | City of Fernley | 08/20/12 | 442-625 |
| 2 | Opposition to Motion to Nevada Legislature's Motion to Intervene | City of Fernley | 08/20/12 | 324-330 |
| 13 | Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss | City of Fernley | 07/11/14 | 2354-2445 |
| 14 | Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.) | City of Fernley | 07/11/14 | 2446-2665 |
| 15 | Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.) | City of Fernley | 07/11/14 | 2666-2819 |
| 16 | Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.) | City of Fernley | 07/11/14 | 2820-2851 |
| 17 | Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.) | City of Fernley | 07/11/14 | 2852-2899 |
| 4 | Opposition to Nevada Legislature's Joinder in Motion to Dismiss | City of Fernley | 09/28/12 | 662-881 |
| 5 | Opposition to Nevada Legislature's Joinder in Motion to Dismiss (Cont.) | City of Fernley | 09/28/12 | 882-1101 |
| 6 | Opposition to Nevada Legislature's Joinder in Motion to Dismiss (Cont.) | City of Fernley | 09/28/12 | 1102-1316 |
| 17 | Opposition to Nevada Legislature's Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss | City of Fernley | 07/11/14 | 2900-2941 |
| 20 | Opposition to Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order | Nevada Legislature | 07/11/14 | 3586-3582 |

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City of Fernley v. State of Nevada et al., Case No. 66851

| Volume Number | Document | Filed By | Date | Bates Stamp Number |
|---------------|---|-------------------------------------|----------|--------------------|
| 12 | Opposition to Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order and Countermotion for Order Dismissing Nevada Department of Taxation | State of Nevada/Dept Tax/ Treasurer | 07/11/14 | 2049-2052 |
| 17 | Opposition to Plaintiff's Motion for Summary Judgment | Nevada Legislature | 07/11/14 | 2942-3071 |
| 18 | Opposition to Plaintiff's Motion for Summary Judgment (Cont.) | Nevada Legislature | 07/11/14 | 3072-3292 |
| 19 | Opposition to Plaintiff's Motion for Summary Judgment (Cont.) | Nevada Legislature | 07/11/14 | 3292-3512 |
| 20 | Opposition to Plaintiff's Motion for Summary Judgment (Cont.) | Nevada Legislature | 07/11/14 | 3515-3567 |
| 7 | Order (Converting Motion to Dismiss to Motion for Summary Judgment, Setting Briefing Schedule and Dismissing Treasurer) | First Judicial District Court | 06/06/14 | 1451-1457 |
| 22 | Order and Judgment | First Judicial District Court | 10/06/14 | 3948-4000 |
| 7 | Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012 | First Judicial District Court | 12/17/12 | 1361-1363 |
| 7 | Order Granting A Continuance to Complete Discovery | First Judicial District Court | 10/15/12 | 1341-1343 |
| 7 | Order Granting in Part and Denying in Part Petition for Writ of Mandamus | Nevada Supreme Court | 01/25/13 | 1373-1377 |
| 23 | Order Granting Nevada Department of Taxation's Motion for Costs | First Judicial District Court | 10/15/14 | 4190-4194 |
| 3 | Order Granting Nevada Legislature's Motion to Intervene | First Judicial District Court | 08/30/12 | 648-650 |
| 7 | Order on Defendant's Motion for Extensions of Time to File Answer | First Judicial District Court | 11/13/12 | 1351-1353 |
| 7 | Order Pursuant to Writ of Mandamus | First Judicial District Court | 02/22/13 | 1390-1392 |
| 21 | Order Vacating Trial | First Judicial District Court | 09/03/14 | 3773-3775 |
| 23 | Plaintiff's Motion to Strike, or Alternatively, Motion to Retax Costs | City of Fernley | 10/14/14 | 4178-4189 |
| 21 | Plaintiff's Objections to Nevada Legislature's Proposed Order and Request to Submit Proposed Order and Judgment | City of Fernley | 10/02/14 | 3846-3862 |
| 7 | Pretrial Order | First Judicial District Court | 10/10/13 | 1393-1399 |
| 7 | Reply Concerning Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss | Nevada Legislature | 05/27/14 | 1438-1450 |
| 7 | Reply in Support of Joinder in Motion to Dismiss | Nevada Legislature | 10/08/12 | 1317-1340 |
| 3 | Reply in Support of Motion to Intervene | Nevada Legislature | 08/24/12 | 626-635 |
| 21 | Reply in Support of Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order as to Defendant Nevada Legislature | City of Fernley | 07/25/14 | 3709-3746 |

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City of Fernley v. State of Nevada et al., Case No. 66851

| Volume Number | Document | Filed By | Date | Bates Stamp Number |
|----------------------|---|---------------------------------------|-------------|---------------------------|
| 20 | Reply in Support of Plaintiff's Motion for Summary Judgment Against Defendants Nevada Department of Taxation and Nevada Treasurer | City of Fernley | 07/25/14 | 3674-3708 |
| 20 | Reply in Support of Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order as to Defendant's Nevada Department of Taxation and Nevada Treasurer; Plaintiff's Opposition to Countermotion for Order Dismissing Nevada Department of Taxation | City of Fernley | 07/25/14 | 3641-3673 |
| 20 | Reply in Support of Plaintiff's Motion for Summary Judgment Against Defendant Nevada Legislature | City of Fernley | 07/25/14 | 3606-3640 |
| 21 | Reply to Opposition to Countermotion for Order Dismissing Nevada Department of Taxation | State of Nevada/Dept Taxation | 08/01/14 | 3769-3772 |
| 3 | Reply to Opposition to Motion to Dismiss | State of Nevada/Dept Tax/ Treasurer | 08/27/12 | 636-647 |
| 20 | Reply to Plaintiff's Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss | State of Nevada/Dept Taxation | 07/25/14 | 3583-3605 |
| 7 | Response to Nevada Department of Taxation | City of Fernley | 05/16/14 | 1424-1432 |
| 7 | Second Stipulation and Order Regarding Change of Briefing Schedule | Parties/First Judicial District Court | 03/17/14 | 1406-1409 |
| 7 | Stipulation and Order for an Extension of Time to File Responses to Discovery Requests; Extend Certain Discovery Deadlines and Extend Time to File Dispositive Motions | Parties/First Judicial District Court | 04/11/14 | 1410-1413 |
| 7 | Stipulation and Order Regarding Change of Briefing Schedule and Plaintiff's Response to Defendant's Motion to Strike Plaintiff's Jury Demand | Parties/First Judicial District Court | 02/19/14 | 1403-1405 |
| 12 | Stipulation and Order Regarding Change of Briefing Schedule and Setting Hearing for Oral Argument | Parties/First Judicial District Court | 06/25/14 | 2046-2048 |
| 7 | Stipulation and Order Regarding Defendant's Motion to Strike Plaintiff's Jury Demand | Parties/First Judicial District Court | 10/23/13 | 1400-1402 |
| 3 | Stipulation and Order Regarding Joinder to Motion to Dismiss | Parties/First Judicial District Court | 09/18/12 | 658-661 |
| 23 | Transcript of Hearing | Court Reporter | 01/07/15 | 4213-4267 |
| 7 | Writ of Mandamus | Nevada Supreme Court | 01/25/13 | 1371-1372 |

1 *Harbor v. Birchfield*, 529 F.2d 1251, 1254-55 (1976)). Therefore, the fact that individuals or private
2 entities may have standing to bring separation-of-powers claims against the state does not, *ipso facto*,
3 mean Fernley has standing to bring separation-of-powers claims against the state. Fernley is the only
4 plaintiff in this case, and it must have its own standing to pursue separation-of-powers claims against the
5 state. Whether individuals or private entities would have standing has no bearing on this case.

6 The determination of whether political subdivisions have standing to invoke the protections of a
7 state constitutional provision "is a question of state practice." *City of Austin*, 930 S.W.2d at 684
8 (quoting *Williams v. Mayor & City of Baltimore*, 289 U.S. 36, 47-48 (1933)). Therefore, although
9 courts in other states have allowed political subdivisions to bring separation-of-powers claims against
10 the state, this Court may not consider those decisions without first looking to the Nevada Supreme
11 Court's decisions to determine the practice in this state.

12 In *City of Reno v. County of Washoe*, the Nevada Supreme Court held that Nevada's political
13 subdivisions lack standing to bring claims for violations of the due process clause of Article 1, Section 8
14 of the Nevada Constitution because that provision does not exist for the protection of political
15 subdivisions of the state. 94 Nev. at 329-31. By contrast, the Supreme Court also held that Nevada's
16 political subdivisions have standing to bring claims for violations of Article 4, Sections 20 and 21 of the
17 Nevada Constitution because those provisions "exist for the protection of political subdivisions of the
18 State. Their effect is to limit the Legislature, in certain instances, to the enactment of general, rather
19 than special or local, laws." *Id.* at 332. Thus, in Nevada, the determination of whether political
20 subdivisions have standing to invoke the protections of a state constitutional provision depends on
21 whether the state constitutional provision exists for their protection.

22 Although there are several provisions of the Nevada Constitution that exist for the protection of
23 political subdivisions, the separation-of-powers provision is not one of them. The purpose of the
24 separation-of-powers provision is to protect the constitutional design and structural framework of state

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4 Chief Deputy Attorney General
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13 anichols@ag.nv.gov

14 *Attorneys for Defendant Nevada Department of Taxation*

15
16 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
17
18 **IN AND FOR CARSON CITY**

19 CITY OF FERNLEY, NEVADA, a Nevada
20 municipal corporation,

21 Plaintiff,

22 v.

23 STATE OF NEVADA, ex rel. THE NEVADA
24 DEPARTMENT OF TAXATION; THE
25 HONORABLE KATE MARSHALL, in her
26 official capacity as TREASURER OF THE
27 STATE OF NEVADA; THE LEGISLATURE
28 OF THE STATE OF NEVADA and DOES 1-
20, Inclusive,

Defendants.

Case No.: 12 OC 00168 1B

Dept. No.: I

AMENDED MEMORANDUM OF COSTS AND DISBURSEMENTS

Defendant, State of Nevada, ex rel. its Department of Taxation ("Department"), by and through counsel, Catherine Cortez Masto, Attorney General of the State of Nevada, Gina Session, Chief Deputy Attorney General, and Andrea Nichols, Senior Deputy Attorney General, hereby submits its Amended Memorandum of Costs pursuant to NRS 18.110, and respectfully requests that costs be included in the Judgment entered in this action pursuant to NRS 18.120.

