

**IN THE SUPREME COURT OF THE
STATE OF NEVADA**

THE STATE OF NEVADA
DEPARTMENT OF BUSINESS AND
INDUSTRY, FINANCIAL
INSTITUTIONS DIVISION,

Appellant,

vs.

DOLLAR LOAN CENTER, LLC, a
DOMESTIC LIMITED-LIABILITY
COMPANY,

Respondent.

Supreme Court No. 70002
District Court Case No.: A720959
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Clerk of Supreme Court

**RESPONDENT DOLLAR LOAN CENTER, LLC'S OPPOSITION TO THE
LEGAL AID CENTER OF SOUTHERN NEVADA, INC.'S MOTION FOR
LEAVE TO FILE BRIEF OF AMICUS CURIAE**

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Respondent Dollar Loan Center, LLC (“DLC”) hereby opposes the Legal Aid Center of Southern Nevada, Inc.’s (“LACSN”) Motion for Leave to File Brief of Amicus Curiae (“Motion”) in support of the State of Nevada, Department of Business and Industry, Financial Institutions Division (“FID”) in the above-referenced matter.

The FID is appealing a district court judgment from an NRS Chapter 29 proceeding in which the district court determined that NRS 604A.480 does not prohibit licensees from initiating civil suits or alternative dispute resolution proceedings against a debtor that is in default on a high-interest loan. 3 AA 463. The FID appealed the district court’s judgment, filing its opening brief on August, 24, 2016. *See* AOB. This Court granted LACSN an extension via telephonic request to file its motion for leave to file an amicus brief. *See State v. Dollar Loan Ctr., LLC*, Docket No. 70002 (Order Granting Telephonic Extension, Aug. 31, 2016). The Order stated that LACSN “shall have until September 16, 2016, to file and serve the motion for leave to file an amicus brief in support of the opening brief.” *Id.* (citing NRAP 26(b)(1)(B)). Nevertheless, LACSN did not file its Motion until September 19, 2016. Thus, LACSN’s Motion is untimely and this Court should not grant leave for it to submit an amicus brief.

More importantly, though, the instant Motion is substantively unhelpful to the Court and is a simple reiteration of the FID’s opening brief. Typically, courts

look to the following factors for deciding whether to permit the filing of an amicus brief: (1) “whether the brief will assist the judges by presenting ideas, arguments, theories, insights, facts, or data *that are not to be found in the parties’ briefs*”; (2) whether “a party is inadequately represented”; and (3) whether “the would-be amicus has a direct interest in another case that may be materially affected by a decision in this case.” *Voices for Choices v. Ill. Bell Tel. Co.*, 339 F.3d 542, 545 (7th Cir. 2003) (emphasis added) (recognizing that “it is very rare for an amicus curiae brief to do more than repeat in somewhat different language the arguments in the brief of the party whom the amicus is supporting”); *Aspinall v. Philip Morris Co.*, 813 N.E.2d 476, 480 n.8 (Mass. 2004) (stating that amicus briefs “are not intended as vehicles for parties of their counsel to make additional arguments beyond those that fit within the page constraints of their briefs”); *State v. Finley*, 64 N.W.2d 769, 773 (Minn. 1954) (“The ordinary purpose of an Amicus curiae brief in civil actions is to inform the court as to facts or situations *which may have escaped consideration* or to remind the court of legal matters which have escaped its notice and regarding which it appears to be in danger of making a wrong interpretation.” (emphasis added)).

