IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

GENEVA M. SIMMONS, INDIVIDUALLY,

Appellant,

vs.

JESUS MANUEL BRIONS,

Respondent.

No. 69060

Electronically Filed Nov 04 2015 12:01 p.m. Tracie K. Lindeman

Clerk of Supreme Court DOCKETING STATEMENT CIVIL APPEALS

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth	Department 32
County Clark	Judge <u>Hon. Rob Bare</u>
District Ct. Case No. A-14-706955-J	
2. Attorney filing this docketing statemen	t:
Attorney Eric A. Daly, Esq.	Telephone <u>702-233-9303 x22</u>
Firm Law Office of Katherine M. Barker	
Address 901 North Green Valley Parkway, Su Henderson, NV 89074	tite 190
Client(s) Geneva M. Simmons	
If this is a joint statement by multiple appellants, add the names of their clients on an additional sheet accomplishing of this statement. 3. Attorney(s) representing respondents(s)	panied by a certification that they concur in the
Attorney Cliff W. Marcek, Esq.	Telephone <u>702-366-7076</u>
Firm Cliff W. Marcek, P.C.	
Address 700 South Third Street Las Vegas, NV 89101	
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Client(s) <u>Jesus Briones</u>	
Attorney	Telephone
Firm	
Address	
Client(s)	

4. Nature of disposition below (check	k all that annly):	
☐ Judgment after bench trial ☐ Judgment after jury verdict	☐ Dismissal: ☐ Lack of jurisdiction	
☐ Summary judgment ☐ Default judgment ☐ Grant/Denial of NRCP 60(b) relief	☐ Failure to state a claim ☐ Failure to prosecute ☐ Other (specify):	
☐ Grant/Denial of injunction☐ Grant/Denial of declaratory relief☒ Review of agency determination	☐ Divorce Decree: ☐ Original ☐ Modification ☐ Other disposition (specify):	
5. Does this appeal raise issues conce		
	this court. List the case name and docket nuserally or previously pending before this court	
court of all pending and prior proceedings	other courts. List the case name, number as s in other courts which are related to this appe- ted proceedings) and their dates of disposition	eal
Briones v. Simmons, Case No. A-11-6459 8/7/2013 Notice of Entry of Order and Jud	923-C, Eighth Judicial District, Clark County, adgment	

Briones v. State of Nevada, Department of Motor Vehicles, Case No. LV 2014-061

8. Nature of the action. Briefly describe the nature of the action and the result below:
Briones v. Simmons, Case No. A-11-645923-C, personal injury - motor vehicle, short trial, jury verdict, judgment in favor of Simmons
Briones v. Department of Motor Vehicles, Case No. LV 2014-061, In the matter of Suspension of Driving and Vehicle Registration Privileges for Failure to Satisfy Judgment, Order of Dismissal
Simmons v. Briones, Case No. A-14-706955-J, Petition for Judicial Review, Order Denying Judicial Review of Administrative Decision

9. Issues on appeal. State specifically all issues in this appeal (attach separate sheets as necessary):

See attached "Separate Sheet" - Exhibit A

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

None.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?
⊠ N/A
☐ Yes
\square No
If not, explain:
12. Other issues. Does this appeal involve any of the following issues?
☐ Reversal of well-settled Nevada precedent (identify the case(s))
☐ An issue arising under the United States and/or Nevada Constitutions
☑ A substantial issue of first impression
☐ An issue of public policy
\square An issue where en banc consideration is necessary to maintain uniformity of this court's decisions
☐ A ballot question
If so, explain:
13. Trial. If this action proceeded to trial, how many days did the trial last? 1
Was it a bench or jury trial? Underlying case was a short trial, 1 day
14. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice? No.

TIMELINESS OF NOTICE OF APPEAL

15. Date of entry of	f written judgment or order appealed from October 8, 2015
If no written jud seeking appellat	gment or order was filed in the district court, explain the basis for e review:
	tice of entry of judgment or order was served November 2, 2015
Was service by:	
\square Delivery	
⊠ Mail/electroni	c/fax
(NRCP 50(b), 52(b),	or 59) A A
the date of fi	ling.
☐ NRCP 50(b)	Date of filing
□ NRCP 52(b)	Date of filing
□ NRCP 59	Date of filing
	ursuant to NRCP 60 or motions for rehearing or reconsideration may toll the notice of appeal. <i>See AA Primo Builders v. Washington</i> , 126 Nev, 245
(b) Date of ent	ry of written order resolving tolling motion
(c) Date written	n notice of entry of order resolving tolling motion was served
Was service	by:
☐ Delivery	
□Mail	

