Case No. _____

In the Supreme Court of Nevada

JAMES J. COTTER, JR., individually and derivatively on behalf of READING INTERNATIONAL, INC.,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT of the State of Nevada, in and for the County of Clark, and THE HONORABLE ELIZABETH GONZALEZ, District Judge,

Respondent,

and

MARGARET COTTER, ELLEN COTTER, GUY ADAMS, EDWARD KANE, DOUGLAS MCEACHERN, WILLIAM GOULD, JUDY CODDING, MICHAEL WROTNIAK, and READING INTERNATIONAL, INC.,

Real Parties in Interest.

District Court No. A719860, coordinated with No. P082942 and No. A735305

PETITION FOR WRIT OF PROHIBITION OR, IN THE ALTERNATIVE, MANDAMUS

With Supporting Points and Authorities

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NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Petitioner James J. Cotter, Jr., is an individual. Throughout this litigation, petitioner have been represented by attorneys at the law firm of Lewis Roca Rothgerber Christie LLP. Reading International, Inc., on whose behalf petitioner asserts derivative claims, is a public company incorporated in Nevada.

Dated this 15th day of September, 2016.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: */s/Mark G. Krum*

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PETITION FOR WRIT OF PROHIBITION OR, IN THE ALTERNATIVE, MANDAMUS

Petitioner James J. Cotter, Jr., seeks a writ of prohibition preventing the respondent court from enforcing its September 8, 2016 oral order compelling disclosure of documents that have been withheld on grounds of attorney work product. In the alternative, petitioners seek a writ of *mandamus* directing the respondent court (1) to vacate and expunge its September 15, 2016 order, and (2) to permit petitioners to withhold the documents at issue as protected work product.

Dated this 15th day of September, 2016.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

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VERIFICATION

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

MATTHEW W. PARK, being first duly sworn, deposes and says:

Pursuant to NRS 15.010, NRS 34.030, and NRS 34.170, and under penalty of perjury, I declare that I am counsel for James J. Cotter, Jr., and know the contents of this writ petition. The pleading is true to the best of my knowledge, information or belief.

Dated this 15th day of September, 2016.

MATTHEW W. PARK

Subscribed and sworn to before me
this 15th day of September, 2016

NOTARY PUBLIC

ANNETTE JARAMILLO
Notary Public State of Nevada
My Commission Expires: June 1, 2019
Certificate No: 10-3715-1

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ROUTING STATEMENT

This petition should be heard by the Supreme Court. It raises a substantial issue of first impression involving Nevada's work-product doctrine. NRAP 17(a)(13).

POINTS AND AUTHORITIES

This case presents the important question whether protection of attorney work product may be waived in the same manner as the attorney-client privilege. In the case of attorney-client privilege, a communication becomes discoverable if it is not kept "confidential." *See* NRS 49.055, 49.095. The mental impressions of an attorney protected by the work-product doctrine, however, are not required to be kept confidential. Indeed, the majority rule holds that "disclosure of a document to third persons does not waive the work product immunity unless it has substantially increased the opportunities for potential adversaries to obtain the information." 8 CHARLES ALAN WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 2024 (3d ed. updated Apr. 2016) ("Most cases have so held and have found no waiver from disclosure.").

Here, the district court found a waiver where petitioner's counsel shared his mental impressions with counsel for intervening plaintiffs,

both of whom had asserted similar claims against defendants. The court thus ordered petitioner to reveal these communications to defendants, the co-parties' common adversary, without an *in camera* review or any inquiry into whether intervening plaintiffs were likely to share the information with defendants.

Nevada should adopt the majority rule and hold that under these circumstances, the work product of petitioner's attorney remains protected from discovery.

ISSUE PRESENTED

Does attorney work product become discoverable anytime it is disclosed to counsel for another party without a confidentiality agreement, even if those parties have a common adversary, or does Nevada follow the rule in *United States v. AT&T Co.*, 642 F.2d 1285 (D.C. Cir. 1980), that waiver occurs only if the disclosure "substantially increases" the possibility of an adversary's obtaining the information?

THIS COURT SHOULD HEAR THE PETITION

"Writ relief is an available remedy, where, as here, petitioners have no plain, speedy and adequate remedy at law other than to petition this court." *Wardleigh v. Second Judicial Dist. Court*, 111 Nev.

345, 350, 891 P.2d 1180, 1183 (1995). Thus, a writ of prohibition is proper to prevent discovery required by a court order requiring release of protected information that would lose its confidential quality upon release, thereby depriving the beneficiary of that protection of an effective remedy by later appeal. *Id.* at 350-51, 891 P.2d at 1183-84. This Court has recently reaffirmed that a writ of prohibition is available to prevent an irretrievable disclosure of protected information. *Coyote Springs Inv., LLC v. Eighth Judicial Dist. Court*, 131 Nev., Adv. Op. 18, 347 P.3d 267, 270 (2015); *Las Vegas Sands v. Eighth Judicial Dist. Court*, 130 Nev., Adv. Op. 13, 319 P.3d 618, 621 (2014).