For example, in *Voices for Choices*, the Seventh Circuit denied an amicus brief that simply repeated, albeit in different wording and with a few different citations, the same arguments made in the parties’ briefs. 339 F.3d at 545 (“While

the amicus briefs sought to be filed in this case contain a few additional citations not found in the parties' briefs and slightly more analysis on some points, essentially they cover the same ground the appellants, in whose support they wish to file, do."). Beyond the repetitive nature of the proposed amicus brief, the Court recognized that neither party is inadequately represented and the would-be amicus was not "articulating a distinctive perspective or presenting specific information, ideas, arguments, etc. that go beyond what the parties whom the amici are supporting have been able to provide." *Id.* Thus, the Seventh Circuit concluded that "the proposed amicus briefs merely announce the 'vote' of the amici on the decision of the appeal. But, as I have been at pains to emphasize in contrasting the legislative and judicial processes, they have no vote." *Id.*

Here, these factors weigh against granting leave for LACSN to file its untimely amicus brief. First, LACSN's proposed amicus brief does not present any ideas, arguments, theories, insights, facts, or data that are not found in the FID's opening brief. Not only does LACSN provide the same legislative history and background as the FID, including the exact block quote the FID used, *compare* Motion 5-6, *with* AOB 10-12, all of LACSN's arguments are already included in the FID's opening brief. For example, both parties make a plain language argument. *Compare* Motion, Part 1, *with* AOB Part B. LACSN also makes a public policy argument based on the legislative history, which parallels the FID's

argument that “[a]ny ambiguity must be construed to promote the legislative intent of the statute,” AOB 24, which the FID argues must be construed in “consistent with the legislative intent, legislative history, and the underlying public policy behind NRS Chapter 604A.” *Id.*

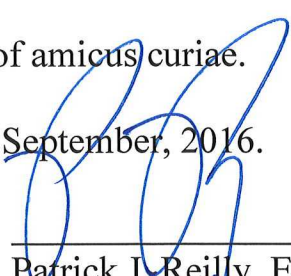
Finally, LACSN argues that the district court’s interpretation of NRS 604A.480 “is not in harmony with other provisions of the statute,” after which LACSN explains the different meanings of Subsection 1 and Subsection 2 of NRS 604A.480. Motion 11. This is, again, an argument merely lifted from the FID’s opening brief. *See* AOB 23-24 (discussing that the district court’s order was “sharply at odds with the legislative history and purpose of the statute”); AOB 20-22 (explaining the different subsections of NRS 604A.480); AOB 25 (stating that the district court’s “interpretation renders paragraph (f) useless”). Thus, every argument in LACSN’s proposed amicus brief has already been argued by the FID in its opening brief. In this light, it appears that LACSN has not filed its motion to further this appeal in any way, but rather to alert this Court that it disapproves of Judge Denton’s decision from a policy perspective. Such is not the proper basis for submitting an amicus curiae brief to this Court.

The second factor also weighs in favor of denying leave to file the amicus brief because both parties are adequately represented, sophisticated parties. This case does not present the situation involving a *pro se* litigant or someone else who

is not adequately represented. Rather, the Appellant is represented by the Office of the Attorney General, which is more than capable of handling this matter. Additionally, for the third factor, LACSN has not demonstrated that it has a *direct* interest in another case that would be materially affected by this case. While LACSN claims that it is arguing “on behalf of Nevada’s vulnerable customers,” LACSN, itself, does not have a direct interest, or at least has not demonstrated one. Thus, this factor should also weigh in favor of denying the Motion. In summary, beyond being untimely, LACSN does not have “a unique perspective or specific information that can assist the court *beyond what the parties can provide.*” *Voices for Choices*, 339 F.3d at 545 (emphasis added). Because this is a matter of pure statutory interpretation and LACSN offers no different statutory analysis than the FID, LACSN’s proposed amicus brief does not assist this Court but simply provides LACSN’s “vote” on the matter, which is inappropriate in this forum.

Accordingly, DLC respectfully requests that this Court deny LACSN’s motion for leave to file a brief of amicus curiae.

DATED this 21st day of September, 2016.



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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I electronically filed the forgoing **MOTION TO STRIKE PORTIONS OF APPELLANT'S OPENING BRIEF** with the Clerk of Court for the Supreme Court of Nevada by using the Supreme Court of Nevada's E-filing system on September 21, 2016.

I further certify that all participants in this case are registered with the Supreme Court of Nevada's E-filing system, and that service has been accomplished to the following individuals through the Court's E-filing System:

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