///

| | | |
|----|---|------------|
| 1 | Reporters' fees for depositions, including fees for one copy of each deposition | \$2,809.90 |
| 2 | Exhibit "1" Documentation re Deposition of Marian Henderson as | |
| 3 | person most knowledgeable of the Nevada Department of Taxation | |
| | (deposition \$365.70) | |
| 4 | Exhibit "2" Documentation re Deposition of Tara Hagen as person | |
| 5 | most knowledgeable of the Treasurer of the State of Nevada | |
| | (deposition \$96.25) | |
| 6 | Exhibit "3" Documentation re Deposition of Marvin Leavitt | |
| 7 | (deposition \$374.75) | |
| 8 | Exhibit "4" Documentation re Deposition of Mary C. Walker | |
| | (deposition \$407.00) | |
| 9 | Exhibit "5" Documentation re Deposition of Terry Rubald as person | |
| 10 | most knowledgeable for the Department of Taxation | |
| | (deposition \$202.50) | |
| 11 | Exhibit "6" Documentation re Deposition of Warner Ambrose | |
| 12 | (deposition \$171.40) | |
| 13 | Exhibit "7" Documentation re Deposition of Guy Hobbs | |
| | (deposition \$399.50) | |
| 14 | Exhibit "8" Documentation re Deposition of LeRoy Goodman (\$604.00) | |
| 15 | Exhibit "9" Documentation re Deposition of Allen Veil (deposition \$188.80) | |
| 16 | Costs for travel and lodging incurred in attending depositions. | \$1,169.72 |
| 17 | Exhibit "3" Documentation re Deposition of Marvin Leavitt | |
| 18 | (airfare \$397.80, lodging, per diem and airport parking \$195.14, | |
| | car rental \$58.20) | |
| 19 | Exhibit "7" Documentation re Deposition of Guy Hobbs | |
| 20 | (airfare \$397.80, per diem \$35.00, car rental \$30.60) | |
| 21 | Exhibit "9" Documentation re Deposition of Allen Veil | |
| | (per diem \$16.00, car rental \$39.18) | |
| 22 | Expenses incurred in connection with services of legal researcher. | \$29.12 |
| 23 | Exhibit "10" Affidavit of Molly Collins | |
| 24 | Expense incurred by the Nevada Department of Taxation to organize and | |
| 25 | scan documents in response to Plaintiff's Second Request for Production of | |
| | Documents. | \$4,480.30 |
| 26 | Exhibit "11" Affidavit of Terry Rubald | |
| 27 | Exhibit "12" Plaintiff's Second Request for Production of Documents | |
| 28 | | |

TOTAL: Case No. **\$8,489.04**
JA **4059**

AFFIDAVIT OF ANDREA NICHOLS

STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

Senior Deputy Attorney General Andrea Nichols, being duly sworn, states: that the affiant is the attorney representing the Nevada Department of Taxation in the matter entitled *City of Fernley v. State of Nevada ex rel. the Nevada Department of Taxation*, Case No. 12 OC 00168 1B in the First Judicial District Court of the State of Nevada, and has personal knowledge of the above costs and disbursements expended, that the items contained in the above memorandum are true and correct to the best of this affiant's knowledge and belief, and that the said disbursements have been necessarily incurred and paid in this action.

Supporting documentation is attached hereto as Exhibits "1" through "13."

In an effort to conserve funds this office did not purchase a copy of the Deposition of the person most knowledgeable of the Nevada Legislature.

This office also pays a flat fee for computerized legal research and so is unable to itemize these costs. However, I obtained the document attached hereto as Exhibit "13" from Kay Engler, Esq., our Thomson Reuters representative. It shows the value of computerized legal research that I performed utilizing Westlaw for this case as \$5,900.97 for the six month period of April 10, 2014, through October 3, 2014, would be \$5,900.97 if billed at the standard transactional rate.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

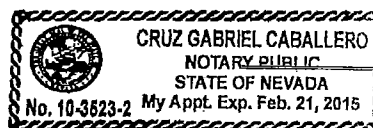
EXECUTED this 09 day of October, 2014.

Andrea Nichols
ANDREA NICHOLS

SUBSCRIBED and SWORN to before me
by ANDREA NICHOLS,

this 09 day of October, 2014.

Cruz Gabriel Caballero
NOTARY PUBLIC



CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Office of the Attorney General of the State of Nevada and that on this 9th day of October, 2014, pursuant to NRCP 5(b) and the parties' stipulation and consent to service by electronic means, I served a copy of the foregoing **AMENDED MEMORANDUM OF COSTS AND DISBURSEMENTS**, by electronic mail directed to the following:

Joshua Hicks, Esq.
Brownstein Hyatt Farber Schreck, LLP
50 West Liberty Street, Suite 1030
Reno, NV 89501
jhicks@bhfs.com

Clark Vellis
Cotton, Driggs, Walch, Holley, Woloson & Thompson
800 South Meadows Parkway, Suite 800
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Brandi Jensen, Fernley City Attorney
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Dan Yu, Esq.
Legislative Counsel Bureau
401 S. Carson Street
Carson City, NV 89701
kpowers@lcb.state.nv.us
dan.yu@lcb.state.nv.us

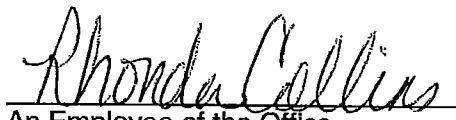

An Employee of the Office
of the Attorney General

EXHIBIT INDEX

| EXHIBIT NO. | DESCRIPTION | NO. OF PAGES (excluding tabs) |
|-------------|---|-------------------------------|
| 1 | Documentation re Deposition of Marian Henderson as person most knowledgeable of the Nevada Department of Taxation (deposition \$365.70) | 6 |
| 2 | Documentation re Deposition of Tara Hagen as person most knowledgeable of the Treasurer of the State of Nevada (deposition \$96.25) | 5 |
| 3 | Documentation re Deposition of Marvin Leavitt (deposition \$374.75) | 20 |
| 4 | Documentation re Deposition of Mary C. Walker (deposition \$407.00) | 4 |
| 5 | Documentation re Deposition of Terry Rubald as person most knowledgeable for the Department of Taxation (deposition \$202.50) | 5 |
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| 8 | Documentation re Deposition of LeRoy Goodman (\$604.00) | 5 |
| 9 | Documentation re Deposition of Allen Veil (deposition \$188.80) | 13 |
| 10 | Affidavit of Molly Collins | 9 |
| 11 | Affidavit of Terry Rubald | 2 |
| 12 | Plaintiff's Second Request for Production of Documents | 7 |
| 13 | Computerized listing of legal research performed utilizing Westlaw | 4 |

EXHIBIT 1

EXHIBIT 1

Case No. 66851
JA 4063

1 Joshua J. Hicks, Nevada Bar No. 6679
Clark V. Vellis, Nevada Bar No. 5533
2 BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 West Liberty Street, Suite 1030
3 Reno, Nevada 89501
Telephone: 775-622-9450
4 Facsimile: 775-622-9554
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6 Brandi L. Jensen, Nevada Bar No. 8509
Fernley City Attorney
7 OFFICE OF THE CITY ATTORNEY
595 Silver Lace Blvd.
8 Fernley, Nevada 89408

9 *Attorneys for the City of Fernley, Nevada*

10 **IN THE FIRST JUDICIAL DISTRICT COURT**

11 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

12 CITY OF FERNLEY, NEVADA, a
13 Nevada municipal corporation,

14 **Plaintiff,**

15 **v.**

16 STATE OF NEVADA ex rel. THE NEVADA
DEPARTMENT OF TAXATION; THE
17 HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
18 STATE OF NEVADA; and DOES 1-20,
inclusive,

19 **Defendants,**

20 **NEVADA LEGISLATURE,**

21 **Intervenor.**

Case No.: 12 OC 00168 1B

Dept. No.: I

22
23 **AMENDED NOTICE OF DEPOSITION OF THE PERSON MOST**
KNOWLEDGEABLE OF THE NEVADA DEPARTMENT OF TAXATION

24 **TO: The Person Most Knowledgeable of the Nevada Department of Taxation;**
25 **and,**

26 **TO: Andrea Nichols, Esq., of the Office of the Attorney General, Attorney for**
27 **Defendant Nevada Department of Taxation.**

28 **///**

1 PLEASE TAKE NOTICE that at 9:30 a.m. on Wednesday, November 13, 2013, at the
2 law offices of Smith & Harmer, Ltd., 502 North Division Street, Carson City, Nevada 89703,
3 Plaintiff City of Fernley, Nevada will take the oral deposition of the Person Most
4 Knowledgeable of the Nevada Department of Taxation regarding the subject(s) set forth below,
5 upon oral examination, pursuant to Rule 26 and Rule 30 of the Nevada Rules of Civil
6 Procedure, before a Notary Public or before some other officer authorized by the law to
7 administer oaths.

8 Oral examination will continue from day to day until completed. You are invited to
9 attend and cross-examine.

10 **SUBJECT MATTER: See Attachment "A".**

11 DATED this 18th day of October, 2013.

12 BROWNSTEIN HYATT FARBER SCHRECK, LLP

13
14 By: 

15 Joshua J. Hicks, Nevada Bar No. 6679

16 Clark V. Vellis, Nevada Bar No. 5533

17 50 West Liberty Street, Suite 1030

18 Reno, Nevada 89501

19 Telephone: 775-622-9450

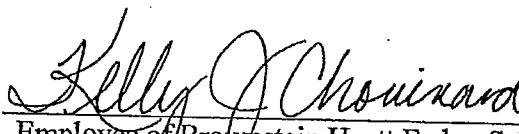
20 *Attorneys for the City of Fernley, Nevada*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 22nd day of October, 2013, I caused to be served via electronic mail and U.S. Mail, a true and correct copy of the above foregoing Amended Notice of Deposition of the Person Most Knowledgeable of the Nevada Department of Taxation properly addressed to the following:

Andrea Nichols, Esq.,
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
anichols@ag.nv.gov

Brenda J. Erdoes, Esq.
Kevin Powers, Esq.
kpowers@lcb.state.nv.us
J. Daniel Yu, Esq.
dan.yu@lcb.state.nv.us
Legislative Counsel Bureau
401 South Carson Street
Carson City, Nevada 89701


Employee of Brownstein Hyatt Farber Schreck, LLP

ATTACHMENT "A"
to the Amended Notice of Deposition of the PMK for the Department of Taxation

