

1 **ASTA**
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11 Attorneys for Appellant

Electronically Filed
Nov 26 2014 12:50 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

9 **IN THE SUPREME COURT OF THE STATE OF NEVADA**
10 **OFFICE OF THE CLERK**

11 WILLIAM POREMBA)
12)
13 Appellant,)
14 vs.) **Supreme Court No. 66888**
15) **District Court Case No. A-698184**
16 SOUTHERN NEVADA PAVING;)
17 S&C CLAIMS SERVICE and)
18 DEPARTMENT OF ADMINISTRATION,)
19 APPEALS OFFICER,)
20)
21 Respondents.)
22)
23)
24)
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27)
28)

CORRECTED CASE APPEAL STATEMENT

- 20 **1. Name the appellant filing this case appeal statement:**
21 William Poremba
- 22 **2. Identify the judge issuing the decision, judgment, or order appealed from**
23 Honorable Judge Valorie J. Vega. The District Court Case Number is A-14-698184-J.
24
25 ///
26 ///
27 ///

1 **3. Identify each appellant and the name and address of counsel for each appellant:**

2 William Poremba, Appellant

3 Matthew S. Dunkley, Esq.
4 Nevada Bar No. 6627
5 Mark G. Losee, Esq.
6 Nevada Bar No. 12996
7 DUNKLEY LAW
8 2450 St. Rose Parkway, Suite 210
9 Henderson, Nevada 89074
10 (702) 413-6565

11 **4. Identify each respondent and the name and address of appellate counsel, if known, for**
12 **each respondent:**

13 Southern Nevada Paving; S&C Claims Services, Inc., and Nevada Department of
14 Administration Appeals Officer, Respondents

15 Daniel L. Schwartz, Esq.
16 Nevada Bar No. 5125
17 LEWIS BRISBOIS BISGAARD & SMITH, LLP
18 2300 W. Sahara Avenue, Suite 300
19 Las Vegas, Nevada 89102
20 (702) 893-3383

21 **5. Indicate whether any attorney identified above in response to question 3 or 4 is not**
22 **licensed to practice law in Nevada and, if so, whether the district court granted that**
23 **attorney permission to appear under SCR 42:**

24 Attorneys are licensed to practice law in Nevada.

25 **6. Indicate whether appellant was represented by appointed or retained counsel in the**
26 **district court:**

27 Appellant was represented by retained counsel.

28 **7. Indicate whether appellant is represented by appointed or retained counsel on appeal:**

Appellant is represent by retained counsel.

1 **8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the**
2 **date of entry of the district court order granting such leave:**

3 Appellant did not request to proceed in forma pauperis.

4 **9. Indicate the date the proceedings commenced in the district court:**

5 The Petition for Judicial Review in this matter was filed in District Court on March 25, 2014.

6 **10. Provide a brief description of the nature of the action and result in the district court,**
7 **including the type of judgment or order being appealed and the relief granted by the**
8 **district court:**

9 The nature of the action includes statutory interpretation of Nevada workers compensation
10 laws to answer the following issues:

11 As a matter of law can a failure to exhaust third party settlement funds be used to preclude
12 reopening a workers compensation claim when the worker has met the statutory requirements to
13 reopen his claim pursuant to NRS 613C.390, or does it merely allow withholding or offsets? And if
14 so, as a matter of law must a claimant exhaust third party settlement funds solely on medical costs
15 before he can reopen his workers compensation claim, or may the funds be exhausted on other
16 needs?
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19 **11. Indicate whether the case has previously been the subject of an appeal to or original**
20 **writ proceeding in the Supreme Court and, if so, the caption and Supreme Court**
21 **docket number of the prior proceeding:**

22 This matter has not previously been the subject of an appeal nor a writ proceeding in the
23 Supreme Court.
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25 **12. Indicate whether this appeal involves a child custody or visitation:**

26 This appeal does not involve a child custody or visitation
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13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

Appellant is trying to reopen his workers compensation claim. Appellant is willing to settle for his workers compensation claim being reopened pursuant to NRS 613C.390, including having a permanent partial disability rating conducted.

Dated this 26th of November, 2014.

DUNKLEY LAW

By /s/ Mark G. Losee, Esq.
Matthew S. Dunkley, Esq.
Nevada Bar No. 6627
Mark G. Losee, Esq.
Nevada Bar No. 12996
2450 St. Rose Parkway, Suite 210
Henderson, Nevada 89074
Attorneys for Appellant

1 CERTIFICATE OF SERVICE

2 I certify that on this 26th day of November, 2014, the foregoing CORRECTED CASE APPEAL

3 STATEMENT was served on the following by

- 4 hand delivery
- 5 Facsimile
- 6 Facsimile and U.S. Mail first class postage prepaid
- 7 U.S. Mail first class postage prepaid

8 addressed as follows:

9 Shirley D. Lindsey, Esq.
 10 Appeals Officer
 11 Department of Administration
 12 Hearings Division
 13 2200 South Rancho Drive, Suite 220
 14 Las Vegas, Nevada 89102

15 Daniel L. Schwartz, Esq.
 16 **LEWIS BRISBOIS BISGAAARD & SMITH LLP**
 17 2300 West Sahara, Suite 300
 18 Las Vegas, NV 89102-4375

19 Julie Wood
 20 S&C Claims Service
 21 9075 W. Diablo Drive, # 140
 22 Las Vegas, Nevada 89148

23 Southern Nevada Paving
 24 3101 E. Craig Road
 25 N. Las Vegas, Nevada 89030

26 /s/ J. Leon
 27 An Employee of *DUNKLEY LAW*