

CLERK OF THE COURT

Electronically Filed  
Oct 28 2015 10:33 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

**NOTC**

ERIC A. DALY, ESQ.  
Nevada Bar No.: 5274  
LAW OFFICE OF KATHERINE M. BARKER  
901 N. Green Valley Parkway, Suite 190  
Henderson, NV 89074  
Telephone: (702) 233-9303  
Facsimile: (702) 233-9343  
Attorney for Petitioner  
GENEVA SIMMONS

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR  
THE COUNTY OF CLARK

GENEVA SIMMONS, individually,

Petitioner,

vs.

Case No.: A-14-706955

Dept. No.: XXXII

JESUS MANUAL BRIONES; and NEVADA  
DEPARTMENT OF MOTOR VEHICLES,

Respondents.

**NOTICE OF APPEAL**

Notice is hereby given that Geneva Simmons, petitioner above named, hereby  
appeals to the Supreme Court of Nevada from the Order Denying Petition for Judicial

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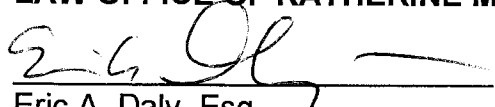
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Review entered in this action on the 8<sup>th</sup> day of October, 2015.

DATED this 21<sup>st</sup> day of October, 2015


**LAW OFFICE OF KATHERINE M. BARKER**

  
Eric A. Daly, Esq.  
Nevada Bar No. 5274  
901 N. Green Valley Parkway, Suite 190  
Henderson, NV 89074  
Telephone: (702) 233-9303  
Facsimile: (702) 233-9343  
Attorneys for Petitioner  
Geneva Simmons

1 **CERTIFICATE OF MAILING**

2 Pursuant to NRCP 5(b), NEFR 9 and EDCR 8.05, I hereby certify that I  
3 submitted the foregoing **NOTICE OF APPEAL** to the Clark County Court's Electronic  
4 E-Filing System to be served on all parties registered to this case, and by depositing a  
5 true copy of the same for mailing, first class mail, at Las Vegas, Nevada, addressed as  
6 follows:  
7

8 Cliff Marcek, Esq.  
9 CLIFF W. MARCEK, P.C.  
10 700 S. Third Street  
11 Las Vegas, NV 89101

12   
13 EMPLOYEE OF LAW OFFICE OF  
14 KATHERINE M. BARKER

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DATED: 10.21.15

DEPARTMENT 32  
**CASE SUMMARY**  
**CASE NO. A-14-706955-J**

**Geneva Simmons, Petitioner(s)**  
**vs.**  
**Jesus Briones, Respondent(s)**

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§  
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§

Location: **Department 32**  
Judicial Officer: **Bare, Rob**  
Filed on: **09/12/2014**  
Cross-Reference Case Number: **A706955**

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**CASE INFORMATION**

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Case Type: **Department of Motor Vehicle Appeal**  
Case Flags: **Appealed to Supreme Court**

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**DATE**

**CASE ASSIGNMENT**

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**Current Case Assignment**

Case Number	A-14-706955-J
Court	Department 32
Date Assigned	09/12/2014
Judicial Officer	Bare, Rob

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**PARTY INFORMATION**

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<b>Petitioner</b>	<b>Simmons, Geneva M</b>	<i>Lead Attorneys</i> <b>Daly, Eric A</b> <i>Retained</i> 702-233-9303(W)
<b>Respondent</b>	<b>Briones, Jesus Manuel</b>	<b>MARCEK, CLIFF</b> <i>Retained</i> 702-366-7076(W)
<b>Nevada Department of Motor Vehicles</b>		






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**DATE**










**EVENTS & ORDERS OF THE COURT**

**INDEX**

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09/12/2014	Case Opened	
09/12/2014	 Petition for Judicial Review Filed by: Petitioner Simmons, Geneva M <i>Petition for Judicial Review</i>	
10/10/2014	 Notice of Intent to Participate Filed By: Respondent Briones, Jesus Manuel <i>Notice of Intent to Participate</i>	
10/13/2014	 Record on Appeal Party: Respondent Nevada Department of Motor Vehicles <i>Record on Appeal in Accordance with the Nevada Administrative Procedure Act</i>	
10/14/2014	 Initial Appearance Fee Disclosure Filed By: Respondent Briones, Jesus Manuel <i>Initial Appearance Fee Disclosure</i>	
10/16/2014	 Affidavit of Service Filed By: Petitioner Simmons, Geneva M <i>Affidavit of Service</i>	

