IN THE SUPREME COURT OF THE STATE OF NEVADA

THE COMMISSION ON ETHICS OF THE STATE OF NEVADA, Appellant, vs. IRA HANSEN, IN HIS OFFICIAL CAPACITY AS NEVADA STATE ASSEMBLYMAN FOR ASSEMBLY DISTRICT NO. 32; AND JIM WHEELER, IN HIS OFFICIAL CAPACITY AS NEVADA STATE ASSEMBLYMAN FOR ASSEMBLY DISTRICT NO. 39, Respondents.	Electronically Filed Oct 31 2017 02:49 p.m. Elizabeth A. Brown Clerk of Supreme Court No. 69100

APPELLANT'S PETITION FOR EN BANC RECONSIDERATION

Tracy L. Chase, Esq.
Commission Counsel
Nevada Bar No. 2752
NEVADA COMMISSION ETHICS
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703
Telephone: (775) 687-5469
E-mail: tchase@ethics.nv.gov
Attorney for Appellant

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

Rules

MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to NRAP 40A, this matter warrants en banc consideration because it involves substantial precedential and public policy issues implicating NRS Ch. 281A, the Nevada Ethics in Government Law ("Ethics Law"), the Nevada Open Meeting Law, set forth in NRS Ch. 241 ("NOMA"), case precedent and this Court's established procedural requirements to perfect an appeal. The questions presented are ones of first impression and statewide importance as evidenced by the Commission's briefs and the multiple amicus curiae briefs supporting rehearing by the Panel.

I. INTRODUCTION

On June 29, 2017, the Panel in a split 2-1 decision, issued a published decision ("*Panel Decision*")[1] dismissing this appeal by concluding that the Commission's notice of appeal was defective because of an alleged failure to comply with the requirements of NOMA. The majority of the Panel opined that NOMA required that the Commission hold a public meeting to direct its counsel to file a notice of appeal. However, NOMA is inapplicable to this appeal and the Commission's notice of appeal was properly and timely filed in compliance with the requirements of NRAP 3, 3A and 4.

---

[1] *Nevada Comm'n on Ethics v. Hansen,* et al. 133 Nev. Adv. Op. 39 (2017).

The majority dismissal was based upon an improper application of NOMA, to impose a duty to hold a public meeting to provide a public attorney authority to appeal when the attorney already had such authority. The dismissal was inconsistent with both NRAP 3 and 4 and NOMA has never before been employed by this Court as cause for dismissal of an otherwise perfected appeal. In so ruling, the majority relied upon highly distinguishable Arizona law as precedent rather than established Nevada law. The Commission sought rehearing, which request was denied by a summary order, also with a 2-1 split. In the *Panel Decision*, Justice Pickering dissented from the majority on the following grounds:

1. The conclusions of the majority failed to apply Nevada's quorum standard explicitly adopted by the Legislature and solidified in *Dewey v. Redevelopment Agency of Reno*, 119 Nev. 87, 64 P.3d 1070 (2003). *Panel Decision* at pgs. 3-7.

2. Nevada has no rule that only a client entity's governing board can authorize an appeal, and lawyers representing an entity client in district court have presumed authority (actual or implied) to file an appeal without demanding a vote of the board. *Panel Decision* at pgs. 7-8.

3. Since NOMA does not apply to the facts, normal ratification principles apply that permit a client to ratify an appeal after the time for the appeal has passed, which unanimous ratification was received by the Commission. *Panel Decision* at pgs. 8-9.

The Commission now petitions for en banc consideration pursuant to NRAP 40A because the unconventional dismissal raises issues of first impression relating to appellate jurisdiction and procedure, application of the quorum standard in Nevada, and the express and implied authority of government attorneys of record to

pursue appeals. Failure to grant en banc consideration will have significant impacts beyond these litigants because the *Panel Decision* creates an exception to NOMA's quorum standard, reconfigures appellate requirements and disregards presumed authority of public attorneys to file notices to protect the interests of their clients.

