

BEFORE THE SUPREME COURT OF THE STATE OF NEVADA

FILED

AUG 11 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

THE COMMISSION ON ETHICS
OF THE STATE OF NEVADA,

Appellant,

vs.

IRA HANSEN, IN HIS OFFICIAL
CAPACITY AS NEVADA STATE
ASSEMBLYMAN FOR ASSEMBLY
DISTRICT 32; AND JIM WHEELER,
IN HIS OFFICIAL CAPACITY AS
ASSEMBLYMAN FOR ASSEMBLY
DISTRICT 39,

Respondents.

Case No. 69100

NEVADA STATE CONTRACTORS BOARD MOTION TO FILE
AMICUS CURIAE BRIEF IN SUPPORT OF PETITION FOR
REHEARING

The Nevada State Contractors Board hereby moves this Court for authorization to participate as amicus curiae and to file an amicus curiae brief in support of Appellant's petition for rehearing in this matter. This motion is made and based upon the pleadings and papers on file herein and the following points and authorities.

I. POINTS AND AUTHORITIES

NRAP 27 authorizes the filing of motions by which one may apply for an order or relief of this Court. NRAP 40 sets out the rules and conditions related to petitions for rehearing.

On August 1, 2017, the Appellant in the above matter filed its Petition for Rehearing. The Petition complied with NRAP 40. Later on August 1, 2017, the Court ordered that the Respondents file an answering brief to Appellant's Petition for Rehearing.

NRAP 29(a) provides: "The United States, the State of Nevada, an officer or agency of either, a political subdivision thereof, or a state, territory or commonwealth may file an amicus curiae brief without the consent of the parties or leave of court." The Nevada State Contractors Board (the Board) is an agency of the State of Nevada, created and authorized by NRS chapter 624. If this matter is reheard, the Board, therefore, intends to file and participate in the matter as amicus curiae without consent of the parties or leave of this Court.

The majority opinion in this matter constitutes a radical and unexpected departure from the understanding and applicability of the NRAP and NRS chapter 241 as they relate to the state's administrative agencies like the Board.

The Board has a strong interest in having this matter reheard, revisited, and reconsidered because the unprecedented change in public policy and the inherent disruption and confusion worked by the majority opinion will negatively affect the Board and its future operations. This is especially so where the precise contours of what types of determinations under what conditions may be made by whom (the Board's counsel, the Board's staff, or the Board itself) at what stage in civil legal proceedings all remain uncertain under the majority opinion. Especially where the penalty under the majority opinion is so severe - dismissal of an otherwise perfected appeal - the majority opinion should be reheard and reconsidered and, as the Board will urge, reversed so that the Court's and the Legislature's regular processes may be pursued.

The Board has prepared an amicus curiae brief it would like to file in this matter to support Appellant's Petition for Rehearing. A copy of the brief is attached hereto as Exhibit 1. Since the Board is otherwise entitled by NRAP 29(a) to participate in an appeal as a matter of right, the Board prays that this Court will allow it to participate as an amicus curiae in Appellant's Petition for Rehearing.

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II. CONCLUSION

For the above reasons, the Board prays for and moves this Court for its order authorizing the board to participate as amicus curiae in support of Appellant's Petition for Rehearing, including authorizing the filing of the brief attached as Exhibit 1

Louis Ling

LOUIS LING
Nevada Bar No. 3101
933 Gear Street
Reno, Nevada 89503
T: (775) 233-9099

Attorney for Amicus Curiae Nevada
State Contractors Board

CERTIFICATE OF COMPLIANCE

1. I hereby certify that this Respondent's Notice of Change of Address complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

☒ It has been prepared in a proportionally spaced typeface using Microsoft Word for Macintosh 2008, Version 12.3.6 in Goudy Old Style 14 Point type.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 40 or 40A because it is:

☒ Proportionately spaced, has a typeface of 14 points or more, and contains 617 words.

3. Finally, I hereby certify that I have read this brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 11th day of August, 2017.

Louis Ling

LOUIS LING
Nevada Bar No. 3101
933 Gear Street
Reno, Nevada 89503
T: (775) 233-9099

CERTIFICATE OF SERVICE

I hereby certify that on this day, the 11th day of August, 2017, I submitted the foregoing Nevada State Contractors Board Motion to Filer Amicus Curiae Brief in Support of Petition for Rehearing via the Court's eFlex electronic filing system. According to the electronic service list, notification will be served upon the following:

Brenda Erdoes
Kevin Powers
Eileen O'Grady
Tracy Chase
Jonathan Shipman

Louis Ling

LOUIS LING