	1 filed October 22, 2015
	y has appealed from the judgment or order, list the date each iled and identify by name the party filing the notice of appeal:
_ ·	le governing the time limit for filing the notice of appeal,
e.g., NRAP 4(a) or other	
NRAP 4(a) or other NRAP 4(a)	
NRAP 4(a)	SUBSTANTIVE APPEALABILITY
NRAP 4(a) 20. Specify the statute of the judgment or order a	r other authority granting this court jurisdiction to review
NRAP 4(a) 20. Specify the statute or	r other authority granting this court jurisdiction to review
NRAP 4(a) 20. Specify the statute of the judgment or order ap (a)	r other authority granting this court jurisdiction to review ppealed from:
NRAP 4(a) 20. Specify the statute of the judgment or order ap (a) NRAP 3A(b)(1)	r other authority granting this court jurisdiction to review ppealed from:

NRAP 3A(b)(1) provides that an appeal may be taken from a final judgment entered in an action or proceeding commenced in the court in which the judgment is entered. The Order Denying Judicial Review of Administrative Decision was final and resolved all issues in the Petition for Judicial Review

21. List all parties involved in the action or consolidated actions in the district court (a) Parties:	; :
Geneva Simmons, Appeallant Jesus Manuel Briones, Respondent Nevada Department of Motor Vehicles, Respondent	
 (b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other: All parties in the district court have been named as parties to this appeal. The Nevada Department of Motor Vehicles did not participate in the district court other than to submit the Record on Appeal 	
22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim. Simmons: Judgment meets NRS 485 definition Briones: Judgment does not meet definition	
23. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below? □ Yes □ No	

24. If you answered "No" to question 23, complete the following:

(a) Specify the claims remaining pending below:

(b) Spe	cify the parties remaining below:
	the district court certify the judgment or order appealed from as a final judgment nt to NRCP 54(b)?
☐ Ye	s ·
□ No	
, ,	the district court make an express determination, pursuant to NRCP 54(b), that no just reason for delay and an express direction for the entry of judgment?
□ Ye	8
□ No	
appellate	answered "No" to any part of question 24, explain the basis for seeking review (e.g., order is independently appealable under NRAP 3A(b)): below adjudicated ALL the claims alleged below.
• T • A • C	If file-stamped copies of the following documents: The latest-filed complaint, counterclaims, cross-claims, and third-party claims any tolling motion(s) and order(s) resolving tolling motion(s) Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Geneva M. Simmons Name of appellant	Eric A. Daly, Esq. Name of counsel of record
November 4, 2015 Date	Signature of counsel of record
Clark County, Nevada State and county where signed	<u> </u>
\mathbf{CE}	RTIFICATE OF SERVICE
By personally serving it u By mailing it by first class address(es): (NOTE: If all	
Cliff W. Marcek, Esq. Cliff W. Marcek, P.C. 700 South Third Street Las Vegas, NV 89101	

Dated this 5th 4th day of November

EXHIBIT A

9. ISSUES ON APPEAL (SEPARATE SHEET)

- (1) Whether Government Employees Insurance Company was the involved party in the subject administrative proceedings at issue herein instead of Geneva Simmons and that participation by Geneva Simmons therein was only as a friend of the court;
- (2) Whether the order of Judgment in favor of Geneva Simmons, Petitioner herein, and against Respondent Jesus Briones, Respondent herein, in Briones v. Simmons, Case No. A-11-645923-C, the underlying case, was a Judgment as defined in NRS Chapter 485;
- (3) Whether NRS 489.035 applies to "any judgment" resulting firm "a cause of action arising out of ... use of any motor vehicle for damages[.]";
- (4) Whether "any judgment" is ambiguous;
- (5) Whether legislative intent may be considered in interpretation of an unambiguous statute;
- (6) Whether the district court abused its discretion by considering legislative intent in interpretation of an unambiguous statute;
- (7) Whether there was any evidence of legislative intent in the record upon which the district court could rely.

