IN THE SUPREME COURT OF THE STATE OF NEVADA

GRUPO FAMSA, S.A. DE C.V., a Mexican corporation,

Petitioner and Defendant,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT of the State of Nevada, in and for the County of Clark, and THE HONORABLE ROB BARE, District Court Judge,

Respondents,

B.E. UNO, LLC, a Nevada limited liability company,

Real Party in Interest and Plaintiff.

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SUPREME COURT CASE NO.: 69119

DISTRICT COURT CASE NO.: A-14-706336-C

ANSWER TO PETITION FOR WRIT OF MANDAMUS

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B.E. Uno, LLC, as Real Party in Interest and Plaintiff ("Plaintiff"), submits this Answer to Petitioner's, Grupo Famsa, S.A. de C.V.'s ("Petitioner") Writ of Mandamus under NRAP 21(a) ("Writ").

I. INTRODUCTION

Despite the absolute right under NRAP 8(a)(2)(E) to condition a "stay" upon the posting of a bond, Petitioner wants this Court to vacate the state-court bond order resulting from Petitioner's extraordinary stay of all proceedings against it. In essence, Petitioner wants to reap all the benefits of a stay, without any attenuating risks/costs. Given that the state court has wide discretion to order a bond as a condition of stay relief, and given that the state court records contain ample evidence to support both the reasons for issuance of a bond and the amount thereof, the state court did not abuse its discretion in requiring a bond in the amount of $1,000,000. Therefore, Petitioner's writ of mandamus must be denied.

II. STATEMENT OF FACTS

1. In February 2014, Judge Mark Denton conducted a bench trial in Case No. A-12-672870 ("Original Action"), by and between Plaintiff and Famsa, Inc. ("Famsa"), the subsidiary of Petitioner (and tenant under the lease guaranteed by Petitioner). See Plaintiff's Suppl. Appx., 0137-0143.

2. During the Original Action, Judge Denton found that the tenant was liable for breach of lease to Plaintiff and awarded Plaintiff damages in the amount of $882,683.71 (which amount includes attorney fees and costs) (the "Judgment"). See Pet. Appx., 0014-0018, Judgment.

3. The Judgment was based on the fact that Famsa had failed to pay any rent to Plaintiff since November 2012, about the time Famsa vacated the leased premises. See Plaintiff's Suppl. Appx., 0137-0143, Findings of Fact and Conclusions of Law, ¶¶3 & 7.

4. The amount awarded in the Original Action, was from

November 2012 through February 2014, the date of the trial (finding Plaintiff could not accelerate the rent through the remaining lease term of October 2020, but could bring successive actions for accruing rent). Id., Findings of Fact and Conclusions of Law, ¶¶ 2, 5 and 7.

5. This current action was brought to permit Plaintiff to collect additional rent due and owing from March 2014 forward, and to confirm Petitioner's liability for its breach under the Guaranty of Lease ("Guaranty"), which expressly holds that any judgment obtained against its tenant "***shall in every and all aspects bind and be conclusive against Guarantor to the same extent as if Guarantor had appeared in any such proceeding and judgment herein had been rendered against Guarantor.***" See Plaintiff's Suppl. Appx., 0144-0148, Guaranty.

6. Neither Famsa nor Petitioner have paid any rent to Plaintiff since November 2012, a period exceeding three years. Absolutely no payments have been made on account of the Judgment awarded in April 2014 – over 19 months ago. See Pet. Appx. 0093-0099, Declaration of Warren Kellogg, ¶¶4 & 5.

7. Three years later, and despite not seeing a dime from either Famsa or Petitioner, Petitioner (and Famsa) continues to play games to delay honoring its obligations following the breach of lease. Id., Declaration of Kellogg, ¶4.

8. On August 7, 2015, Petitioner filed its Motion to Stay All Proceedings Related to Grupo ("State Court Stay Motion"). See Pet. Appx. 0040-0046.

9. Plaintiff filed its opposition to the State Court Stay Motion on August 10, 2015. See Plaintiff's Suppl. Appx., 0149-0168.

10. A hearing on Petitioner's state court Stay Motion was held on August 11, 2015, at which time the state court denied Petitioner's State

Court Stay Motion ("Order Denying Stay"). See Pet. Appx., 0068-0069.