CITY OF FERNLEY, NEVADA, a Nevada municipal corporation, Plaintiff,
v.
STATE OF NEVADA ex rel. THE NEVADA DEPARTMENT OF TAXATION; THE HONORABLE
KATE MARSHALL, in her official capacity as TREASURER OF THE STATE OF NEVADA; and
DOES 1-20, inclusive, Defendants,
NEVADA LEGISLATURE, Intervenor

Case No.: 12 OC 00168 1B

Dept. No.: I

SUBJECT MATTER:

1. The local government tax distribution account or C-Tax system and the collection and distribution of taxes created pursuant to and defined by NRS 360.660.
2. The relationship between C-Tax distributions and local government service levels including any studies or investigations conducted into the relationship between C-Tax distribution of local government service levels by the State Legislature, the sufficiency of any distributions for any service level requirements by local governments, review of service levels in relation to C-Tax distributions made by the State Legislature and/or the relationship between spending levels on public safety and receipt of distributions of C-Tax revenues.
3. Relationship between C-Tax distributions and government services provided by C-Tax recipients.
4. Any adjustment or request for adjustment to the C-Tax distribution of a C-Tax recipient and the basis for any such decisions.
5. The method of obtaining an adjustment by a C-Tax recipient.
6. The use of C-Tax distributions for particular services by any C-Tax recipient.
7. The criteria utilized to set, and the continual setting of, allocations of C-Tax distributions to C-Tax recipients.
8. History of enactment and enforcement of C-Tax and SB 254.
9. Legislative oversight of C-Tax since its enactment.
10. Application and implementation of C-Tax since its enactment.
11. Any and all cooperative agreements between C-Tax recipients since the enactment of said C-Tax.
12. Review and analysis of local government budgets in relation to distributions to C-Tax recipients since enactment of the C-Tax.
13. Your Answer to Plaintiff's Complaint and the factual basis of your affirmative defenses 1-14.
14. Any and all communications between you and the City of Fernley Incorporation Committee.

Molezzo Reporters

Certified Court Reporters
201 West Liberty Street
Suite 202
Reno, Nevada 89501

Invoice

| Date | Invoice # |
|-----------|-----------|
| 12/3/2013 | TA1113132 |

Andrea Nichols, Esq.
ATTORNEY GENERAL'S OFFICE
LITIGATION DIVISION
100 North Carson Street
Carson City, Nevada 89701

Terms

Net 30

| Description | Qty | Amount |
|--|-----|--------|
| City of Fernley, v State of NV - November 13, 2013 | | |
| Depo of Marian Henderson | | |
| One Copy | 153 | 344.25 |
| Realtime Hook-Up | 11 | 21.45 |

THANK YOU!

Federal Tax ID: 88-0504825

Total \$365.70

15% LATE CHARGE WILL APPLY IF NOT PAID BY DUE DATE

| Phone # | Fax # | E-mail | Web Site |
|----------------|----------------|----------------------------|-----------------|
| (775) 322-3334 | (775) 322-8887 | molezzoreporters@gmail.com | www.molezzo.com |

Case No. 66851
JA 4068

[Main Menu](#) > [Document History Inqury](#) > Document History Inquiry
 REPORT DATE AS OF: 09/24/2014
 PROC ID: PRC_DOC_HIST

STATE OF NEVADA
Office of the State Controller

Document History Inquiry

For Document Number: PV 030 00001307957

[Back](#)

| Record Date | Process Date | BFY | Acct Per | Vendor/Provider |
|-------------|--------------|------|----------|---------------------------------|
| 12/05/2013 | 12/06/2013 | 2014 | 06/2014 | T81102354 MOLEZZO REPORTERS INC |

| Acct Type | Fund | Agy/Org/Sub | Appr | Job # | BS/Obj/Rev | Sub | Func | Activity | Rpt Cat | Ref Doc/Line | Line #/Desc | Comments/Invoice | Amount |
|---------------------|------|-------------|--------|-------|------------|-----|------|----------|---------|--------------|--------------------------|------------------|---------------|
| 02 | 715 | 030-2000 | | | 2000 | | | | | | 01 | TA1115132 | -\$96.25 |
| 22 | 715 | 030-2000 | 134815 | | 7080 | | | | | | 01 2013/12/3 PO 5181A | TA1115132 | \$96.25 |
| 02 | 715 | 030-2000 | | | 2000 | | | | | | 02 | TA1113132 | -\$365.70 |
| 22 | 715 | 030-2000 | 134815 | | 7080 | | | | | | 02 2013/12/3 PO 5181A | TA1113132 | \$365.70 |
| Total Amount | | | | | | | | | | | | | \$0.00 |

[Return to Selection Screen](#) [Download the Report](#)

EXHIBIT 2

EXHIBIT 2

Case No. 66851
JA 4070

BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 WEST LIBERTY STREET, SUITE 1030
RENO, NEVADA 89501
(775) 622-9450

Joshua J. Hicks, Nevada Bar No. 6679
Clark V. Vellis, Nevada Bar No. 5533
BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 West Liberty Street, Suite 1030
Reno, Nevada 89501
Telephone: 775-622-9450
Facsimile: 775-622-9554
Email: jhicks@bhfs.com
Email: cvellis@bhfs.com

Brandi L. Jensen, Nevada Bar No. 8509
Fernley City Attorney
OFFICE OF THE CITY ATTORNEY
595 Silver Lace Blvd.
Fernley, Nevada 89408

Attorneys for the City of Fernley, Nevada

IN THE FIRST JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR CARSON CITY

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Plaintiff,

v.

STATE OF NEVADA ex rel. THE NEVADA
DEPARTMENT OF TAXATION; THE
HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
STATE OF NEVADA; and DOES 1-20,
inclusive,

Defendants,

NEVADA LEGISLATURE,

Intervenor.

Case No.: 12 OC 00168 1B

Dept. No.: I

**AMENDED NOTICE OF DEPOSITION OF PERSON MOST
KNOWLEDGEABLE OF THE TREASURER OF THE STATE OF NEVADA**

TO: Person Most Knowledgeable of the Treasurer Of The State Of Nevada

TO: Andrea Nichols, Esq., of the Office of the Attorney General, Attorney for
Defendant Treasurer of the State of Nevada.

BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 WEST LIBERTY STREET, SUITE 1030
RENO, NEVADA 89501
(702) 382-2101

1 PLEASE TAKE NOTICE that at 9:30 a.m. on Friday, November 15, 2013, at the law
2 offices of Smith & Harmer, Ltd., 502 North Division Street, Carson City, Nevada 89703,
3 Plaintiff City of Fernley, Nevada will take the oral deposition of the Person Most
4 Knowledgeable of the Treasurer Of The State Of Nevada, upon oral examination, pursuant to
5 Rule 26 and Rule 30 of the Nevada Rules of Civil Procedure, before a Notary Public or before
6 some other officer authorized by the law to administer oaths.

7 Oral examination will continue from day to day until completed. You are invited to
8 attend and cross-examine.

9 DATED this 23RD day of October, 2013.

10 BROWNSTEIN HYATT FARBER SCHRECK, LLP

11 By: 

12 Joshua L. Hicks, Nevada Bar No. 6679

13 Clark V. Vellis, Nevada Bar No. 5533

14 50 West Liberty Street, Suite 1030

15 Reno, Nevada 89501

16 Telephone: 775-622-9450

17 *Attorneys for the City of Fernley, Nevada*

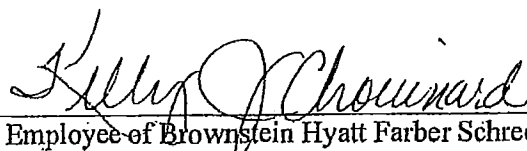
BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 WEST LIBERTY STREET, SUITE 1000
RENO, NEVADA 89501
(702) 342-2101

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 23rd of October, 2013, I caused to be served via electronic mail and U.S. Mail, a true and correct copy of the above foregoing **AMENDED NOTICE OF DEPOSITION OF PERSON MOST KNOWLEDGEABLE OF THE TREASURER OF THE STATE OF NEVADA** properly addressed to the following:

Andrea Nichols, Esq.,
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
anichols@ag.nv.gov

Brenda J. Erdoes, Esq.
Kevin Powers, Esq.
kpowers@lcb.state.nv.us
J. Daniel Yu, Esq.
dan.yu@lcb.state.nv.us
Legislative Counsel Bureau
401 South Carson Street
Carson City, Nevada 89701


Employee of Brownstein Hyatt Farber Schreck, LLP

Molezzo Reporters

Certified Court Reporters
201 West Liberty Street
Suite 202
Reno, Nevada 89501

Invoice

| Date | Invoice # |
|-----------|-----------|
| 12/3/2013 | TA1115132 |

Andrea Nichols, Esq.
ATTORNEY GENERAL'S OFFICE
LITIGATION DIVISION
100 North Carson Street
Carson City, Nevada 89701

Terms

Net 30

| Description | Qty | Amount |
|---|-----|--------|
| City of Fernley v State of NV - November 15, 2013 | | |
| Depo of Tara Hagan | | |
| One Copy | 42 | 94.50 |
| Exhibits & Tabs | 5 | 1.75 |

THANK YOU!

Federal Tax ID: 88-0504825

Total \$96.25

15% LATE CHARGE WILL APPLY IF NOT PAID BY DUE DATE

| Phone # | Fax # | E-mail | Web Site |
|----------------|----------------|----------------------------|-----------------|
| (775) 322-3334 | (775) 322-8887 | molezzoreporters@gmail.com | www.molezzo.com |

Case No. 66851
JA 4074

EXHIBIT 3

EXHIBIT 3

Case No. 66851
JA 4076

Joshua J. Hicks, Nevada Bar No. 6679
Clark V. Vellis, Nevada Bar No. 5533
BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 West Liberty Street, Suite 1030
Reno, Nevada 89501
Telephone: 775-622-9450
Facsimile: 775-622-9554
Email: jhicks@bhfs.com
Email: cvellis@bhfs.com

Brandi L. Jensen, Nevada Bar No. 8509
Fernley City Attorney
OFFICE OF THE CITY ATTORNEY
595 Silver Lace Blvd.
Fernley, Nevada 89408

Attorneys for the City of Fernley, Nevada

IN THE FIRST JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR CARSON CITY

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Plaintiff,

v.

STATE OF NEVADA ex rel. THE NEVADA
DEPARTMENT OF TAXATION; THE
HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
STATE OF NEVADA; and DOES 1-20,
inclusive,

Defendants,

NEVADA LEGISLATURE,

Intervenor.