EXHIBIT B

1 2 3 4 5 6 7 8	NEOJ 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 Defendant GENEVA SIMMONS	Electronically Filed 11/02/2015 12:28:55 PM Hum & Electronically Filed 11/02/2015 12:28:55 PM CLERK OF THE COURT
9	DISTRICT	COURT
10	CLARK COUNTY, NEVADA	
11		
12	JESUS BRIONES, individually,	
13	Plaintiff,	Cons No. 1 44 700055 1
14	vs.	Case No.: A-14-706955-J Dept. No.: I
15 16	GENEVA M. SIMMONS, individually; and DOES I through V, inclusive,	
17	Defendants.	
18	NOTICE OF ENTR	Y OF ORDER
19		
20	TO: ALL PARTIES AND THEIR RES	SPECTIVE COUNSEL OF RECORD.
21	PLEASE TAKE NOTICE that an ORDE	R DENYING PETITION FOR JUDICIAL
22	REVIEW was entered in the above-entitled ma	
23	///	attor on the our day of cotobor, 2010, a
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copy of which is attached hereto.

DATED this $\frac{\sum^{n} d}{n}$ day of November, 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
Attorneys for Defendant
Geneva Simmons

CERTIFICATE OF SERVICE

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

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

EMPLOYEE OF LAW OFFICE OF

KATHERINE M. BARKER

DATED: WW. 11-2-15

3 of 3

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

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Cliff W. Marcek, Esq. Nevada Bar No. 5061 CLIFF W. MARCEK, P.C. 700 S. Third Street Las Vegas, NV 89101

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Telephone: (702) 366-7076 Facsimile: (702) 366-7078

Email cwmarcek@marceklaw.com

Attorney for Respondent JESUS BRIONES

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

Petitioner, ٧. JESUS MANUEL BRIONES; and NEVADA

GENEVA M. SIMMONS, individually,

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.

Page 1 of 2

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l	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 thisday of September, 2015.
4	anne printer and the second and the
5	DISTRICT COURT JUDGE
6	PREPARED BY: CLIFF W. MARCEK, P.C.
7	
Ş	Cliff W. Marcek, Esq. Nevada Bai No. 5061
9	1 700 S. Third Street
	Las Vegas, NV 89101 Telephone: (702) 366-7076 Facsimile: (702) 366-7078
	Email: cwinarcek@marceklaw.com
2	Attorney for Defendant JESUS BRIONES
	Approved a Form and Content: LAW OFFICE OF KATHERINE BARKER
	6 · 1 0 1
	Eric A. Daly, Esq.
	Eric A. Daly, Esq. 823-Las Vegas Blvd, South Suite 300 Gol N. Green Valley Play, Svite 190 Las Vegas NV 89101 Headers on NV 89074
	Attorney for Geneva Simmons
***************************************	·
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EXHIBIT C

DISTRICT COURT CIVIL COVER SHEET

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

I. Party Information (provide both h	ome and mailing addresses if different)			
Plaintiff(s) (name/address/phone): GROWA M. SIMMONS		Defendant(s) (name/address/phone): JENUS Manuel Briones		
Attorney (name/address/phone): FY 1 (1) 914 \$73.5. LV 010 (94.9.300)		Attorney (name/address/phone):		
II. Nature of Controversy (please s	elect the one most applicable filing type l	pelow)		
Civil Case Filing Types				
Real Property Landlord/Tenant	Torts Negligence Other Torts			
Unlawful Detainer	Auto	Product Liability		
Other Landlord/Tenant	Premises Liability	Intentional Misconduct		
Title to Property	Other Negligence	Employment Tort		
Judicial Foreclosure	Malpractice	Insurance Tort		
Other Title to Property	Medical/Dental	Other Tort		
Other Real Property	Legal	Cancer Total		
Condemnation/Eminent Domain	Accounting			
Other Real Property	Other Malpractice	·		
Probate	Construction Defect & Contra	act Judicial Review/Appeal		
Probate (select case type and estate value)	Construction Defect	Judicial Review		
Summary Administration	Chapter 40	Foreclosure Mediation Case		
General Administration	Other Construction Defect	Petition to Scal Records		
Special Administration	Contract Case	Mental Competency		
Set Aside	Uniform Commercial Code	Nevada State Agency Appeal		
Trust/Conservatorship	Building and Construction	Department of Motor Vehicle		
Other Probate	Insurance Carrier	Worker's Compensation		
Estate Value	Commercial Instrument	Other Nevada State Agency		
Over \$200,000	Collection of Accounts	Appeal Other		
Between \$100,000 and \$200,000	Employment Contract	Appeal from Lower Court		
Under \$100,000 or Unknown	Other Contract	Other Judicial Review/Appeal		
Under \$2,500				
Civil Writ		Other Civil Filing		
Civil Writ		Other Civil Filing		
Writ of Habeas Corpus	Writ of Prohibition	Compromise of Minor's Claim		
Writ of Mandamus	Other Civil Writ	Foreign Judgment		
Writ of Quo Warrant		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.