DEPARTMENT 32  
**CASE SUMMARY**  
**CASE NO. A-14-706955-J**

10/17/2014	 Affidavit of Service Filed By: Petitioner Simmons, Geneva M <i>Affidavit of Service</i>
10/17/2014	 Affidavit of Service Filed By: Petitioner Simmons, Geneva M <i>Affidavit of Service</i>
11/12/2014	 Petitioners Opening Brief Filed by: Petitioner Simmons, Geneva M <i>Petitioner s Opening Brief</i>
11/21/2014	 Response Filed by: Respondent Briones, Jesus Manuel <i>Respondent's Opening Brief and Motion for Sanctions Pursuant to Nev.R.Civ.P.</i>
12/05/2014	 Reply Filed by: Petitioner Simmons, Geneva M <i>Petitioners Reply Brief Opposition To Motion For Sanctions</i>
03/19/2015	 Order <i>Order Setting Chamber Hearing</i>
04/15/2015	<b>Hearing</b> (3:00 AM) (Judicial Officer: Bare, Rob) <i>Hearing Re: Petitioner's Opening Brief and Motion for Sanctions</i>
08/11/2015	 <b>Minute Order</b> (4:00 PM) (Judicial Officer: Bare, Rob)
10/08/2015	 Order Denying Judicial Review of Administrative Decision Filed by: Respondent Briones, Jesus Manuel <i>Order Denying Petition for Judicial Review</i>
10/08/2015	<b>Order Denying Judicial Review</b> (Judicial Officer: Bare, Rob) Debtors: Geneva M Simmons (Petitioner) Creditors: Jesus Manuel Briones (Respondent), Nevada Department of Motor Vehicles (Respondent) Judgment: 10/08/2015, Docketed: 10/15/2015
10/22/2015	 Notice of Appeal Filed By: Petitioner Simmons, Geneva M <i>Notice of Appeal</i>

DATE	FINANCIAL INFORMATION
	<b>Petitioner</b> Simmons, Geneva M Total Charges 294.00 Total Payments and Credits 294.00 <b>Balance Due as of 10/26/2015 0.00</b>
	<b>Respondent</b> Briones, Jesus Manuel Total Charges 223.00 Total Payments and Credits 223.00 <b>Balance Due as of 10/26/2015 0.00</b>
	<b>Petitioner</b> Simmons, Geneva M Appeal Bond Balance as of 10/26/2015 <b>500.00</b>

**DEPARTMENT 32**  
**CASE SUMMARY**  
**CASE NO. A-14-706955-J**

# DISTRICT COURT CIVIL COVER SHEET

County, Nevada  
Case No. A-14-706955-J Dept XXXII  
(Assigned by Clerk's Office)

## I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): <u>Geneva M. Simmons</u>	Defendant(s) (name/address/phone): <u>Jesus Manuel Briones</u>
Attorney (name/address/phone): <u>Eric Daly</u> <u>823 S. LV Blvd. Ste 300</u> <u>Las Vegas NV 89101</u>	Attorney (name/address/phone):  

## II. Nature of Controversy (please select the one most applicable filing type below)

### Civil Case Filing Types

<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Torts</b> <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<b>Probate</b> <b>Probate (select case type and estate value)</b> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Judicial Review/Appeal</b> <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b> <b>Civil Writ</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		<b>Other Civil Filing</b> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters

*Business Court filings should be filed using the Business Court civil coversheet.*

9/12/14

Date

\_\_\_\_\_  
Signature of initiating party or representative

*See other side for family-related case filings.*

Cliff W. Marcek, Esq.  
Nevada Bar No. 5061  
CLIFF W. MARCEK, P.C.  
700 S. Third Street  
Las Vegas, NV 89101  
Telephone : (702) 366-7076  
Facsimile : (702) 366-7078  
Email : [cwmarcek@marceklaw.com](mailto:cwmarcek@marceklaw.com)

  
CLERK OF THE COURT

Attorney for Respondent  
JESUS BRIONES

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

GENEVA M. SIMMONS, individually,  
Petitioner,

v.