II. LEGAL ARGUMENT

A. Factual Background

The factual background is helpful in understanding how two collateral NOMA cases pending in district court are even before this Court when they are not part of the district court's record for this appeal. In 2014, the Assemblymen were each subject to an ethics complaint alleging use of governmental legal staff in defense of private criminal allegations and conduct relating thereto. *See Opposition to Motion to Dismiss* filed January 15, 2016 ("Op."), pgs. 2-3. Upon receipt of the complaints, the Commission anticipated immediate litigation involving the scope of the Commission's jurisdiction over State legislators and provided prior Commission Counsel "express authority to proceed in the matters in any manner she deemed legally appropriate, in consultation with the Chair, including pursuing appellate review of its jurisdiction through the Nevada Supreme Court." *See* the affidavit of Yvonne M. Nevarez-Goodson, Esq. ("*Affidavit*") attached to the *Petition for Rehearing*. As anticipated, the Assemblymen sought dismissal of the ethics complaints asserting constitutional protections of legislative privilege and immunity.

Upon review, the Commission issued a *Preliminary Jurisdictional Order*, which was not a final determination, indicating that jurisdictional fact-finding was needed to "determine whether the Subjects' conduct properly falls within the scope of legitimate legislative activity." Op. p. 4. All of the subject proceedings before the Commission occurred prior to the investigatory panel ("pre-panel") and are confidential pursuant to NRS 281A.440(8).

The Assemblymen sought judicial review of the Commission's preliminary order. The district court granted judicial review and ordered dismissal of the ethics complaints. Op. p. 5. The Commission appealed. Consistent with the direction provided pre-panel, the current Commission Counsel received direction from the Commission's Chair and Executive Director to file the notice of appeal.

The Assemblymen filed the first of two collateral NOMA complaints, alleging that direction for the appeal was not given in a publically noticed meeting. Without admitting wrongdoing, the Commission held a public meeting at which it unanimously ratified the direction to file the appeal. Op. p. 5-6. Respondents proceeded to file a second NOMA complaint contending that they were entitled to personal notice pursuant to NRS 241.033 for the public meeting at which the Commission did not discuss their character and competence, but merely ratified its pursuit of the appeal. The two NOMA cases are contested and were stayed prior to the filing of a responsive pleading or holding of a NRCP 16.1 case conference. The

NOMA complaints were strategically interjected into the appellate record as attachments to the assemblymen's motion to dismiss, despite their absence in the record of appeal or opportunity to be adjudicated in the district court.

B. The *Panel Decision* was issued without Jurisdiction

The Supreme Court is a court of limited appellate jurisdiction and an appeal may be entertained only when authorized by statute or rule. Jurisdiction over an issue may be raised at any time, including this Petition. *See Bower v. Harrah's Laughlin, Inc.*, 125 Nev. 470, 479, 215 P.3d 709, 717 (2009); *Swan v. Swan*, 106 Nev. 464, 469, 796 P.2d 221, 224 (1990). Because the NOMA issues are inextricably intertwined with the dismissal and cannot be separated, the Court lacks jurisdiction under NRAP 3, 3A and 4 to consider dismissal without a final judgment having been issued or filing of a related appeal. Adjudication and determination of a NOMA violation is limited by and rests solely with the district court pursuant to NRS 241.037. Two complaints pending in the district court are insufficient to invoke appellate jurisdiction. Premature appeals before entry of a judgment are ineffective. *See*, e.g., *Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 688, 747 P.2d 1380, 1381 (1987). Only when there is a final judgment or other appealable determination will the appellate court have jurisdiction. NRAP 3A. In this instance, all district court processes and appellate rules have been bypassed by presentation of the NOMA complaints to this Court. NRAP 3, 3A, and 4.

To support jurisdiction, the Panel majority cites *Guerin v. Guerin*, 116 Nev. 210, 993 P.2d 1256 (2000). *See* NRS 281A.260. *Guerin* discusses the authority of this Court to regulate the unauthorized practice of law and the Court's ability to reject an appeal filed by a person not authorized to practice law. *Guerin*, 116 Nev. at 212. The facts in Guerin are not remotely similar to those presented in this appeal. *Guerin* does not preclude a government attorney that is authorized to practice law, having statutory and implied duties to represent her client, from fulfilling those duties. *Guerin* is not controlling and does not support this Court's exercise of jurisdiction over mere complaints. The Panel majority skirted the requirements of NRAP in prematurely accepting jurisdiction, which has vaporized the Commission's due process rights to defend the NOMA cases, including discovery and evidentiary findings.