11. Given that Petitioner's State Court Stay Motion was denied, there was no need to address Plaintiff's earlier request for a bond, or the amount thereof.

12. Nevertheless, on August 14, 2015, Petitioner filed an emergency motion for a stay with this Court ("Emergency Stay Motion") (Case No. 68626) and separately filed its Writ of Prohibition. See Plaintiff's Suppl. Appx., 0169-0183.

13. In the Emergency Stay Motion, Petitioner requested that all proceedings be stayed while this Court decides Petitioner's separately filed Writ of Prohibition. Id., Emergency Stay Motion, p.3, ll 1-4.

14. On August 21, 2015, Plaintiff filed its opposition to the Emergency Stay Motion on the following grounds:

a. Due process had been satisfied, which merely requires notice and the opportunity to be heard;

b. Service of process need only satisfy the Hague Convention and/or internal laws of Mexico (which Petitioner conceded occurred), and not inconsistent state laws of Nevada;

c. Petitioner had failed to satisfy the standards for a stay – an extraordinary remedy that should not be lightly granted;

d. There is no prejudice to Petitioner in having to defend itself in this case since its attorneys are the exact same set of attorneys intimately involved in representing its subsidiary – Famsa.

See Pet. Appx. 0074-0081.

15. Later that same day, the Supreme Court (Case No. 68626) issued an order granting Petitioner a stay. See Pet. Appx. 0070-0073, Order Granting Temporary Stay and Directing Answer ("Stay Order").

16. In the Stay Order, the Nevada Supreme Court suggested that

the state court was in a better position to determine the amount of the bond issued in connection with such stay given the state court's familiarity with the underlying factual proceedings.

> "The opposition requests that a bond of $1,000,000 be required as a condition of any stay. It is not clear whether the district court has yet considered the proper amount of any supersedeas bond. NRAP 8(a)(1)(B). We have routinely recognized that the district court is better suited for making supersedeas bond determinations. *See Nelson v. Heer*, 121 Nev. 832, 836, 122 P.3d 1252, 1254 (2005)."

See Pet. Appx. 0070-0073, Stay Order, ftnt. 1.

17. Thereafter, Plaintiff moved in state court to fix the amount of the bond relating to the stay. See Pet. Appx. 0082-0087.

18. On November 10, 2015, the state court issued an Order Fixing Supersedeas Bond in Connection with Temporary Stay ("Bond Order"). See Pet. Suppl. Appx. 0134-0136.

III. STATEMENT OF LAW

A. The Standard for Review of the Bond Order is Whether the State Court Manifestly Abused its Discretion.

The standard of review of a discretionary order (like a stay or bond order) is measured against an "abuse of discretion" threshold. Round Hill General Imp. Dist. V. Newman, 97 Nev. 601, 637 P.2d 534, 536 (1981) ("Mandamus will not lie to control discretionary action, unless discretion is manifestly abused or is exercised arbitrarily or capriciously.") (citations omitted). This is an extremely difficult standard to overcome. In particular, "an abuse of discretion occurs if the district court's decision is arbitrary or capricious or if it exceeds the bounds of law or reason." Jackson v. State, 117 Nev. 116, 120, 17 P.3d 998, 1000 (2001); see also Schwartz v. Schwartz, 126 Nev. 87, 91, 225 P.3d 1273, 1276 (2010) (under an abuse of

discretion standard, "we will not substitute our judgment for that of the district court"). It is Petitioner's burden to show that the state court's ruling was arbitrary or capricious or exceeded the bounds of law or reason. Gragson v. Toco, 90 Nev. 131, 520 P.2d 616, 617 (1974) (burden of proof to show an abuse of discretion is on applicant). "If a discretionary act is supported by substantial evidence, there is no abuse of discretion." See County of Clark v. Doumani, 114 Nev. 46, 952 P.2d 13 (1998) citing Enterprise Citizens v. Clark Co. Comm'rs, 112 Nev. 649, 918 P.2d 305 (1996). "Substantial evidence is evidence which 'a reasonable mind might accept as adequate to support a conclusion.'" Enterprise Citizens v. Clark Co. Comm'rs, 112 Nev. 649, 918 P.2d 305, 308 (1996) citing State Emp. Security v. Hilton Hotels, 102 Nev. 606, 608, 729 P.2d 497, 498 (1986).