JESUS MANUEL BRIONES; and NEVADA  
DEPARTMENT OF MOTOR VEHICLES;  
Respondents.

Case No. : A-14-706955-J  
Dept. No. : XXXII

**ORDER DENYING PETITION FOR  
JUDICIAL REVIEW**

Petitioner, Geneva M. Simmons', Petition for Judicial Review came on for hearing before the Honorable Rob Bare, Department 32 of the Eighth Judicial District Court on a chambers calendar August 11, 2015. The court finds that NRS Chapter 485 is to require liability insurance to compensate people who are injured or whose property has been damaged by someone negligently operating a motor vehicle and it does not pertain to a judgment for attorney's fees because the plaintiff did not exceed the arbitration award at trial. Therefore,

**IT IS HEREBY ORDERED AND ADJUDGED** that the Petition for Judicial Review is *denied*.

CLIFF W. MARCEK, P.C.  
700 S. THIRD STREET, LAS VEGAS, NEVADA 89101  
Phone (702) 366-7076 ♦ Facsimile (702) 366-7078



CLIFF W. MARCEK, P.C.  
700 S. THIRD STREET, LAS VEGAS, NEVADA 89101  
Phone (702) 366-7076 • Facsimile (702) 366-7078

1 IT IS FURTHER ORDERED AND ADJUDGED that Respondent's Motion for  
2 Sanctions is also *denied* in that the Petition for Judicial Review was not brought in bad faith.

3 Dated this 5 day of Oct September, 2015.


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DISTRICT COURT JUDGE

PREPARED BY:

CLIFF W. MARCEK, P.C.

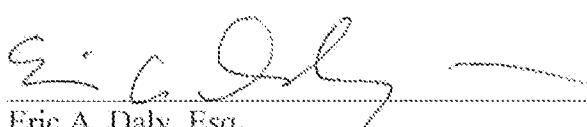
ROB BARE

JUDGE, DISTRICT COURT, DEPART...

  
Cliff W. Marcek, Esq.  
Nevada Bar No. 5061  
700 S. Third Street  
Las Vegas, NV 89101  
Telephone: (702) 366-7076  
Facsimile: (702) 366-7078  
Email: [cwmarcek@marceklaw.com](mailto:cwmarcek@marceklaw.com)

Attorney for Defendant  
JESUS BRIONES

Approved a Form and Content:  
LAW OFFICE OF KATHERINE BARKER

  
Eric A. Daly, Esq.  
~~823 Las Vegas Blvd. South Suite 300~~  
Las Vegas, NV 89101

Attorney for Geneva Simmons

901 N. Green Valley Pkwy, Suite 190  
Henderson, NV 89074

SEP 11 2015

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Department of Motor Vehicle  
Appeal**

**COURT MINUTES**

**April 15, 2015**

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A-14-706955-J      Geneva Simmons, Petitioner(s)  
vs.  
Jesus Briones, Respondent(s)

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**April 15, 2015      3:00 AM      Hearing**

**HEARD BY:** Bare, Rob

**COURTROOM:**

**COURT CLERK:** Tia Everett

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Please see minute order dated 8/11/2015.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Department of Motor Vehicle  
Appeal**

**COURT MINUTES**

**August 11, 2015**

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A-14-706955-J      Geneva Simmons, Petitioner(s)  
vs.  
Jesus Briones, Respondent(s)

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**August 11, 2015      4:00 PM      Minute Order**