C. The *Panel Decision* Misapplies the Ethics Law and NOMA and Disregards Long-term Statutory and Case Precedent Establishing Nevada as a Quorum State

1. Pre-Panel Proceedings are Confidential

In precipitately exercising jurisdiction on NOMA issues, the majority overlooked the statutory confidentiality and exemptions mandated for the Commission's pre-panel proceedings established to protect the accused in the early stages of the ethics complaints pursuant to NRS 281A.440(8) and NRS 241.016. NOMA has no application to pre-panel proceedings because ethics complaints are

deemed confidential as a matter of law and are exempt from NOMA. Confidentiality is opened in a limited fashion only after an independent investigation is completed by Commission staff and an investigatory panel determines whether the complaint presents just and sufficient cause for the Commission to hold a hearing. *See* NRS 281A.440(8) and (16).

NRS 241.016(3) instructs that the exemption and confidentiality provisions of NRS 281A.440 prevail over the general provisions of NOMA. The Assemblymen contend that all legal direction must be given only by the governing board in a public meeting. *See Respondents Answer to Petition for Rehearing*, p. 2. The dissent specifically noted that the Assemblymen raised this contention for the first time in the reply, in contravention of *Phillips v. Mercer*, 94 Nev. 279, 283, 579 P.2d 174, 176 (1978). *Panel Decision* at p.7.

Consistent with the dissent, the Commission contends Nevada law provides otherwise. It is well recognized that multiple statutory provisions are construed in harmony with one another and, "where possible, a statute should be read to give plain meaning to all of its parts." *Gaines v. State*, 116 Nev. 359, 365, 998 P.2d 166 (2000). Consequently, the provisions of NRS 281A.440 mandating that the Commission afford confidentiality protections to the accused must be honored and are controlling. Furthermore, the Commission is entitled to pursue its investigation and related decisions outside of an open meeting.

Any confusion in applying the provisions of NOMA and the Ethics Law in tandem with each other is rectified by the Legislative history solidifying the long-established intent of the law to protect those accused of ethics violations from open proceedings until the panel issues its findings and the Commission's right to investigate and continuing right to deliberate without constraints of NOMA under NRS 281A.440. *See* Senate Bill 478, 70th Session of the Nevada Legislature (1999) ("S.B. 478"). In order to avoid an absurd result, an ambiguous statutory provision should be interpreted in accordance "with what reason and public policy would indicate the legislature intended." *Harris Assocs. v. Clark County sch. Dist.*, 119 Nev. 638, 642; 81 P.3d 532, 534 (2003); *See also City Plan Dev. v. Office of the Labor Comm'r*, 121 Nev. 419, 435, 117 P. 3d 182, 192 (2005). In enacting S.B. 478, the Legislature confirmed that the intent of the confidentiality protections was to provide fairness to the accused, by legislating that the ethics complaint and information becomes "public after the panel makes its findings." S.B. 478, Minutes Senate Committee on Gov't Affairs, p. 12.

The effect of the *Panel Decision* requires the Commission to now hold a public meeting identifying confidential complaints and non-public information in order to receive direction in litigation. The *Panel Decision* is untenable, against legislative intent, and inconsistent with principles of statutory construction. The

Panel Decision not only affects the Commission, it will substantially change the process for all public agencies.

2. <u>Authority for the Appeal was provided Pre-panel</u>

The Executive Director's *Affidavit* accepted by the Panel in its review, established that the Commission not only "anticipated immediate litigation" upon receipt of the ethics complaints in 2014, it provided direct, express authority to proceed with appellate review. The majority overlooked the express direction provided by the Commission pre-panel to pursue the appeal, which direction is determinable because the Assemblymen lack standing and it is simply too late for the Assemblymen to void the direction given years ago under NOMA's 60 to 120 day statute of limitations period. *See* NRS 241.037.

The Assemblymen incorrectly assert that the *Affidavit* was inconsistent with prior Commission positions. However, the facts remain that the Commission directed the previous Commission Counsel to pursue any appeal in 2014, the Chair and Executive Director provided direction to the new Commission Counsel to file the appeal, and the full Commission ratified the filing of the notice of appeal. Given the issue was raised for the first time in the reply, the four years of litigation on these ethics complaints and changes in Commission staffing and appointed membership, the *Affidavit* was not untimely and was accepted by the Panel majority. Furthermore, the premature exercise of jurisdiction over the NOMA cases presents a

procedural catch-22 for the Commission as well as this Court. The Commission has been deprived of its right to defend the cases and the majority did not have the benefit of either a judgment or a record on appeal and was improperly placed in the position by the Assemblymen to become the *de facto* fact finder. Under these objectionable circumstances, the interests of justice required the Panel to utilize its equitable powers, which it did, to consider the *Affidavit*. *See Powell v. Liberty Mut. Fire Ins*., 127 Nev. 156, 161 n.3 (2011). The *Affidavit* establishes that the authority for the Chair and Executive Director's direction to counsel was derived from and consistent with the previous direction of the Commission.

