

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION,
Petitioner,
vs.
THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK;
AND THE HONORABLE GLORIA
STURMAN, DISTRICT JUDGE,
Respondents,
and
FRED NASSIRI, INDIVIDUALLY AND
AS TRUSTEE OF THE NASSIRI LIVING
TRUST, A TRUST FORMED UNDER
NEVADA LAW,
Real Party in Interest.

No. 70098

FILED

MAY 11 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER STRIKING APPENDIX AND DIRECTING ANSWER

This original petition for a writ of mandamus challenges district court orders denying summary judgment and, alternatively, an order permitting expert testimony in a contract action. Having reviewed the petition, we conclude that an answer would assist this court in resolving the petition.

Prior to setting the briefing schedule, however, we note that petitioner's appendix does not comply with NRAP 21(a)(4). Thereunder, an appendix to a writ petition "shall include a copy of any order or opinion, parts of the record before the respondent judge, . . . or any other original document that may be essential to understand the matters set forth in the petition." However, when reviewing summary judgment or other district court orders in a writ petition, this court's review is focused on the district court's order and what evidence and information the district court had

before it when making its decision. Thus, in this context, where we are asked to review a district court's summary judgment orders and an evidentiary order, original documents not provided to the district court are irrelevant to our consideration of those orders.

Petitioner provided in its appendix several volumes of original documents for our consideration, which do not appear to have been provided to the district court with the summary judgment motions. In addition, several portions of the appendix are illegible, some parts appear to be missing, and at least a few parts are out of sequence. Accordingly, we strike petitioner's appendix. Petitioner shall have five days from the date of this order within which to file and serve a new appendix, without extraneous original documents and which otherwise complies with NRAP 21(a)(4) and NRAP 30.

Real party in interest, on behalf of respondents, shall have 30 days from service of the new appendix within which to file and serve an answer, including authorities, against issuance of the requested writ. NRAP 21(b)(1). Thereafter, petitioner shall have 15 days from service of the answer to file and serve any reply.

It is so ORDERED.

1. Sanderly, A.C.J.

cc: Hon. Gloria Sturman, District Judge
Attorney General/Carson City
Attorney General/Las Vegas
Attorney General/Transportation Division/Carson City
Kemp, Jones & Coulthard, LLP
Garman Turner Gordon
Eighth District Court Clerk