Case No.: 12 OC 00168 1B

Dept. No.: I

NOTICE OF DEPOSITION OF MARVIN LEAVITT

TO: Marvin Leavitt, Chairman, The Committee on Local Government Finance

PLEASE TAKE NOTICE that at 9:00 a.m. on Friday, November 22, 2013, at the Best
Western North Shore Inn, 520 N Moapa Valley Boulevard, Overton, Nevada, 89040, Plaintiff
City of Fernley, Nevada will take the oral deposition of Marvin Leavitt, upon oral examination,
pursuant to Rule 26 and Rule 30 of the Nevada Rules of Civil Procedure, before a Notary

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Public or before some other officer authorized by the law to administer oaths.
Oral examination will continue from day to day until completed. You are invited to
attend and cross-examine.

DATED this 22ND day of October, 2013.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: 

Joshua J. Hicks, Nevada Bar No. 6679

Clark V. Vellis, Nevada Bar No. 5533

50 West Liberty Street, Suite 1030

Reno, Nevada 89501

Telephone: 775-622-9450

Attorneys for the City of Fernley, Nevada

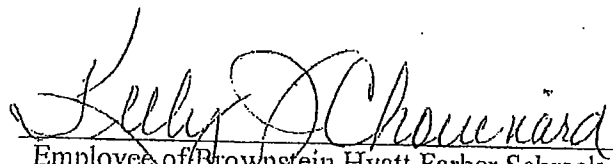
BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 WEST LIBERTY STREET, SUITE 1050
RENO, NEVADA 89501
(702) 382-2101

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER
SCHRECK, LLP, and that on this 22nd of October, 2013, I caused to be served via
electronic mail and U.S. Mail, a true and correct copy of the above foregoing Notice of
Deposition of Marvin Leavitt properly addressed to the following:

Andrea Nichols, Esq.,
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
anichols@ag.nv.gov

Brenda J. Erdoes, Esq.
Kevin Powers, Esq.
kpowers@lcb.state.nv.us
J. Daniel Yu, Esq.
dan.yu@lcb.state.nv.us
Legislative Counsel Bureau
401 South Carson Street
Carson City, Nevada 89701


Employee of Brownstein Hyatt Farber Schreck, LLP



2620 Regatta Dr., Suite 102
Las Vegas, NV 89128

Tel. (702) 476-4500
info@oasisreporting.com

Andrea H. Nichols
State of Nevada Office of the Attorney General - HHS
Health and Human Services Division
5420 Kietzke Lane
Suite 202
Reno NV 89511

INVOICE

| Invoice No. | Invoice Date | Job No. |
|--|----------------|---------|
| 12796 | 12/11/2013 | 8083 |
| Job Date | Case No. | |
| 11/22/2013 | 12 OC 00168 1B | |
| Case Name | | |
| City of Fernley, Nevada v. State of Nevada, et al. | | |
| Payment Terms | | |
| Due upon receipt | | |

1 CERTIFIED COPY OF TRANSCRIPT OF:

Marvin Alton Leavitt

Exhibit

Federal Express Delivery

PO# 5232
ProLaw No. 13657-1042

| | |
|-------------------------------|-----------------|
| 101.00 Pages | 328.25 |
| 33.00 Pages | 16.50 |
| | 30.00 |
| TOTAL DUE >>> | \$374.75 |
| AFTER 1/10/2014 PAY | \$412.23 |

All transcripts at Oasis Reporting Services are printed on recycled paper! Also, there is never a charge for word index pages at Oasis Reporting Services, which can save you and your clients up to 18% compared to other firms charging per page for word indexes.

All invoices due upon receipt. Past-due invoices accrue interest at a rate of 1.5% per month.

Thank you for your business.

Tax ID: 26-3403945

Phone: 775-850-4102 Fax: 775-688-1822

Please detach bottom portion and return with payment.

Andrea H. Nichols
State of Nevada Office of the Attorney General - HHS
Health and Human Services Division
5420 Kietzke Lane
Suite 202
Reno NV 89511

Invoice No. : 12796
Invoice Date : 12/11/2013
Total Due : \$ 374.75
AFTER 1/10/2014 PAY \$412.23

12/18/13 - Original to Carson
Accounting (nic)

Remit To: Oasis Reporting Services, LLC
2620 Regatta Drive
Suite 102
Las Vegas NV 89128

Job No. : 8083
BU ID : 1-MAIN
Case No. : 12 OC 00168 1B
Case Name : City of Fernley, Nevada v. State of Nevada, et al.
Case No. 66851
JA 1080

For Document Number: PV 030 00001312408

Case No. 66851
JA **4081**
9/25/2014

02/28/2013
 Kunder's
 COPY

6/28/2013

Preparer: Renee Sheridan Date: 6/28/2013

REGISTRATION FORM/LETTER: YES ☐ NO ☒
(Include itinerary and any other backup documents)

| | |
|-------------------------------------|---|
| Traveler is: | |
| <input checked="" type="checkbox"/> | State Officer or Employee |
| <input type="checkbox"/> | Board or Commission Member |
| <input type="checkbox"/> | Independent Contractor Whose Contract Provides for Travel |
| <input type="checkbox"/> | Witness |

| | |
|-------------------------------|---|
| Case Name, Court and Case No. | City of Fernley v. State of Nevada 1st JD, Case No. 12-OC-00168-1B |
| ProLaw Matter No. | 13657-1042 |

ProLaw Matter No. 13657-1042

Purpose of Travel: Deposition of Marvin Leavitt
November 22, 2013 at 9:00 AM
Best Western North Shore Inn
520 N Moapa Valley Blvd., Overton, NV

M&IE (Meals & Incidentals Expenses)

Transportation & Mileage Rates

P - Plane
PP - Private Plane
PC - Private Car
OT - Other*: Limousine, Taxi, Shuttle, Rental Car, Inter-City Bus, RR

X - Passenger in Car
PT - Public Trans: Subway, City Bus
SC - State Car: Motor Pool or Agency Car

| | |
|-------|--------|
| State | 0.565 |
| Pers | 0.2825 |

You must Enter the GSA Rate below and attach a copy to this document

When traveling in
pers vehicle for
your convience it
is at the Pers
Rate

Daily Expenses

| Incidental Costs | Meals | | | Lodging |
|---------------------|---------|----------|----------|----------|
| | B | L | D | |
| \$ 5.00 | \$12.00 | \$ 18.00 | \$ 36.00 | \$ 92.00 |

A - ATM Fees* I - Incidental Expense PR - Parking

| | | | | | | | | | | |
|---|--|--|--|--|--|--|--|--|--|--------|
| Total Request for Mileage, Per Diem and Lodging (Will be Encumbered under TR#): | | | | | | | | | | 250.00 |
|---|--|--|--|--|--|--|--|--|--|--------|

0.00

54.00

0.00

400.00

704.00

Date:

Date: _____

Date:

PRINT NAME OF PERSON SIGNING:

RECEIPTS ARE REQUIRED FOR: Other Transportation; All Lodging Above CONUS Rate; ATM and Bank Transactions and all Out-of-State Transportation.

ONCE ALL APPROVALS ARE RECEIVED - ATTACH YOUR GSA RATES IF REQUESTING PER DIEM REIMBURSEMENT AND SUBMIT TO FISCAL FOR APPROVAL AND PROCESSING

Budget Coding:

TR-

For Accounting Purposes Only

Effective 4/11/08

Last Revision Date: 01.

Case No. 16685
JA 4082

TRAVEL ADVANCE REQUEST

Traveler's Signature for Travel Advance Only:

Direct Deposit: ☐

Agency Approval:

Check: ☐

If a Travel Advance is requested, this section must be signed by the traveler:

Note An advance is only available if traveler does not have a State issued Diner's Club card (per SAM 0252.0 and NRS 281.171). Amount of advance cannot exceed 85% of subtotal.

CONTACT INFORMATION

Name and phone number of contact person for traveler, should there be any questions regarding travel:
Rhonda Collins, (775) 850-4114

Date(s), time(s) and location of conference/meeting/hearing:

11/21/2013, Reno to LV and 11/22/2013, Deposition at 9 am in Overton, NV

Please check the items that you require the Travel Coordinator to make:



☒ **AIRLINE:** Name on Gov ID Andrea [REDACTED] Nichols Date of Birth [REDACTED] Gender F

Departure Date: 11/21/2013 Time: 12:30 PM

Return Date: 11/22/2013 Time: 6:35 PM

Airport: Reno to Las Vegas and Return



☒ **HOTEL/MOTEL:** Traveler will make hotel reservations

If the Travel Coordinator will be making hotel reservations, please list preferred accommodations:

1st Choice: Best Western North Shore Inn

Phone No. _____

Rate: \$92.00

2nd Choice: _____

Phone No. _____

Rate: _____



☒ **AUTOMOBILE TRANSPORTATION:** Pick up Location: Las Vegas Fleet Services

☒ Motor Pool Car: Intermediate

(Type of car)

☐ Rental Car: _____

(Type of car)

Pick Up Date: 11/21/2013 Time: 1:40 PM

Return Date: 11/22/2013 Time: 5:30 PM

FOR TRAVEL COORDINATOR USE ONLY

Airfare: _____

Airfare Confirmation # _____

Hotel Conf. #: _____

Car Rental Confirmation # _____

Training/Seminar Registration: _____

Purchase Order #: _____

Date Faxed: _____

Case No. 66851
JA 4083

SWABIZ - Southwest Airlines® Receipt and Itinerary as of November 1, 2013 11:00 AMConfirmation Number: **Z6BGAP**

Company ID: 99594132

Confirmation Date: November 1, 2013

| Passenger Name | Account Number | Ticket# | Expiration ¹ | Estimated Points Earned |
|----------------|------------------|---------------|-------------------------|-------------------------|
| NICHOLS/ANDREA | - None Entered - | 5262168607369 | Nov 1, 2014 | 3760 |

¹ All travel involving funds from this Confirmation Number must be completed by the expiration date.**Itinerary**

| Date | Flight | Routing Details |
|------------|--------|--|
| Thu Nov 21 | # 437 | Depart RENO/TAHOE, NV (RNO) on Southwest Airlines at 12:30 PM Arrive in LAS VEGAS, NV (LAS) at 1:40 PM Travel Time 1 hrs 10 mins |
| Fri Nov 22 | # 567 | Depart LAS VEGAS, NV (LAS) on Southwest Airlines at 6:35 PM Arrive in RENO/TAHOE, NV (RNO) at 7:55 PM Travel Time 1 hrs 20 mins |

Carry-on Items: 1 Bag + small personal item are free. Checked Items: First and second bags are free.