3. The *Panel Decision* Conflicts with NOMA and Lacks Uniformity with Case Precedent

The majority opinion conflicts with the provisions of NOMA and established case precedent. NOMA violations must be associated with "meetings" as defined by NRS 241.015 and its provisions are applied on the foundational precept that Nevada is a quorum state. En banc consideration is needed to correct the misapplication of the law and to preserve Nevada's precedential uniformity. NRAP 40A(a).

Commission Counsel received direction to appeal from the Commission's Chair and Executive Director, which direction was consistent with the authority provided to the prior Commission Counsel in 2014 to take the ethics cases through appeal. Neither direction is an actionable NOMA violation. The 2014 direction from the Commission was exempt and is outside the NOMA statute of limitations period.

NRS 241.037. With respect to the direction from the Chair and Executive Director, "only those actions defined in NRS 241.015(1) taken by a public body" are voided by NRS 241.036. *See* 2016 *Nev. Op. Mtg. Law Manual* ("OMLM"), §11.04 at 99. The action was not taken by the public body and cannot be voided because the action is not within NOMA's definition of "meeting." [2]

Consistent with NRS 281A.015, Nevada has explicitly recognized that its open meeting law does not apply when a quorum, either actual or constructive, is not present. *Dewey v. Redevelopment Agency of City of Reno*, 119 Nev. 87, 99, 64 P.3d 1070, 1078 (2003)(following the majority of states in adopting a quorum standard as the test for applying the NOMA to a gathering of the members of public bodies); *Del Papa v. Board of Regents*, 114 Nev. 388, 956 P.2d 770 (1998), AGO 2001-05 (3-14-2001), AGO 2001-13 (6-1-2001), OMLO 01-57 (12-11-2001); OMLO 04-31 (12-1-2004) and 2016 OMLM §5.08, at 48. In *Dewey*, the Nevada Supreme Court "acknowledged that the Open Meeting Law is not intended to prohibit every private discussion of a public issue;" and, "instead, the Open Meeting Law only prohibits collective deliberations or actions where a quorum is present." *Dewey*, 119 Nev. 94-5 (2003). Similarly, in *Del Papa* the Court confirmed: "the

---

[2] NRS 241.015(3)(a)(1) defines "meeting" as "[t]he gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power." (Emphasis added).

constraints of the Open Meeting Law apply only where a quorum of a public body, in its official capacity as a body, deliberates toward a decision or makes a decision." *Del Papa*, 114 Nev. at 400 (emphasis added).

The majority's reliance on *Johnson v. Tempe Elementary School District No. 3 Governing Board*, 20 P.3d 1148, 1151 (Ariz. Ct. App. 2000), and by implication the unpublished decision *Tombstone v. Beatty's Guest Ranch & Orchard, LLC*, 2013 Ariz. App. Unpub. LEXIS 1337 (2013), directly conflicts with Nevada precedent established by *Dewey* and overlooks the foundational precepts of NOMA quorum and meeting requirements. In *Johnson*, a majority of the school board met outside of a public meeting to provide direction to appeal when Arizona law explicitly provided that a public vote be taken before a legal action binds it. *See* A.R.S. § 38-431.09. Nevada has no similar law requiring that legal action can only be directed by a public vote. *See also Mohr v. Murphy Elem. Sch Dist. 21*, 2010 U.S. Dist. Lexis 53240 (D. Ariz. May 5, 2010), *aff'd*, *Mohr v. Murphy Elem. Sch. Dist. 21*, 449 Fed. Appx. 650, 652, 2011 U.S. App. LEXIS 18692 (9th Cir. Ariz., 2011); *Boyd v. Mary E. Dill Sch. Dist. No. 51*, 631 P.2d 577, 580 (Ariz. Ct. App. 1981) (affirming dismissal of open meeting law claim where legal action was taken by less than a quorum).