IV. LEGAL ARGUMENT

A. NRAP 8(a)(2)(E) Grants the State Court Wide Discretion to Order a Bond as a Condition of Petitioner's Stay Relief.

Following the denial of its Motion to Quash and a Writ of Prohibition, Petitioner filed its *separate and distinct* Emergency Stay Motion with this Court. See Plaintiff's Suppl. Appx. 0169-0183 and Pet. Appx. 0047-0067. This Emergency Stay Motion was filed after denial of Petitioner's similar stay request in state court. See Pet. Appx. 0068-0069. On August 21, 2015, this Court entered the Stay Order. See Pet. Appx. 0070-0073. Despite having obtained the benefits of a stay, however, Petitioner was not initially required to post any bond. As a result, Plaintiff moved in state court to have the bond amount determined.

Pursuant to NRAP 8(a)(2)(E), a court has the absolute right to condition the issuance of a stay upon the posting of a bond or other security. In particular, NRAP 8(a)(2)(E) provides:

"The court may condition relief on a party's filing a bond or

other appropriate security in the district court."

See NRAP 8(a)(2)(E). That is exactly what occurred here.

Petitioner elected to take the additional step of seeking a stay with this Court. That additional step, however, has certain consequences and costs – i.e., the posting of a bond or other security.

Further, it is irrelevant whether the bond is called simply a "bond," "liability bond," "indemnification bond," "judicial bond," "supersedeas bond," or "security." The term "supersedeas" was simply used by this Court in its footnote 1 to the Stay Order. See Pet. Appx. 0070-0073. What truly matters, is that under NRAP 8(a)(2)(E), the state court has considerable latitude in determining the conditions attenuated to a stay, including broad discretion to tailor such relief to safeguard the needs of Plaintiff during the pendency of Petitioner's writ.

B. The State Court Did Not Abuse its Discretion by Ordering a Bond for $1,000,000 as a Condition to Petitioner's Stay Relief.

In reviewing the Stay Order, the Nevada Supreme Court provided its initial guidance to the state court about the issuance of a bond. In particular, the Nevada Supreme Court stated: "It is not clear whether the district court has yet considered the **proper amount of any supersedeas bond**." See Stay Order, ftnt 1 (*emphasis added*), Pet. Appx. 0070-0073. Implied in this footnote, is the notion that a bond is appropriate and that the state court merely needs to determine the amount of such bond. Petitioner failed to introduce any evidence to counter the requested bond amount of $1,000,000 (instead putting all of its eggs in one basket by claiming a bond is not required despite having been issued a stay). Petitioner took this position despite the language in NRAP 8(a)(2)(E), which clearly permits a court latitude to condition the issuance of a stay upon the posting of a bond. See

NRAP 8(a)(2)(E) ("The court may condition relief on a party's filing a bond or other appropriate security in the district court.").

Both the Bond Order and this state court Transcript (Pet. Appx. 0100-0118) contain substantial evidence to support the state court's decision to condition Petitioner's stay of relief upon the posting of a bond.

As argued at the hearing on the bond motion and supported by un-objected to evidence presented, Plaintiff introduced evidence of its damages well in excess of $1,000,000. For example, Plaintiff provided evidence of the unappealed Judgment against Famsa, Petitioner's subsidiary, in the amount of $882,683.71 (which Judgment is accruing interest as of April 2014). See Pet. Appx. 0014-0018. Moreover, unobjected to evidence was presented to show that rent and other charges relevant to this current state-court-action continue to accrue at a rate of approximately $40,000 per month. See Pet. Appx. 0100-0118, Transcript. Such rent and charges amount to approximately $708,000 (rent of $40,000 from March 2014 through November 2015 – 21 months = $840,000 minus $132,000 (the difference in rent from the new tenant, who started paying rent as of July 2015). Id. Further, this amount does not take into account the additional damages incurred by Plaintiff relating to construction costs for the new tenant, which are in excess of $300,000. Petitioner is also liable to Plaintiff for the prior Judgment issued against Famsa, as well as all rent and other charges accruing in this case, pursuant to its Guaranty with Plaintiff. In particular, the Guaranty states:

> "Guarantor agrees that any judgment rendered against Tenant for monies or performances due Landlord shall in every and all aspects bind and be conclusive against Guarantor to the same extent as if Guarantor had appeared in any such proceeding and judgment herein had been rendered against Guarantor."