Visit <http://www.southwest.com/html/customer-service/baggage/checked-bags-pol.html>**What you need to know to travel:**

- Don't forget to check in for your flight(s) 24 hours before your trip on southwest.com or your mobile device. This will secure your boarding position on your flights.
- Southwest Airlines does not have assigned seats, so you can choose your seat when you board the plane. You will be assigned a boarding position based on your checkin time. The earlier you check in, within 24 hours of your flight, the earlier you get to board.

Cost and Payment Summary

| | |
|-------------------------------|------------------|
| Base Fare | \$ 349.76 |
| + Excise Taxes | \$ 26.24 |
| + Segment Fee | \$ 7.80 |
| + Passenger Facility Charge | \$ 9.00 |
| + September 11th Security Fee | \$ 5.00 |
| Total Air Cost | \$ 397.80 |

Current Payment(s):

Nov 1, 2013 Visa XXXXXXXXXXXX4659 \$397.80

Fare Calculation:

RNO WN LAS174.88YL WN RNO174.88YL 349.76 END ZPRNQLAS XFRNO4.5LAS4.5 AY5.00SRNO2.50 LAS2.50

SOUTHWEST AIRLINES CO. NOTICE OF INCORPORATED TERMS: Air transportation by Southwest Airlines is subject to Southwest Airlines' Passenger Contract of Carriage, the terms of which are incorporated by reference. Incorporated terms include but are not limited to: (1) Limits on liability for loss, damage to, or delayed delivery of passenger baggage, including fragile, perishable, and certain other irreplaceable and/or high value goods or contents, as specified in Article 75 of the Contract of Carriage. Baggage liability for covered items (except disability assistive devices) is limited to \$3,300.00 per fare paying Customer unless excess valuation coverage is purchased. (2) Claims restrictions, including time periods in which Customers must file a claim or bring an action against Southwest. (3) Our rights to change terms of the Contract. (4) Rules on reservations, checkin times, refusal to carry, and smoking. (5) Our rights and limits of liability for delay or failure to perform service, including schedule changes, substitution of alternate air carriers or aircraft, and rerouting. (6) Overbooking: If we deny you boarding due to an oversale and you have obtained your boarding pass and are present and available for boarding in the departure gate area at least ten minutes before scheduled departure, with few exceptions, we compensate you. You may inspect Southwest's Contract of Carriage and Customer Service Commitment at any Southwest ticket counter or online at southwest.com, or obtain a copy by sending a request to: Southwest Airlines, V.P. Customer Relations, PO Box 36647, Dallas, TX 75235-1647. Note: When traveling on any flight operated by another carrier, that operating carrier's contract of carriage applies.

CHECKIN RULES: Passengers who do not obtain a boarding pass and are not present and available for boarding in the departure gate area at least ten minutes prior to scheduled departure time may have their reserved space cancelled and will not be eligible for denied boarding compensation.

REFUND AND EXCHANGES: 5262168607369: NONTRANSFERABLE.

Valid only on Southwest Airlines. All travel involving funds from this Confirmation Number must be completed by the expiration date. Unused travel funds may only be applied toward the purchase of future travel for the individual named on the ticket. Any change to this itinerary may result in a fare increase.

Case No. 66851
JA. 4085

Reno-Tahoe

International Airport
PO BOX 12490
Reno NV 89510
775-328-6566

Receipt 5143/0078/802 11/22/13 17:57:05

010100 Pay Parking Ticket 17.00 \$
11/21/13 11:13 - 11/22/13 17:56
Length of stay: 1 Dy. 6 Hr. 43 Min
Long Term

| | |
|--------------|----------|
| Total Amount | 17.00 \$ |
| Credit Visa | 17.00 \$ |

.....
Visa

14500
NICHOLS/ANDREA 0
Card No. xxxx xxxx xxxx ~~1234~~
Amount = \$ 17.00

** Thank you **
** Open 24 hours **

Case No. 66851
JA 4086

NORTH SHORE INN AT LAKE MEAD
520 N MOAPA VALLEY BLVD
OVERTON, NV 89040



(702) 397-6000
CHRIS@NORTHSHOREINNATLAKEMEAD.CO
WWW.NORTHSHOREINNATLAKEMEAD.COM

11/22/13 10:13 am

Room # 221-A

Conf # 12595

Arrival 11/21/13

Departure 11/22/13

Registered To:

Nichols, Andrea

UNITED STATES

Room Type K
Guests 2 / 0

(775) 850-4102

Payment Visa/Master
Acct XXXX-XXXX-XXXX-XXXX

SUMMARY

Charges

| AcctCode | Description | Amount |
|----------|-------------------|---------|
| 9 | COUNTY TAX | \$6.12 |
| 91 | COUNTY TAX | \$1.53 |
| RC | ROOM CHRG REVENUE | \$76.49 |

Total Charges \$84.14

Credits

| AcctCode | Description | Amount |
|----------|-----------------|----------|
| VS | PAYMENT VISA/MC | \$84.14- |

Total Credits \$84.14-

| | |
|---------|--------|
| Balance | \$0.00 |
|---------|--------|

NORTHSHORE INN
520 N MOAPA VALLEY BLVD
OVERTON, NV 89040

CHECK-IN: 7:27 PM 11/21/13
CHECK-OUT: 7:27 PM 11/21/13
TERM 005714488 TERM 313274675888
TRAN TYPE SALE

CARD TYPE VISA
FOLIO 221 SEQ # 882
FOLIO # 888802 ROOM 221
AUTH CODE 04235C

TOTAL \$84.14

Case No. 66851
JA 4087

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STATE OF NEVADA
 Office of the State Controller

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| Record Date | Process Date | BFY | Acct Per | Vendor/Provider |
|-------------|--------------|------|----------|-------------------------|
| 12/09/2013 | 12/10/2013 | 2014 | 06/2014 | 23889 NICHOLS, ANDREA H |

| Acct Type | Fund | Agy/Org/Sub | Appr | Job # | BS/Obj/Rev | Sub | Func | Activity | Rpt Cat | Ref Doc/Line | Line #/Desc | Comments/Invoice | Amount |
|--------------|------|-------------|--------|-------|------------|-----|------|----------|---------|--------------|-----------------------------|------------------|-----------|
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 01 | TR01268 | -\$178.14 |
| 22 | 101 | 030-2000 | 103110 | | 6200 | | | | | | 01 2013/11/22 2 RN LV HR | TR01268 | \$178.14 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 02 | TR01268 | -\$17.00 |
| 22 | 101 | 030-2000 | 103110 | | 6240 | | | | | | 02 2013/11/22 2 RN LV HR | TR01268 | \$17.00 |
| | | | | | | | | | | | | | |
| Total Amount | | | | | | | | | | | | | \$.00 |

FLEET SERVICES DIVISION RENTAL REQUEST FORM

Alteration of this form is prohibited

To be completed by Fleet Services

License: _____

Conf. No.: _____

Mileage: _____

MP

Budget Account #
(limit 4 digits)

(agency invoice #)
(limit of 5 characters)

Department: Nevada Attorney General's Office

Division: 1031-10

Requested Date/Time: 11/21/2013 @ 1:40 PM
mandatory

Return Date/Time: 11/22/2013 @ 5:30 PM
mandatory

Destination: Las Vegas to Overton & Return

Type of Vehicle: Intermediate
(compact sedan, intermediate sedan, 4x4 suv, etc.)

Contact Name & Phone No.: Renee Sheridan @ 775-688-1818

E Mail Address: rsheridan@ag.nv.gov

Fax No.: 775-688-1822

Driver's Name : Andrea Nichols

*Please print or type

Driver's License Expiration Date: _____

Vehicle received by: _____

Telephone/Email:

Carson City (775) 684-1880
CCMPOOL@admin.nv.gov
Las Vegas (702) 486-7050
LVMP@admin.nv.gov
Reno (775) 688-1325
RNOMP@admin.nv.gov

Fax:

Carson City (775) 684-1888
Las Vegas (702) 486-7042
Reno (775) 688-1309

*NOTE: By signature, driver certifies that they have a valid operator's license, as defined by the Nevada Department of Motor Vehicles, in their possession while operating a state vehicle and that they are cognizant of state law concerning misuse of state owned vehicles.

Signature of Driver

Signature of Approving Authority

Approved by: _____

FILL IN BELOW FOR CODING

| Line # | Fund | Agency | Org | Sub Org | Appr Unit | Activity | Object | Job No. | Percentage |
|--------|------|--------|------|---------|-----------|----------|--------|---------|------------|
| 1 | 101 | 030 | 2000 | | 1031-10 | | 6210 | | 100 |
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Total Percentage must equal 100%

Form MP-2 (Rev 7/13)

CONTACT TERMS AND CONDITIONS: The renting agency agrees to exercise all reasonable care and observe all traffic laws while using a state vehicle. Except for Acts of God, mechanical failure or identifiable third party accident fault, the renting agency will return state vehicles in the same condition as received, less normal wear and tear, and will be financially responsible for all abuse or physical damage expense. All non-reported accidents/incidents, including accidents/incidents reported after the reporting time requirements, will result in billing to the renting agency for total physical damage sustained by the state vehicle.