NOMA's substantive requirements govern how public bodies conduct meetings and are not controlling in separate litigation filings about them. Public

agencies in Nevada have established varied levels of authority, which is traditionally tied to cost or expense levels. The *Panel Decision* improperly restricts the authority of public agencies to manage their legal affairs based upon internal authority directives. The filing of an appeal falls within the definition of "legal action" under Arizona law. However, prior to the *Panel Decision*, Nevada has no comparable definition that would provide notice to governments that the filing of a notice of appeal, without regard to cost and expense or exposure of confidentiality protections, requires an action of the quorum. NOMA certainly does not provide clear direction on this nuance. Where NOMA provides no clear direction, public bodies must be governed by the standard of reasonableness. *See* AGO 79-8 (3-26-1979). The filing of the notice of appeal was reasonable given the prior Commission directives supported by the direction of the Chair and Executive Director.

D. The Majority's Conclusion Creates a New Rule to Perfect an Appeal.

The majority misapplies or has failed to consider this Court's own rules, (NRAP 3, 3A, and 4), resulting in the dismissal of an otherwise perfected and valid appeal. The majority decision creates a new and uncodified rule singularly applicable to appeals filed by public agencies. The opinion raises fundamental concerns of fairness and proper judicial administration, as well as significant compliance issues given the ad hoc nature of the creation of a new condition to perfect the appeal.

Policy and compliance issues raised by the decision remain unanswered. For example, how can a public agency comply with the new rule if it is required by law to maintain confidentiality over the administrative proceeding? *See* NRS 241.016, NRS 281A.440 and other exemptions. How far does the *Panel Decision* reach beyond the direction to appeal? The majority's heavy reliance on Arizona law creates far reaching consequences by bringing every legal decision or direction, even on confidential matters, under the constraints of NOMA. These and other policy and compliance issues are properly determined through traditional rule-making and legislative processes to enact the laws of this state.

Certainly, parties that do not comply with the rules of the court risk the sanction of dismissal. *See Huckabay Props., Inc. v. NC Auto Parts, LLC*, 130 Nev., Adv. Op. 23, 322 P.3d 429, 434-35 (2014). However, dismissal is an extremely severe penalty when the client has no objection to the appeal and given the "new rule" was not enacted or known when the notice of appeal was filed.

E. The Majority Disregards the Presumption of Authority Provided to Nevada's Attorneys under SCR 45 and Agency Principles

The majority either overlooked or misapplied the principles of express and implied authority afforded to Commission Counsel. Commission Counsel's appearance as attorney of record and authority to file notices must be recognized in all subsequent related proceedings. SCR 45 and 166; FJDCR 22. Importantly, the issue of actual or implied authority is an issue of disqualification from the case;

however, disqualification should not be the basis for dismissal of the lawsuit. *See Lindquist v. Bangor Mental Health Inst.*, 2001 ME 72, 770 A.2d 616 (2001).

"The authority of an attorney to act for his client stems from the law of agency." *State Bank v. Bismarck*, 316 N.W.2d 85, 88 (N.D. 1982). The attorney of record is presumed to have authority to appeal unless the client himself objects or there is a clear showing of lack of authority. *People v. Bouchard*, 317 P.2d 971 (Cal. 1957). Unquestionably, the Commission does not object to this appeal.

SCR 45 provides express authority for an attorney "to bind his client in procedural matters in any of the steps of an action or proceeding" before the Court, with the exception that specific authority is required to compromise an action. (Emphasis added). In *State v. Connery*, 99 Nev. 342, 345 661 P.2d 1298, 1300 (1983), the Court confirmed that "although the right to appeal is a substantive one, the manner in which an appeal is taken is a matter of procedure." *Connery* (c*iting State v. Birmingham*, 392 P.2d 775 (Ariz. 1964) (opinion on reh'g). "Where a rule of procedure is promulgated in conflict with a statute, the rule supersedes the statute and controls." *In re Petition for Writ of Prohibition*, 111 Nev. 70, 104, 893 P.2d 866, 886 (1995); *Washoe Med. Ctr. v. Second Judicial Dist. Ct.*, 122 Nev. 1298, 1305, 148 P.3d 790, 794 (2006). Thus, SCR 45 controls over any contrary NOMA provision. The Nevada Rules of Professional Conduct serve to bolster Commission Counsel's implied authority. *See* Rule 1.2; Rule 1.3[1]; and Rule 1.3[4].

