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IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA LOCAL
GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD,

Appellant,

vs.

EDUCATION SUPPORT EMPLOYEES
ASSOCIATION; INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,
LOCAL 14; AND CLARK COUNTY
SCHOOL DISTRICT,

Respondents.

Supreme Court No. 70586
District Court Case No. A715577

**INTERNATIONAL
BROTHERHOOD OF
TEAMSTERS LOCAL 14'S REPLY
IN SUPPORT OF MOTION FOR
RECONSIDERATION OF ORDER
STRIKING BRIEF OR, IN THE
ALTERNATIVE, FOR LEAVE TO
FILE AN AMICUS BRIEF**

By opposing both of Local 14's requests to this Court – either to allow it to present arguments in its answering brief or as an amicus – ESEA makes clear that its sole objective is to ensure that the Court does not hear what Local 14 has to say. This is remarkable. Ordinarily, motions for leave to file an *amicus* brief are unopposed. Parties who are confident in their own position don't try to stifle opposing arguments. They respond to them.

ESEA insists that, as a party, Local 14 cannot present its arguments to the Court because, according to ESEA, Local 14 seeks to participate as it were an appellant. That is false. Local 14 does not seek to pursue a cross-appeal. Local 14 does not seek any relief from the Court. Local 14 does not seek to file an opening or reply brief. Local 14 does not seek to raise any issues that the EMRB has not put before the Court. All that Local 14 seeks to do is explain why it concedes district court error in the answering brief which this Court has said it may file.

There is not a rule that the Court may only considering arguments in favor of reversal made by appellants. That is what *amici* do all the time, and undoubtedly some of those briefs assist the Court in deciding how to rule. Nevada Rule of Appellate Procedure 29(c) sets the requirements for who may serve as an amicus: the person or entity must have an interest in the case and a brief from that person or entity must be desirable. ESEA does not dispute that Local 14 has an interest in this case or that an *amicus* brief would be desirable. ESEA does not argue that it would suffer any prejudice if the Court allows Local 14 to participate as *amicus*. Ordinarily it is unnecessary for a party to file a brief as *amicus* because the party is permitted to present its arguments as a party. In that regard, Local 14's position is unique. Ignoring this reality, ESEA proclaims that in no circumstances can a party ever serve an *amicus*. That limitation does not appear in Rule 29 and would serve

no purpose in this case, other than to deprive this Court of hearing Local 14's arguments.

ESEA only other argument is fanciful. ESEA speculates that if a party could file an amicus brief, then the party could manipulate the page limits for its brief by filing two briefs: one as a party and one as an *amicus*. That will never happen because the Court can always deny a party's motion to serve as *amicus* when the party has already had the opportunity to present its arguments in its brief. More importantly, that is not what Local 14 seeks to do. Local 14 seeks to present its arguments to this Court in a single brief the length of which is within the page limits set by the Rules. ESEA seeks to prevent the Court from hearing those arguments.

For all of the foregoing reasons, either Local 14's motion for reconsideration should be granted or Local 14 should be permitted to file a brief as *amicus*. Local 14 should not be denied the right to present its arguments to this Court.

Dated: September 27, 2017

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the McCracken, Stemerman & Holsberry, LLP and that on the 27 day of September 2017 I served the foregoing **INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 14'S REPLY IN SUPPORT OF MOTION FOR RECONSIDERATION OF ORDER STRIKING BRIEF OR, IN THE ALTERNATIVE, FOR LEAVE TO FILE AN AMICUS BRIEF** via electronic service to the following:

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