See Guaranty, Plaintiff's Suppl. Appx. 0144-0148. This Guaranty language was highly relevant to the state court's ruling.

Put simply, substantial evidence was introduced at the bond hearing showing that Petitioner's liability to Plaintiff would be in excess of $2,000,000, even taking into account damages Plaintiff was able to mitigate by re-leasing the subject premises. Given that bonds are often issued in amounts 1 ½ times the amount of potential damages (to address attorney fees and interest due to such delay), it was certainly reasonable and well within the state court's broad discretion, to require Petitioner to post a bond in the amount of $1,000,000 as a condition to Petitioner's stay relief.

Further, each of these factual determinations and circumstances were specifically reflected in the Bond Order. For example, the Bond Order provides that its decision was based, in part, on the fact that Plaintiff had already received an $882,683.21 Judgment (which continues to accrue interest since April 2014) against defendant Famsa, a company wholly owned by Petitioner. See Pet. Suppl. Appx. 0134-0136, Bond Order, ¶C. The Bond Order also reflects the fact that rent continues to accrue at approximately $40,000 per month (subject to offset for Plaintiff's mitigation efforts), which at the time of the hearing on the bond motion was in excess of $700,000. Id., Bond Order, ¶C and Pet. Suppl. Appx. 0100-118, Transcript. The fact that Petitioner was also subject to a Guaranty with express language holding Petitioner absolutely liable for any judgment obtained against its tenant (Famsa), "to the same extent as if [Petitioner] had appeared in any such proceeding and judgment herein had been rendered against [Petitioner]," was another circumstance the state court took into account in rendering its decision to order a bond. See Pet. Suppl. Appx. 0134-0136, Bond Order, ¶E.

The evidence shows that the state court clearly gave consideration to

these facts and evidence. Such a determination cannot be held to be an abuse of discretion by the state court when it conditioned Petitioner's stay request upon the posting of a $1,000,000 bond.

C. Plaintiff is and Continues to Suffer Harm as a Result of the Stay.

The bond was required, in part, to protect Plaintiff, as the "prevailing party," in the state court proceedings following the denial of Petitioner's motion to quash service and for the inevitable delay caused by Petitioner's writ.

The ultimate issue in this case is the amount of damages Plaintiff is entitled to following Famsa and Petitioner's breach of lease and guaranty. Given that Famsa and Petitioner have identical attorneys and the damage issue is the same as to both Famsa, as tenant, and Petitioner, as guarantor, there was little or no harm to Petitioner in having this litigation proceed without a stay. Further, Nevada courts have already held that "litigation expenses, while potentially substantial, are neither irreparable nor serious." Fritz Hansen A/S v. Dist. Ct., 6 P.3d at 982, 986-87, 116 Nev. 650 (2000); see also Wisconsin Gas Co. v. F.E.R.C., 758 F.2d 669, 674 (D.C. Cir. 1985) ("[m]ere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay are not enough" to show irreparable harm). Nevertheless, a stay was issued.

As a result, Plaintiff is and continues to be harmed by the stay as it has yet to be compensated following Famsa and Petitioner's breach of lease and guaranty (no rent having been paid since November 2012 – over three years). See Pet. Appx. 0093-0099, Declaration of Kellogg, ¶4. Further, Famsa has indicated on numerous occasions that all of their assets are encumbered by a loan made by Petitioner. This statement has been

confirmed by Petitioner's recent pleadings filed in Texas.[1] Thus, Plaintiff's only real chance of recovery in this matter is to obtain a judgment against Petitioner. Plaintiff has also been prevented from taking any discovery against Petitioner and obtaining a determination from the state court on Petitioner's liability under the Guaranty. Thus, the stay of all proceedings against Petitioner has and continues to frustrate Plaintiff's efforts to pursue Petitioner for its obligations under the Guaranty, including the collection of damages.