To Be completed by Fleet Services

Amount

Dly Rental Charges**Fleet Services**

Report Date: 11/22/2013

Reservation ID: 197488

Reservation Date: 11-07-2013 19: 8 Originally Due: 11-22-2013 17:30 Expected Return: 11-22-2013 17:30
Out Date: 11-21-2013 14:40 Return: 11-22-2013 14:23
Dispatch Location: LVDISP: LAS VEGAS FACILITY Account to Charge: 103110-030-101-2000XXS: ATTY GEN:SPECIAL
LITIGATION AC
Return Location: LVDISP: LAS VEGAS FACILITY Department to Charge: 103112-030: ATTY GEN:SPECIAL LITIGATION AC
Equipment: 58421 Pool Type Rental Rate: INTER SDN Pool AvailabilityType: INTER SDN
Begin Miles 28,436 End Miles 28,597
Primary Operator ID/Name: NI026: NICHOLS ANDREA

Comment:

| Type | Usage | Charges |
|--------------|-------|----------------|
| Meter | 161 | \$32.20 |
| Days | 1 | \$26.00 |
| Total | | \$58.20 |

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STATE OF NEVADA
 Office of the State Controller

Document History Inquiry

For Document Number: PV 030 00001310646

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 of Document*

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|-------------|--------------|------|----------|---------------------------|
| 12/17/2013 | 12/18/2013 | 2014 | 06/2014 | T32000871A US BANCORP DBA |

| Acct Type | Fund | Agy/Org/Sub | Appr | Job # | BS/Obj/Rev | Sub | Func | Activity | Rpt Cat | Ref Doc/Line | Line #/Desc | Comments/Invoice | Amount |
|-----------|------|-------------|--------|----------|------------|-----|------|----------|---------|--------------|---------------------|------------------|-------------|
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 01 | TRA01318 | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 01 4730774555566495 | TRA01318 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 02 | TRA01330 | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 02 4730774555566495 | TRA01330 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 03 | TRA01249 | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 03 4730774555566495 | TRA01249 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 04 | TRA01261 | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 04 4730774555566495 | TRA01261 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 05 | TRA01305 | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 05 4730774555566495 | TRA01305 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 06 | TRA01304 | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 06 4730774555566495 | TRA01304 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 07 | TRA01306 | -\$407.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 07 4730774555566495 | TRA01306 | \$407.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 08 | TRA01333 | -\$198.90 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 08 4730774555566495 | TRA01333 | \$198.90 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 09 | TRA01277 | -\$5.00 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 09 4730774555566495 | TRA01277 | \$5.00 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 10 | TRA01209CRT | -\$397.80 |
| 22 | 101 | 030-1000 | 103003 | | 6250 | | | | | | 10 4730774555566495 | TRA01209CRT | \$397.80 |
| 02 | 101 | 030-3805 | 103019 | 124210WF | 7760 | | | | | | 11 4730774555566495 | TRA01176BCRT | -\$1,041.60 |
| 22 | 101 | 030-3805 | | 124210WF | 2000 | | | | | | 11 | TRA01176BCRT | \$1,041.60 |
| 02 | 101 | 030-3805 | 103019 | 124210WF | 7760 | | | | | | 12 4730774555566495 | TRA01176ACRT | -\$1,041.60 |
| 22 | 101 | 030-3805 | | 124210WF | 2000 | | | | | | 12 | TRA01176ACRT | \$1,041.60 |
| 02 | 101 | 030-3805 | 103019 | 124210WF | 7760 | | | | | | 13 4730774555566495 | TRA01176CCRT | -\$1,171.60 |
| 22 | 101 | 030-3805 | | 124210WF | 2000 | | | | | | 13 | TRA01176CCRT | \$1,171.60 |
| 02 | 101 | 030-3805 | 103019 | 124210WF | 7760 | | | | | | 14 4730774555566495 | TRA01176DCRT | -\$421.80 |
| 22 | 101 | 030-3805 | | 124210WF | 2000 | | | | | | 14 | TRA01176DCRT | \$421.80 |
| 02 | 101 | 030-3805 | 103019 | 124210WF | 7760 | | | | | | 15 4730774555566495 | TRA01176ECRT | -\$1,152.30 |
| 22 | 101 | 030-3805 | | 124210WF | 2000 | | | | | | 15 | TRA01176ECRT | \$1,152.30 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | | 16 | TRA01272 | -\$515.60 |
| 22 | 101 | 030-1000 | 103030 | | 6150 | | | | | | 16 4730774555566495 | TRA01272 | \$515.60 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 17 | TRA01296 | -\$689.80 |

| | | | | | | | | | | | | |
|----|-----|----------|--------|---------|------|--|--|--|--|---------------------|-------------|-------------|
| 22 | 101 | 030-2000 | 103003 | | 6250 | | | | | 17 4730774555566495 | TRA01296 | \$397.80 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 18 | TRA01319 | -\$397.80 |
| 22 | 101 | 030-6000 | 103003 | | 6250 | | | | | 18 4730774555566495 | TRA01319 | \$397.80 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 19 | TRA01283 | -\$397.80 |
| 22 | 101 | 030-6000 | 103003 | | 6250 | | | | | 19 4730774555566495 | TRA01283 | \$397.80 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 20 | TRA01322 | -\$397.80 |
| 22 | 101 | 030-6000 | 103003 | | 6250 | | | | | 20 4730774555566495 | TRA01322 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | 21 | TRA01275 | -\$397.80 |
| 22 | 101 | 030-1000 | 103110 | | 6250 | | | | | 21 4730774555566495 | TRA01275 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | 22 | TRA01274 | -\$397.80 |
| 22 | 101 | 030-1000 | 103110 | | 6250 | | | | | 22 4730774555566495 | TRA01274 | \$397.80 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | 23 | TRA01259 | -\$437.80 |
| 22 | 101 | 030-1000 | 103111 | | 6150 | | | | | 23 4730774555566495 | TRA01259 | \$437.80 |
| 22 | 101 | 030-2000 | 103110 | | 6250 | | | | | 24 4730774555566495 | TRA01213CRT | -\$397.80 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | 24 | TRA01213CRT | \$397.80 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | 25 | TRA01269 | -\$397.80 |
| 22 | 101 | 030-2000 | 103110 | | 6250 | | | | | 25 4730774555566495 | TRA01269 | \$397.80 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | 26 | TRA01268 | -\$397.80 |
| 22 | 101 | 030-2000 | 103110 | | 6250 | | | | | 26 4730774555566495 | TRA01268 | \$397.80 |
| 22 | 101 | 030-2000 | 103110 | | 6150 | | | | | 27 4730774555566495 | TRA01078CRT | -\$407.60 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | 27 | TRA01078CRT | \$407.60 |
| 22 | 101 | 030-1000 | 103110 | | 6150 | | | | | 28 4730774555566495 | TRA01205CRT | -\$771.60 |
| 02 | 101 | 030-1000 | | | 2000 | | | | | 28 | TRA01205CRT | \$771.60 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 29 | TRA01315 | -\$397.80 |
| 22 | 101 | 030-6000 | 103110 | | 6250 | | | | | 29 4730774555566495 | TRA01315 | \$397.80 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 30 | TRA01314 | -\$397.80 |
| 22 | 101 | 030-6000 | 103110 | | 6250 | | | | | 30 4730774555566495 | TRA01314 | \$397.80 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 31 | TRA01282 | -\$397.80 |
| 22 | 101 | 030-6000 | 103110 | | 6250 | | | | | 31 4730774555566495 | TRA01282 | \$397.80 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 32 | TRA01284 | -\$498.30 |
| 22 | 101 | 030-6000 | 103110 | | 6150 | | | | | 32 4730774555566495 | TRA01284 | \$498.30 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 33 | TRA01284A | -\$575.40 |
| 22 | 101 | 030-6000 | 103110 | | 6150 | | | | | 33 4730774555566495 | TRA01284A | \$575.40 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 34 | TRA01332 | -\$1,152.30 |
| 22 | 101 | 030-6000 | 103110 | | 6150 | | | | | 34 4730774555566495 | TRA01332 | \$1,152.30 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 35 | TRA01294A | -\$1,152.30 |
| 22 | 101 | 030-6000 | 103110 | | 7760 | | | | | 35 4730774555566495 | TRA01294A | \$1,152.30 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 36 | TRA01294B | -\$1,152.30 |
| 22 | 101 | 030-6000 | 103110 | | 7760 | | | | | 36 4730774555566495 | TRA01294B | \$1,152.30 |
| 02 | 101 | 030-6000 | | | 2000 | | | | | 37 | TRA01294C | -\$1,152.30 |
| 22 | 101 | 030-6000 | 103110 | | 7760 | | | | | 37 4730774555566495 | TRA01294C | \$1,152.30 |
| 02 | 101 | 030-1000 | | 9377514 | 2000 | | | | | 38 | TRA01300 | -\$397.80 |
| 22 | 101 | 030-1000 | 103709 | 9377514 | 6250 | | | | | 38 4730774555566495 | TRA01300 | \$397.80 |
| 02 | 101 | 030-1000 | | 9377514 | 2000 | | | | | 39 | TRA01313 | -\$397.80 |
| 22 | 101 | 030-1000 | 103709 | 9377514 | 6250 | | | | | 39 4730774555566495 | TRA01313 | \$397.80 |
| 02 | 101 | 030-6000 | | 9377514 | 2000 | | | | | 40 | TRA01252 | -\$397.80 |
| 22 | 101 | 030-6000 | 103703 | 9377514 | 6250 | | | | | 40 4730774555566495 | TRA01252 | \$397.80 |
| 02 | 101 | 030-6000 | | 9377514 | 2000 | | | | | 41 | TRA01345 | -\$397.80 |

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|----|-----|----------|--------|----------|------|--|--|--|--|--|---------------------|---------------------|---------------|
| 22 | 101 | 030-6000 | 103703 | 9377514 | 6250 | | | | | | 41 4730774555566495 | TRA01334 | \$397.80 |
| 02 | 101 | 030-6000 | | 9377514 | 2000 | | | | | | 42 | TRA01263 | -\$397.80 |
| 22 | 101 | 030-6000 | 103703 | 9377514 | 6250 | | | | | | 42 4730774555566495 | TRA01263 | \$397.80 |
| 02 | 101 | 030-6000 | | 9377514 | 2000 | | | | | | 43 | TRA01308 | -\$160.80 |
| 22 | 101 | 030-6000 | 103702 | 9377514 | 6150 | | | | | | 43 4730774555566495 | TRA01308 | \$160.80 |
| 02 | 101 | 030-6000 | | 9377514 | 2000 | | | | | | 44 | TRA01308A | -\$166.80 |
| 22 | 101 | 030-6000 | 103702 | 9377514 | 6150 | | | | | | 44 4730774555566495 | TRA01308A | \$166.80 |
| 02 | 101 | 030-6000 | | 9377514 | 2000 | | | | | | 45 | TRA01308B | -\$89.90 |
| 22 | 101 | 030-6000 | 103702 | 9377514 | 6150 | | | | | | 45 4730774555566495 | TRA01308B | \$89.90 |
| 02 | 101 | 030-7042 | | 1658910 | 2000 | | | | | | 46 | TRA01244 | -\$471.70 |
| 22 | 101 | 030-7042 | 104016 | 1658910 | 6150 | | | | | | 46 4730774555566495 | TRA01244 | \$471.70 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 47 | TRA01280 | -\$399.60 |
| 22 | 101 | 030-2000 | 104110 | | 6150 | | | | | | 47 4730774555566495 | TRA01280 | \$399.60 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 48 | TRA01280EXC | -\$30.00 |
| 22 | 101 | 030-2000 | 104110 | | 6150 | | | | | | 48 4730774555566495 | TRA01280EXC | \$30.00 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 49 | TRA01327 | -\$397.80 |
| 22 | 101 | 030-2000 | 104210 | | 6250 | | | | | | 49 4730774555566495 | TRA01327 | \$397.80 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 50 | TRA01328 | -\$397.80 |
| 22 | 101 | 030-2000 | 104210 | | 6250 | | | | | | 50 4730774555566495 | TRA01328 | \$397.80 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 51 | TRA01324 | -\$397.80 |
| 22 | 101 | 030-2000 | 104210 | | 7750 | | | | | | 51 4730774555566495 | TRA01324 | \$397.80 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 52 | TRA01326 | -\$397.80 |
| 22 | 101 | 030-2000 | 104210 | | 7750 | | | | | | 52 4730774555566495 | TRA01326 | \$397.80 |
| 02 | 340 | 030-9005 | | 001NMS13 | 2000 | | | | | | 53 | TRA01309 | -\$397.80 |
| 22 | 340 | 030-9005 | 104517 | 001NMS13 | 6250 | | | | | | 53 4730774555566495 | TRA01309 | \$397.80 |
| | | | | | | | | | | | | Total Amount | \$0.00 |

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ATTORNEY GENERAL'S
OFFICE

DEC 10 2013

ACCOUNTING
12/5/2013

Department of Administration
Fleet Services Division
Daily Billing Advice

Month 11 FY 2014

To: ATTY GEN:SPECIAL LITIGATION AC 1031

Billing No: MT003910

Type of Cost: Fleet Services Billing

Instructions

Please review the enclosed backup material.