**HEARD BY:** Bare, Rob

**COURTROOM:** RJC Courtroom 03C

**COURT CLERK:** Billie Jo Craig

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- NRS 485.035 defines Judgment in pertinent part as any judgment upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle for damages, including damages for care and loss of services because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages. The Administrative Law Judge, Thomas Sutherland, held that the Department's action in suspending Petitioner's driving and registration privileges is dismissed and rescinded. Such action is not appropriate because the portion of the ORDER OF JUDGMENT fees and costs awarded to Simmons are not damages based upon a cause of action arising from the ownership or operation of a motor vehicle. After a fair reading of NRS Chapter 485, Motor Vehicles: Insurance and Financial Responsibility, it seems the purpose is to require liability insurance to compensate people who are injured or whose property has been damaged by someone negligently operating a motor vehicle. NRS Chapter 485 does not seem to be designed for insurance companies to suspend a person's license for a civil judgment related to attorney's fees because the Plaintiff did not exceed the arbitration award at trial. Therefore, COURT ORDERED, Petitioner's Petition for Judicial Review is DENIED.

Respondent made a Motion for Sanctions pursuant to NRCP 11. Petitioner did not file this Petition for Judicial review in bad faith. Thus, COURT ORDERED, Sanctions are inappropriate and are

DENIED.

Counsel for Respondent is directed to submit a Proposed Order consistent with the foregoing which sets forth the underpinnings of the same in accordance herewith and with counsel's briefing and argument and submit to opposing counsel for review and signification of approval/disapproval. Mr. Marcek to be notified by way of minute order to prepare the order and notify appropriate parties.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of:  
Cliff W. Marcek, Esq. (Marcek Law Firm).



**EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE**  
**NOTICE OF DEFICIENCY**  
**ON APPEAL TO NEVADA SUPREME COURT**

**ERIC A. DALY, ESQ.**  
**901 N. GREEN VALLEY PKWY., STE. 190**  
**HENDERSON, NV 89074**

**DATE: October 26, 2015**  
**CASE: A706955**

**RE CASE: GENEVA M. SIMMONS vs. JESUS MANUEL BRIONES; NEVADA DEPARTMENT OF MOTOR VEHICLES**

**NOTICE OF APPEAL FILED: October 22, 2015**

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

**PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:**

- ☐ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☐ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☒ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☒ Notice of Entry of Order

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**NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:**

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

*Please refer to Rule 3 for an explanation of any possible deficiencies.*

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**\*\*Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.**

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; DISTRICT COURT CIVIL COVER SHEET; ORDER DENYING PETITION FOR JUDICIAL REVIEW; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

GENEVA M. SIMMONS,

Petitioner(s),

vs.

JESUS MANUEL BRIONES; NEVADA  
DEPARTMENT OF MOTOR VEHICLES,

Respondent(s),

Case No: A706955

Dept No: XXXII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 26 day of October 2015

Steven D. Grierson, Clerk of the Court

*Mary Kielty*

Mary Kielty, Deputy Clerk

- ☐ GOVERNMENT EMPLOYEES INSURANCE CO.
- ☐ GEICO GENERAL INSURANCE CO.
- ☐ GEICO INDEMNITY CO.
- ☐ GEICO CASUALTY CO.
- ☐ COLONIAL COUNTY MUTUAL INSURANCE CO.

DATE ISSUED 10-21-15  
POLICY / CLAIM NUMBER 0175255360101124  
CHECK NUMBER N602257903  
ADJ  
CO. CODE 06  
ACCIDENT DATE 8-20-10  
CLAIMANT Brien  
IRS NUMBER / ATTY ADJ 886000022  
ID EP  
FEATURE / AMOUNT ABI  
EXPENSE CC 11  
FCC  
PAY THE SUM OF \$ 250.-  
AND NO / 100 DOLLARS  
IN PAYMENT OF  
MAIL TO: 201 S Carson St  
Carson City NV 89701  
PRINT NAME HERE LO Katherine Barker  
NAME OF FIRM  
INSURED  
AUTHORIZED SIGNATURE

PAY TO THE ORDER OF  
Two Hundred Fifty  
Dollars  
Clark of the Supreme Court  
201 S Carson St  
Ste 201  
Carson City NV 89701

Appel Filing Fee  
LO Katherine Barker  
Simmons

ORIGINAL DOCUMENT CONTAINS A COLORED BACKGROUND ON WHITE PAPER. VOID IF COLORED BACKGROUND IS ABSENT.

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