LISAMARIE VAQUERO

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CLERK OF THE COURT

PET ERIC A. DALY, ESQ. Nevada Bar No.: 5274 LAW OFFICE OF KATHERINE M. BARKER 823 South Las Vegas Boulevard, Suite 300 Las Vegas, NV 89101 Telephone: (702) 233-9303

Facsimile: (702) 233-9343 Attorney for GENEVA M. SIMMONS

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

PETITION FOR JUDICIAL REVIEW

COMES NOW the Petitioner, Geneva M. Simmons, a resident of Clark County, Nevada, by and through her attorney, Eric A. Daly, Esq., of the Law Office of Katherine M. Barker, and hereby petitions this Court for judicial review of the Order of Dismissal, Findings of Fact, Conclusions of Law and Decision Of Thomas D. Sutherland, Administrative Law Judge dated August 15, 2014, a copy of which is attached hereto as Exhibit 1.

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This Petition for Judicial Review is filed pursuant to NRS 233B.130 which provides for judicial review of contested proceedings including, but not limited to, in the Nevada Department of Motor Vehicles in accordance with the provisions of NRS 233B.

Petitioner Geneva Simmons alleges, in accordance with NRS 233B.135.3, that the decision of the Administrative Law Judge decision is in violation of statutory provisions; is affected by error of law; is clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; and is arbitrary or capricious or characterized by abuse of discretion including, but not limited to, as follows: (1) in finding that Government Employees Insurance Company was the involved party in the subject administrative proceedings at issue herein instead of Geneva Simmons and that participation by Geneva Simmons therein was only as a friend of the court; (2) in deciding that the Order of Judgment in favor of Geneva Simmons, Petitioner herein, and against Respondent Jesus Briones, Respondent herein, in Briones v. Simmons, Case No. A645923, the underlying case, was not entered as a result of an accident involving a motor vehicle as set forth in NRS 485.301.1; (4) in finding that the Order and Judgment was not a judgment within the meaning of NRS 485.302.1; and (5) in construing NRS 485.301.1, despite its clear and unambiguous meaning, to be inapplicable to apply to the Order and Judgment and/or in construing the Order and Judgment as not arising IIII

¹ The underlying lawsuit involved a disputed liability motor vehicle parking lot accident wherein the jury found both parties to be fifty percent (50%) at fault.

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out of an accident involving a motor vehicle.

DATED this <u>trh</u> day of September, 2014

LAW OFFICE OF KATHERINE M. BARKER

Eric A. Daly, Esq.

Nevada Bar No. 5274

823 South Las Vegas Boulevard, Suite 300

Las Vegas, NV 89101

Telephone: (702) 233-9303 Facsimile: (702) 233-9343 Attorneys for Petitioner Geneva Simmons

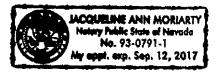
ACKNOWLEDGEMENT

STATE OF NEVADA)
) ss,
COUNTY OF CLARK)

On this oday of oday of oday, 2014, before me, the undersigned Notary Public in and for said county and state, personally appeared Eric A. Daly known to me or proved to be, the person described in and who acknowledged to me that executed the foregoing instrument, and who acknowledges to me that executed the same freely and voluntarily and for the uses and purposes mentioned therein.

NOTARY PUBLIC

uline a. m



CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that service of the foregoing **PETITION FOR JUDICIAL REVIEW** was made this date by depositing a true copy of the same for mailing, first class mail, at Las Vegas, Nevada, addressed as follows:

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

Jesus Briones 4401 Harris Avenue Las Vegas, Nevada 89110

Danielle Hafeman **Drivers License Review** 555 Wright Way Carson City, NV 89711-0400

Thomas D. Sutherland **DMV Office of Administrative Hearings** 2701 E. Sahara Ave. Las Vegas, NV 89104-4170

EMPLOYEE OF LAW OFFICE OF KATHERINE M. BARKER

DATED: 9/12/14

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