D. The Stay Order is Akin to a Restraining Order in Which a Bond or Other Security is Required as a Condition to a Stay.

Despite Petitioner's argument to the contrary, the obtaining of a monetary judgment is not the only circumstance when a bond may be required.[2] Here, the order being appealed is not for the payment of money,

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[1] See Petitioner's Petition in Intervention and Verified Motion to Dissolve Writ of Execution, which Plaintiff requests this Court take judicial notice of pursuant to NRS 47.130(2)(b). See Plaintiff's Suppl. Appx. 0184-0257.

[2] A prime example of the majority's error on this point is Wayne Alexander Trust v. City of Bentonville, 345 Ark. 577, 47 S.W.3d 262 (2001). In Wayne Alexander Trust, a court denied appellant's stay request of a circuit court order approving a municipal ordinance and requiring the condemnation of seven buildings because appellant had failed to file a supersedeas bond as required under Rule 8 of the Arkansas Rules of Appellate Procedure. In Breckenridge v. Givens, 344 Ark. 419, 39 S.W.3d 798 (2001), a stay was granted upon an attorney's 3-month disciplinary suspension pending appeal provided he posted a $5,000 supersedeas bond to cover the cost of the appeal. Neither situation involved a defendant attempting to halt an execution on assets. Additional examples where courts required supersedeas bonds in matters not involving the need to secure the payment of a judgment following appeal include: First Nat'l Bank of Izard County v. Arkansas State Bank Comm'r, 301 Ark. 1, 781 S.W.2d 744 (1989) (bank required to post a supersedeas bond for a stay pending appeal of a circuit court order approving a competitor bank's application to establish a new bank branch); Jones v. Carney, 264 Ark. 405, 572 S.W.2d 585 (1978) (supersedeas bond

but instead relates to an order denying Petitioner's motion to quash service. Thus, the traditional rules of NRCP 62(a) and 62(d) are not applicable. Rather, NRAP 8 controls.

Further, there are other scenarios where bonds are required when non-monetary matters are being appealed. For example, under NRCP 62(c), a court has broad discretion to stay an "injunction" and require a bond to be posted during the pendency of an appeal. See NRCP 62(c) ("when an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of an appeal *upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party*) (emphasis added). Bonds are also required as a condition of the granting of an injunction under NRCP 65(c) or when a defendant lives out-of-state under NRS 18.130 and NRS 69.010(2). Further,

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posted to keep liquor store open pending appeal of circuit court order reversing the Alcoholic Beverage Control Board's approval of appellant's permit application); Duncan v. Crowder, 232 Ark. 628, 339 S.W.2d 310 (1960) (supersedeas bond posted in a child-custody case where appellants sought a stay pending appeal of an order directing them to deliver custody of child to appellee); Bradley v. Jones, 227 Ark. 574, 300 S.W.2d 1 (1957) (supersedeas bond posted in election contest for a stay pending appeal of the certification of the election).

As these cases graphically illustrate, supersedeas bonds are often necessary to protect the interests of non-appealing parties in cases other than those involving the scenario of an appeal following a money judgment against the appellant. Take for example the First Nat'l Bank of Izard County case. There, First National Bank of Izard County appealed a decision of the State Banking Commissioner granting a competing bank a permit to establish a branch bank in Calico Rock, which was the location of First National Bank's principal bank. First National Bank was allowed to stay the decision pending appeal but was required to post a supersedeas bond to protect Bank of North Arkansas's potential economic loss occasioned by the delay.

under NRCP 62(g), the power of a court to condition stay relief is not limited to existing judgments, but can be fashioned on a prospective judgment. See NRCP 62(g) (the provisions of this rule do not limit any power . . . to stay proceedings . . . or **to make any order appropriate to preserve** the status quo or **the effectiveness of the judgment subsequently to be entered**.") (emphasis added). NRAP 8(a)(2)(E) also recognizes this ostensibly broader range of discretion, affording courts the ability to take action necessary to preserve or protect a parties' rights pending a writ.