The *Panel Decision* misdirects agency principles relating to authority and ratification. Its reliance on a distinguishable New York State lower court case that "there is no implied authority in the event of a judgment adverse to the client, to prosecute review proceedings by appeal and to bind the client for costs and expenses incidental thereto" is questionable. *In re McGinty*, 492 N.Y.S.2d 349, 352 (N.Y. Sur. Ct. 1985). A closer analysis demonstrates *McGinty* is premised on a long-settled rule in New York and other jurisdictions that, absent an agreement allowing a privately-retained attorney to pursue an appeal, the attorney-client relationship automatically terminates upon entry of a final judgment. *See, e.g., Vitale v. LaCour*, 92 A.D.2d 892 (N.Y. App. Div. 2d Dep't 1983); *see also Lundberg v. Backman*, 358 P.2d 987, 989 (Utah 1961). The holding in *McGinty* was taken out of context and proper contextual application demonstrates a contrary result. The Commission has its own counsel, is not required to pay costs for court filings, and directed that this appeal be pursued. In addition, NOMA does not apply and the traditional principles of ratification therefore control, as confirmed in the *Dissent*. *See, Dissent* pgs. 8-9.

The legal presumption that Commission Counsel, as the attorney of record, is authorized to pursue the appeal, has not been rebutted. *See T. Ryan Legg Irrevocable Trust v. Testa*, 75 N.E.3d 184 (Ohio 2016) ("When an attorney files an appeal, it is presumed he has the requisite authority to do so.") (citations omitted); *San Antonio v. Aguilar*, 670 S.W.2d 681 (Tex. App. 1984); *accord Hill v. Mendenhall*, 88 U.S.

453, 454 (1874); *Graves v. United States Coast Guard*, 692 F.2d 71, 74 (9th Cir. 1982) ("the appearance of an attorney for a party raises a presumption that the attorney has the authority to act on that party's behalf"); *see also* 7 Am Jur.2d, Attorneys at Law, § 169, at 251 (2017) and SCR 45.

III. CONCLUSION

Based upon the foregoing, it is respectfully requested that the Court grant en banc reconsideration of the published *Panel Decision*.

Submitted this 30th day of October, 2017.

Respectfully,

NEVADA COMMISSION ON ETHICS

/s/ Tracy L. Chase

Tracy L. Chase, Esq.
Commission Counsel
Nevada Bar No. 2752
Nevada Commission on Ethics
704 W. Nye Lane
Carson City, NV 89703
Telephone: (775) 687-5469
E-mail: tchase@ethics.nv.gov

CERTIFICATE OF COMPLIANCE

I hereby certify that this petition for en banc reconsideration 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 Office 10 in 14 point Times New Roman.

I further certify that this petition complies with the type-volume limitations of NRAP 40 or 40A because it is proportionately spaced, has a typeface of 14 points or more, and contains 4015 words, which is within the limitation of 4,667 words established by NRAP 40A(d).

Dated this 30th day of October, 2017.

Respectfully,

NEVADA COMMISSION ON ETHICS

/s/ Tracy L. Chase
Tracy L. Chase, Esq.
Commission Counsel
Nevada Bar No. 2752
Nevada Commission on Ethics
704 W. Nye Lane
Carson City, NV 89703
Telephone: (775) 687-5469
E-mail: tchase@ethics.nv.gov

CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I hereby certify that I am an employee of the Nevada Commission on Ethics and that on this day I placed in the Court's electronic filing system a true and correct copy of the attached **PETITION FOR EN BANC RECONSIDERATION** for service as follows:

Brenda J. Erdoes, Esq.
Legislative Counsel
Kevin C. Powers, Esq.
Chief Litigation Counsel
Eileen G. O'Grady, Esq.
Chief Deputy Legislative Counsel
Nevada Legislative Counsel Bureau,
Legal Division
401 S. Carson Street
Carson City, Nevada 89701
Email: erdoes@lcb.state.nv.us
Email: kpowers@lcb.state.nv.us
Email: ogrady@lcb.state.nv.us

Dated: October 30, 2017

/s/ Darci Hayden
DARCI HAYDEN