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Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

**

FRANK MILFORD PECK,
Appellant,

vs.

VALLEY HOSPITAL MEDICAL
CENTER; DAVID R. ZIPF, M.D.; AND
MICHAEL D.BARNUM, M.D.,
Respondents

Supreme Court No. 68664

JOINT NOTICE OF RELATED CASE

Andrew v. Coster, et al.,
Case No. 70836 in the Nevada Court of Appeals

COME Now Respondents, MICHAEL D. BARNUM, M.D., by and through
his counsel of record, David J. Mortensen, Esq. and Candace C. Herling, Esq. of
the law firm ALVERSON, TAYLOR, MORTENSEN & SANDERS and DAVID
R. ZIPF, M.D. by and through his counsel of record, Jill M. Chase, Esq. of the law
firm MCCORMICK BARSTOW, LLP, and hereby state as follows:

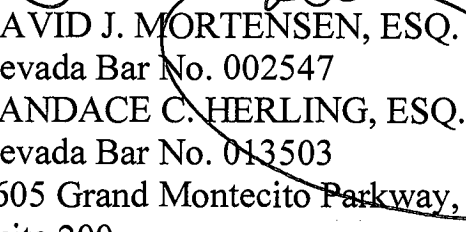
1 On February 17, 2017, the briefing in the instant matter was completed.
2 While preparing for impending oral arguments it has come to the undersigned
3 counsels' attention that the case *Andrew v. Coster, et al.*, bearing Case No. 70836
4 raises the same or similar issues as the instant matter. Moreover, in both the
5 Respondents' Answering Brief and Appellants' Reply Brief in *Andrew v. Coster, et*
6 *al.*, Case No. 70836, it was agreed in the respective Routing Statements that
7 "clustering of these cases is warranted under this Court's Internal Operating
8 Procedures Rule 2(c)(2) in order to ensure that they are resolved in a consistent
9 manner and to avoid the possibility of inconsistent published decisions . . ."
10 Appellants' Reply Br., Richey L. Andrew vs. Sharon Coster, et al. at 2. Here,
11 Respondents Dr. Barnum and Dr. Zipf agree with this position. Both *Peck* and
12 *Andrew* involve the same constitutional challenge to NRS 41A.071. Despite that
13 these cases raise the same or similar issues, *Peck v. Zipf, et al.* is set for oral
14 argument on September 26, 2017 in the Supreme Court of the State of Nevada (see
15 Order Re: Scheduling of Oral Argument) and *Andrew v. Coster, et al.* was
16 transferred to the Nevada Court of Appeals (see Order Transferring Case) and set
17 for oral argument on September 19, 2017. This scheduling and transfer has created
18 the exact scenario that Internal Operating Procedure Rule 2(c)(2) sought to avoid;
19 the possibility of inconsistent published decisions. Accordingly, Respondents Dr.
20 Barnum and Dr. Zipf respectfully request that this Honorable Court recall *Andrew*
21 *v. Coster, et al.*, Case No. 70836, retaining jurisdiction under NEV.R. APP. P.


1 17(a)(13) as the case implicates an issue of "first impression involving the United
2 States or Nevada Constitution" and clustering the same with the instant matter.

3
4 DATED this 5th day of September, 2017. DATED this 5th day of September,
5 2017.

6 ALVERSON, TAYLOR,
7 MORTENSEN & SANDERS

MCCORMICK, BARSTOW,
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CERTIFICATE OF SERVICE CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of September, 2017, I served the foregoing **JOINT NOTICE OF RELATED CASE** upon the following parties by:

X VIA ELECTRONIC SERVICE: By mandatory electronic service (e-service) proof of e-service attached to any copy filed with the Court; or

X VIA U.S. MAIL: By placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as indicated on the service list below in the United States mail in Las Vegas, Nevada:


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