For any errors or questions contact:

Fleet Services (775) 684-1880

750 E King St, Carson City NV 89701

Billing Period: For the Month Beginning 11/1/2013

| Appr Unit | Agency | Fund | Org/Sub | Object | Job Nbr | Amount |
|----------------|--------|------|---------|--------|---------|--------|
| 103110 | 030 | 101 | 1000XX | 6210 | | 109.90 |
| 103110 | 030 | 101 | 1000XX | 6215 | | 81.24 |
| 103110 | 030 | 101 | 2000XX | 6210 | | 119.23 |
| 103110 | 030 | 101 | 2000XX | 6215 | | 47.68 |
| 103110 | 030 | 101 | 6000XX | 6210 | | 65.44 |
| Total Billing: | | | | | | 423.49 |

DATE CLEARED BSR

DEC 06 2013

BY

Case No. 66851
JA 4094

Fleet Services Division

11/1/2013

1031

ATTY GEN:SPECIAL LITIGATION AC

Daily Rentals

| Reservation ID | Date Out | Returned | Driver | Charge |
|----------------|------------|------------|-------------------|---------|
| 197341 | 11/5/2013 | 11/5/2013 | TRAUT JANET ✓ | \$61.03 |
| 197295 | 11/6/2013 | 11/6/2013 | DICKERSON KAREN | \$48.30 |
| 197651 | 11/19/2013 | 11/19/2013 | DICKERSON KAREN ✓ | \$61.60 |
| 197488 | 11/21/2013 | 11/22/2013 | NICHOLS ANDREA ✓ | \$58.20 |
| 197056 | 11/25/2013 | 11/26/2013 | MACKEY CHARLES ✓ | \$65.44 |

Total Daily Rental Charges: \$294.57**Outside Rentals**

| Reservation ID | Date Out | Returned | Driver | Rental Type | Charge |
|----------------|------------|------------|------------------|-------------|---------|
| 197396 | 11/11/2013 | 11/13/2013 | STOCKTON BRYAN ✓ | ENT-INTER | \$81.24 |
| 197055 | 11/19/2013 | 11/19/2013 | BENSON SHARON ✓ | ENT-INTER | \$47.68 |

Total Outside Rental Charges: \$128.92**Grand Total: \$423.49**

**ATTORNEY GENERAL'S
OFFICE**

NOV 01 2013

FLEET SERVICES DIVISION

RENTAL REQUEST FORM

Alteration of this form is prohibited

Department of ~~ACCOUNTING~~ **Nevada Attorney General's Office**

Division:

1031-10

Requested Date/Time:

11/21/2013 @ 1:40 PM

Return Date/Time:

11/22/2013 @ 5:30 PM

Destination:

Las Vegas to Overton & Return

Type of Vehicle:

Intermediate

(compact sedan, intermediate sedan, 4x4 suv, etc.)

Contact Name & Phone No.:

Renee Sheridan @ 775-688-1818

E Mail Address:

rsheridan@ag.nv.gov

Fax No.:

775-688-1822

Driver's Name :

Andrea Nichols

* Please print or type

Driver's License Expiration Date:

Vehicle received by:

Approved by:

*Signature of Driver

Signature of Approving Authority

FILL IN BELOW FOR CODING

| Line # | Fund | Agency | Org | Sub Org | Appr Unit | Activity | Object | Job No. | Percentage |
|----------------------------------|------|--------|------|---------|-----------|----------|--------|---------|------------|
| 1 | 101 | 030 | 2000 | | 1031-10 | | 6210 | | 100 |
| 2 | | | | | | | | | |
| Total Percentage must equal 100% | | | | | | | | | 100 |

4096

Form MP-2 (Rev 7/13)

To be completed by Fleet Services

License:

Conf. No.:

Mileage:

MP

Budget Account #
(limit 4 digits)

(agency invoice #)
(limit of 5 characters)

Telephone/Email:

Carson City (775) 684-1880

CCMPOOL@admin.nv.gov

Las Vegas (702) 486-7050

LVMP@admin.nv.gov

Reno (775) 688-1325

RNOMP@admin.nv.gov

Fax:

Carson City (775) 684-1888

Las Vegas (702) 486-7042

Reno (775) 688-1309

*NOTE: By signature, driver certifies that they have a valid operator's license, as defined by the Nevada Department of Motor Vehicles, in their possession while operating a state vehicle and that they are cognizant of state law concerning misuse of state owned vehicles.

| To Be completed by Fleet Services |
|--------------------------------------|
| Amount |
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| |

CONTRACT TERMS AND CONDITIONS: The renting agency agrees to exercise all reasonable care and observe all traffic laws while using a state vehicle. Except for Acts of God, mechanical failure or identifiable third party accident fault, the renting agency will return state vehicles in the same condition as received, less normal wear and tear, and will be financially responsible for all abuse or physical damage expense. All non-reported accidents/incidents, including accidents/incidents reported after the reporting time requirements, will result in billing to the renting agency for total physical damage sustained by the state vehicle.

EXHIBIT 4

EXHIBIT 4

Case No. 66851
JA 4097

Joshua J. Hicks, Nevada Bar No. 6679
Clark V. Vellis, Nevada Bar No. 5533
BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 West Liberty Street, Suite 1030
Reno, Nevada 89501
Telephone: 775-622-9450
Facsimile: 775-622-9554
Email: jhicks@bhfs.com
Email: cvellis@bhfs.com

Brandi L. Jensen, Nevada Bar No. 8509
Fernley City Attorney
OFFICE OF THE CITY ATTORNEY
595 Silver Lace Blvd.
Fernley, Nevada 89408

Attorneys for the City of Fernley, Nevada

IN THE FIRST JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR CARSON CITY

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Plaintiff,

v.

STATE OF NEVADA ex rel. THE NEVADA
DEPARTMENT OF TAXATION; THE
HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
STATE OF NEVADA; and DOES 1-20,
inclusive,

Defendants,

NEVADA LEGISLATURE,

Intervenor.

Case No.: 12 OC 00168 1B

Dept. No.: I

NOTICE OF DEPOSITION OF MARY C. WALKER

TO: Mary C. Walker,

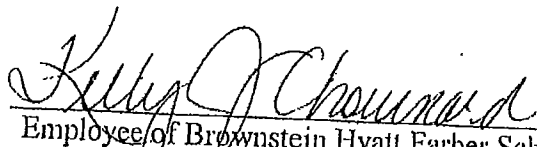
PLEASE TAKE NOTICE that at 9:30 a.m. on Tuesday, December 3, 2013, at the law
offices of Smith & Harmer, Ltd., 502 North Division Street, Carson City, Nevada 89703,
Plaintiff City of Fernley, Nevada will take the oral deposition of Mary C. Walker, upon oral
examination, pursuant to Rule 26 and Rule 30 of the Nevada Rules of Civil Procedure, before a

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER
SCHRECK, LLP, and that on this 22nd day of October, 2013, I caused to be served via
electronic mail and U.S. Mail, a true and correct copy of the above foregoing Notice of
Deposition of Mary C. Walker properly addressed to the following:

Andrea Nichols, Esq.,
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
anichols@ag.nv.gov

Brenda J. Erdoes, Esq.
Kevin Powers, Esq.
kpowers@lcb.state.nv.us
J. Daniel Yu, Esq.
dan.yu@lcb.state.nv.us
Legislative Counsel Bureau
401 South Carson Street
Carson City, Nevada 89701


Employee of Brownstein Hyatt Farber Schreck, LLP

BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 WEST LIBERTY STREET, SUITE 1030
RENO, NEVADA 89501
(702) 352-3101

015342\0001\10748739.1

Certified Court Reporters
201 West Liberty Street
Suite 202
Reno, Nevada 89501

| | |
|------------|-----------|
| Date | Invoice # |
| 12/12/2013 | TA1203132 |

Terms

| Description | Qty | Amount |
|--|-----|--------|
| City of Fernley v State of NV - December 3, 2013 | | |
| Depo of Mary Walker | | |
| One Copy | 135 | 303.75 |
| Exhibits & Tabs | 295 | 103.25 |
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|-------|----------|
| Total | \$407.00 |
|-------|----------|

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Case No. 66851
JA 4100

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| 01/09/2014 | 01/10/2014 | 2014 | 07/2014 | T81102354 MOLEZZO REPORTERS INC |

| Acct Type | Fund | Agy/Org/Sub | Appr | Job # | BS/Obj/Rev | Sub | Func | Activity | Rpt Cat | Ref Doc/Line | Line #/Desc | Comments/Invoice | Amount |
|---------------------|------|-------------|--------|-------|------------|-----|------|----------|---------|--------------|--------------------------|------------------|---------------|
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 01 | TA1203132 | -\$407.00 |
| 22 | 101 | 030-2000 | 103110 | | 7060 | | | | | | 01 2013/12/12 PO 5230 | TA1203132 | \$407.00 |
| Total Amount | | | | | | | | | | | | | \$0.00 |

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EXHIBIT 5

EXHIBIT 5

Case No. 66851
JA 4102

1 Joshua J. Hicks, Nevada Bar No. 6679
2 Clark V. Vellis, Nevada Bar No. 5533
3 BROWNSTEIN HYATT FARBER SCHRECK, LLP
4 50 West Liberty Street, Suite 1030
5 Reno, Nevada 89501
6 Telephone: 775-622-9450
7 Facsimile: 775-622-9554
8 Email: jhicks@bhfs.com
9 Email: cvellis@bhfs.com

6 Brandi L. Jensen, Nevada Bar No. 8509
7 Fernley City Attorney
8 OFFICE OF THE CITY ATTORNEY
9 595 Silver Lace Blvd.
10 Fernley, Nevada 89408

11 *Attorneys for the City of Fernley, Nevada*

12 **IN THE FIRST JUDICIAL DISTRICT COURT**

13 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

14 CITY OF FERNLEY, NEVADA, a
15 Nevada municipal corporation,

16 Plaintiff,

17 v.