The cases cited by Petitioner to avoid the posting of a bond are inapplicable to this situation, as such cases all relate to a bond determination under NRCP 62, and not NRAP 8, which relates to writ proceedings.[3] NRAP 8 specifically deals with a stay pending resolution of writ proceedings. To permit Petitioner to avoid the posting of a bond yet still obtain the benefits of a stay, especially without having to show why a waiver of the bond requirement is justified, cannot and should not be condoned. Plaintiff has been forced to forgo discovery as well as being prevented from taking other action against Petitioner since issuance of the stay. See Pet. Appx. 0093-0099, Kellogg Declaration, ¶6. Meanwhile, both Petitioner and Famsa have been allowed to avoid paying rent and damages to Plaintiff since October 2012 – 3 years and counting. It is entirely appropriate to hold Petitioner accountable to Plaintiff by ordering Petitioner to post a $1,000,000 bond.

Additionally, the non-binding case cited by Petitioner of Beverly

[3] Nelson v. Heer, 121 Nev. 832, 122 P.3d 1252 (2005) (stay pending an appeal of a judgment under NRCP 62); Quiroz v. Dickerson, 2013 WL 5947459 (D. Nev. Nov. 1, 2013) and Bemo USA Corp. v. Jake's Crane, Rigging & Transp. Int'l Inc., 2010 WL 4604496 (D. Nev. Nov. 5, 2010) (both cases deal with a stay pending an "appeal" under NRCP 62, not a stay request related to a writ of prohibition under NRAP 8(a)(2)(E)).

Enterprises-Arkansas, Inc. v. Circuit Court of Independence Cnty, 367 Ark. 13, 16, 238 S.W.3d 108, 110 (2006), is likewise inapplicable and distinguishable to this case. In Beverly Enterprises, a lower court required appellant to post a $25,000,000 supersedeas bond before it could appeal an order of class certification under Ark. R. Civ. P. 23. The appellant in that case, however, had **not sought a stay**. Rather, the plaintiffs' (i.e., the prevailing party) filed a motion for protection of the class members and a bond during the pendency of the anticipated appeal by appellant. Id. at 109. Appellant/Beverly Enterprises, however, did not seek the additional protection of a stay but instead simply appealed the class certification order under Ark. R. Civ. P. 2(a)(9). Id. at 110. Thus, it is not surprising that the order directing Beverly Enterprises to post a bond was improper. *No stay had been requested or even issued.* Further, the regular appeal process was available. Thus, the Arkansas court simply did not have the power to grant a bond unless appellant moved for a stay – which it did not. See also U.S. for the Use of Terry Inv. v. United Funding, 800 F. Supp. 879 (E.D. Cal. 1992) ("district court does not have the power to grant a supersedeas bond, except and pursuant to appellant's motion to stay.").

E. Petitioner Filed Two Separate Pleadings: (1) Writ of Prohibition on the Denial of its Motion to Quash; and (2) Stay Motion.

Petitioner was not required to seek the extraordinary remedy of a stay but elected to do so. Such a stay, however, comes with associated costs – the posting of a bond. The bond issued by the state court was issued to protect Plaintiff from wrongful enjoinment by the stay as well as all loss occasioned by delay. Having reaped the benefits of a stay, Petitioner must now recognize the costs.

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V. CONCLUSION

The petition for a writ of mandamus should be denied. Petitioner has shown no grounds for this extraordinary relief. Petitioner's writ should not be used to manipulate the formalities of state court procedure and undermine the substance of Plaintiff's recovery, especially here where the Bond Order was supported by substantial evidence.

DATED this 17th day of November, 2015.

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this answering brief 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 this answering brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 Times New Roman 14-point font.

2. I further certify this answering brief complies with the page or type-volume limitations of NRAP 32(a)(7)(ii). Excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points and contains 4,135 words, and does not exceed 30 pages.

3. I hereby certify that I have read this answering 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 answering 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 17th day of November, 2015.

GOOLD PATTERSON

By: _____

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PROOF OF SERVICE

I hereby certify that I am an employee of the law firm of Goold Patterson, and on the 17th day of November, 2015 I caused the foregoing ANSWER TO WRIT OF MANDAMUS to be served by submission to the electronic filing system (as a registered user) for the Supreme Court of Nevada, to the email address on file, as follows:

TO: Christopher Byrd, Esq.
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I further certify on the 17th day of November, 2015 I served the foregoing ANSWER TO WRIT OF MANDAMUS by enclosing a true and correct copy of the same in a sealed envelope, postage fully pre-paid thereon, and depositing said envelope in a mailbox of the United States Post Office, addressed as follows:

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