18 STATE OF NEVADA ex rel. THE NEVADA
19 DEPARTMENT OF TAXATION; THE
20 HONORABLE KATE MARSHALL, in her
21 official capacity as TREASURER OF THE
22 STATE OF NEVADA; and DOES 1-20,
23 inclusive,

24 Defendants,

25 NEVADA LEGISLATURE,

26 Intervenor.

Case No.: 12 OC 00168 1B

Dept. No.: I

27 **AMENDED NOTICE OF DEPOSITION OF TERRY E. RUBALD AS THE**
28 **PERSON MOST KNOWLEDGEABLE FOR THE DEPARTMENT OF TAXATION**

29 **TO: The Person Most Knowledgeable for the Department of Taxation/Terry E.**
30 **Rubald; and,**

31 **TO: Andrea Nichols, Esq., of the Office of the Attorney General, Attorney for**
32 **Defendant Nevada Department of Taxation.**

BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 WEST LIBERTY STREET, SUITE 1030
RENO, NEVADA 89501
(702) 382-2101

1 PLEASE TAKE NOTICE that at 9:30 a.m. on Thursday, December 12, 2013, at the
2 law offices of Smith and Harmer, 502 North Division Street, Carson City, Nevada 89703,
3 Plaintiff City of Fernley, Nevada will take the oral deposition of the Person Most
4 Knowledgeable/Terry E. Rubald, for the Nevada Department of Taxation, upon oral
5 examination, pursuant to Rule 26 and Rule 30 of the Nevada Rules of Civil Procedure, before a
6 Notary Public or before some other officer authorized by the law to administer oaths.

7 Oral examination will continue from day to day until completed. You are invited to
8 attend and cross-examine.

9 DATED this 2nd day of November, 2013.

10 BROWNSTEIN HYATT FARBER SCHRECK, LLP

11
12 By: 

13 Joshua J. Hicks, Nevada Bar No. 6679
14 Clark V. Vellis, Nevada Bar No. 5533
15 50 West Liberty Street, Suite 1030
16 Reno, Nevada 89501
17 Telephone: 775-622-9450

18 *Attorneys for the City of Fernley, Nevada*
19
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28

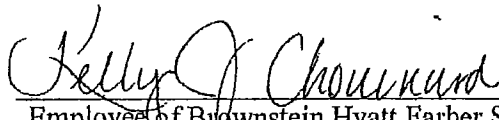
BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 WEST LIBERTY STREET, SUITE 1050
RENO, NEVADA 89501
(702) 382-2101

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER
SCHRECK, LLP, and that on this 21st of November, 2013, I caused to be served via
electronic mail and U.S. Mail, a true and correct copy of the above foregoing **Amended Notice of
Deposition of Terry E. Rubald as the Person Most Knowledgeable for the Department of
Taxation** properly addressed to the following:

Andrea Nichols, Esq.,
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
anichols@ag.nv.gov

Brenda J. Erdoes, Esq.
Kevin Powers, Esq.
kpowers@lcb.state.nv.us
J. Daniel Yu, Esq.
dan.yu@lcb.state.nv.us
Legislative Counsel Bureau
401 South Carson Street
Carson City, Nevada 89701



Employee of Brownstein Hyatt Farber Schreck, LLP

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Suite 202
Reno, Nevada 89501

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| Date | Invoice # |
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| 1/12/2014 | R1212132 |

Andrea Nichols, Esq.
ATTORNEY GENERAL'S OFFICE
LITIGATION DIVISION
100 North Carson Street
Carson City, Nevada 89701

Terms

Net 30

| Description | Qty | Amount |
|---|-----|--------|
| Fernley v State of NV - December 12, 2013 | | |
| Depo of Terry Rubald | | |
| One Copy | 90 | 202.50 |
| Depo of Warner Ambrose | | |
| One Copy | 67 | 150.75 |
| Exhibits & Tabs | 59 | 20.65 |

THANK YOU!

Federal Tax ID: 88-0504825

Total \$373.90

15% LATE CHARGE WILL APPLY IF NOT PAID BY DUE DATE

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Case No. 66851
JA 4106

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| 01/15/2014 | 01/21/2014 | 2014 | 07/2014 | T81102354 MOLEZZO REPORTERS INC |

| Acct Type | Fund | Agy/Org/Sub | Appr | Job # | BS/Obj/Rev | Sub | Func | Activity | Rpt Cat | Ref Doc/Line | Line #/Desc | Comments/Invoice | Amount |
|---------------------|------|-------------|--------|-------|------------|-----|------|----------|---------|--------------|-------------------------|------------------|---------------|
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 01 | R1212132 | -\$202.50 |
| 22 | 101 | 030-2000 | 103110 | | 7060 | | | | | | 01 2014/01/12 PO5165 | R1212132 | \$202.50 |
| 02 | 101 | 030-2000 | | | 2000 | | | | | | 02 | R1212132 | -\$171.40 |
| 22 | 101 | 030-2000 | 103110 | | 7060 | | | | | | 02 2014/01/12 PO5164 | R1212132 | \$171.40 |
| Total Amount | | | | | | | | | | | | | \$0.00 |

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EXHIBIT 6

EXHIBIT 6

Case No. 66851
JA 4108

Joshua J. Hicks, Nevada Bar No. 6679
Clark V. Vellis, Nevada Bar No. 5533
BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 West Liberty Street, Suite 1030
Reno, Nevada 89501
Telephone: 775-622-9450
Facsimile: 775-622-9554
Email: jhicks@bhfs.com
Email: cvellis@bhfs.com

Brandi L. Jensen, Nevada Bar No. 8509
Fernley City Attorney
OFFICE OF THE CITY ATTORNEY
595 Silver Lace Blvd.
Fernley, Nevada 89408

Attorneys for the City of Fernley, Nevada

IN THE FIRST JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA IN AND FOR CARSON CITY

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Plaintiff,

v.

STATE OF NEVADA ex rel. THE NEVADA
DEPARTMENT OF TAXATION; THE
HONORABLE KATE MARSHALL, in her
official capacity as TREASURER OF THE
STATE OF NEVADA; and DOES 1-20,
inclusive,

Defendants,

NEVADA LEGISLATURE,

Intervenor.

Case No.: 12 OC 00168 1B

Dept. No.: I

**AMENDED NOTICE OF DEPOSITION OF WARNER AMBROSE AS THE
PERSON MOST KNOWLEDGEABLE FOR THE DEPARTMENT OF TAXATION**

TO: The Person Most Knowledgeable for the Department of Taxation/Warner
Ambrose; and,

TO: Andrea Nichols, Esq., of the Office of the Attorney General, Attorney for
Defendant Nevada Department of Taxation.

///

BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 WEST LIBERTY STREET, SUITE 1030
RENO, NEVADA 89501
(702) 382-2101

1 PLEASE TAKE NOTICE that at 1:30 p.m. on Thursday, December 12, 2013, at the
2 law offices of Smith and Harmer, 502 North Division Street, Carson City, Nevada 89703,
3 Plaintiff City of Fernley, Nevada will take the oral deposition of the Person Most
4 Knowledgeable/Warner Ambrose, for the Department of Taxation, upon oral examination,
5 pursuant to Rule 26 and Rule 30 of the Nevada Rules of Civil Procedure, before a Notary
6 Public or before some other officer authorized by the law to administer oaths.

7 Oral examination will continue from day to day until completed. You are invited to
8 attend and cross-examine.

9 DATED this 21st day of November, 2013.

10 BROWNSTEIN HYATT FARBER SCHRECK, LLP

11 By: 

12 Joshua J. Hicks, Nevada Bar No. 6679

13 Clark V. Vellis, Nevada Bar No. 5533

14 50 West Liberty Street, Suite 1030

15 Reno, Nevada 89501

16 Telephone: 775-622-9450

17 *Attorneys for the City of Fernley, Nevada*


BROWNSTEIN HYATT FARBER SCHRECK, LLP
50 WEST LIBERTY STREET, SUITE 1030
RENO, NEVADA 89501
(702) 382-2101

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER
SCHRECK, LLP, and that on this 21st of November, 2013, I caused to be served via
electronic mail and U.S. Mail, a true and correct copy of the above foregoing **Amended Notice of**
Deposition of Warner Ambrose as the Person Most Knowledgeable for the Department of
Taxation properly addressed to the following:

Andrea Nichols, Esq.,
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511
anichols@ag.nv.gov

Brenda J. Erdoes, Esq.
Kevin Powers, Esq.
kpowers@lcb.state.nv.us
J. Daniel Yu, Esq.
dan.yu@lcb.state.nv.us
Legislative Counsel Bureau
401 South Carson Street
Carson City, Nevada 89701


Employee of Brownstein Hyatt Farber Schreck, LLP

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Suite 202
Reno, Nevada 89501

Invoice

| Date | Invoice # |
|-----------|-----------|
| 1/12/2014 | R1212132 |

Andrea Nichols, Esq.
ATTORNEY GENERAL'S OFFICE
LITIGATION DIVISION
100 North Carson Street
Carson City, Nevada 89701

Terms

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| Description | Qty | Amount |
|---|-----|--------|
| Fernley v State of NV - December 12, 2013 | | |
| Depo of Terry Rubald | | |
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| Depo of Warner Ambrose | | |
| One Copy | 67 | 150.75 |
| Exhibits & Tabs | 59 | 20.65 |

THANK YOU!

Federal Tax ID: 88-0504825

Total \$373.90

15% LATE CHARGE WILL APPLY IF NOT PAID BY DUE DATE

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Case No. 66851
JA 4112