This is just such a case calling for a writ of prohibition. The district court has ordered the release of communications containing attorney mental impressions that are confidential and protected by the attorney work product doctrine, and has done so just weeks before trial. This places petitioner at a severe adversarial disadvantage, as it permits defendants access to the analytical and strategic thoughts of petitioner's attorney as the parties finalize trial preparations, the very result the attorney-work-product doctrine seeks to avoid. *See Hickman v. Taylor*, 329 U.S. 495, 510, 67 S. Ct. 385, 393, 91 L. Ed. 451 (1947) (dis-

covery into attorney mental impressions is prohibited because "it is essential that a lawyer work with a certain degree of privacy, free from unnecessary intrusion by opposing parties and their counsel"); *Phillips v. C.R. Bard, Inc.*, 290 F.R.D. 615, 635 (D. Nev. 2013) ("[T]he doctrine is an intensely practical one, grounded in the realities of litigation in our adversary system." (quotation marks omitted)). Because plaintiff has no plain, speedy, or adequate remedy by later appeal from the potential release of this highly confidential and protected information, writ relief is proper.

FACTUAL AND PROCEDURAL HISTORY

A. Factual Background

This lawsuit arises out of the wrongful actions of Defendants Margaret Cotter ("MC"), Ellen Cotter ("MC"), Guy Adams ("Adams"), Edward Kane ("Kane"), Douglas McEachern ("McEachern"), and William Gould ("Gould") (collectively, "Defendants") to seize and control of RDI and their misuse its corporate governance structures to entrench themselves, in furtherance of their personal interests and in derogation of their fiduciary obligations. First, they threatened to terminate Plaintiff as President and CEO if he did not resolve separate probate litiga-

tion between Plaintiff, EC, and MC, on terms satisfactory to EC and MC. When they understood that he had agreed to do so, the threat was withdrawn. When Plaintiff did not consummate a deal with EC and MC, he was summarily terminated as President and CEO. Thereafter, the Defendants systematically acted to entrench themselves in control of the Company. Among other things, they forcibly "retired" Director Timothy Storey ("Storey"); added family friends with no relevant experience to RDI's Board of Directors; systemically failed to provide timely and accurate disclosures to the Securities and Exchange Commission; and looted the Company, among other things. Adams and Kane also authorized the exercise the late James J. Cotter, Sr.'s option to purchase 100,000 shares of voting stock (the "100,000 share option"), Plaintiff contends, was done so that EC and MC could prevail in the event non-Cotter shareholders challenged them at RDI's 2015 Annual Stockholder Meeting ("ASM").

B. The Claims

Plaintiff initially filed suit in June 2015 after the individual defendants terminated him as President and CEO of RDI, following his failure to acquiesce to demands that he resolve certain trust and estate

disputes with by his sisters on terms they unilaterally dictated. In his initial complaint, Plaintiff sued the individual defendants for breaches of fiduciary duty, alleging among other things that they had acted to wrongfully seize control of RDI to further their own personal interests. [1 App. 1] Plaintiff was (and is still) represented by Lewis Roca Rothgerber LLP (now Lewis Roca Rothgerber Christie LLP).

In August 2015, several RDI shareholders (the "Intervening Plaintiffs") also filed a derivative action against the individual defendants. [1 App. 33] Like Plaintiff's original complaint, the Intervening Plaintiffs' original complaint included allegations regarding the termination of Plaintiff as President and CEO of RDI, allegations regarding the trust and estate disputes between EC and MC, on one hand, and Plaintiff, on the other hand, and all allegations regarding fees paid to RDI directors. [*Id.*] The Intervening Plaintiffs' Complaint also included allegations about matters that post-dated Plaintiff's original Complaint, including the use of an executive committee of the RDI board of directors to effectively exclude certain directors. [*Id.*] The Intervening Plaintiffs' Complaint sought relief with respect to the executive committee, the termination of Plaintiff, and RDI's 2015 Annual Shareholders

Meeting. [*Id.*] Plaintiff was not named as a defendant in that Complaint. The Intervening Plaintiffs were represented by Robertson and Associates. [*Id.*]

The two actions ultimately were consolidated. In October 2015, Plaintiff filed a First Amended Complaint ("Plaintiff's FAC"). [1 App. 51] Plaintiff's FAC alleged that the Individual Defendants had acted to entrench themselves, to their own financial advantage. [*Id.*] Among other things, it alleged that they effectively had eliminated certain RDI Directors as functioning members of the board by an executive committee of the RDI Board of Directors. [*Id.*] Plaintiff's FAC further alleged that EC and MC in September 2015 had acted to exercise the 100,000 share option, that Kane and Adams as members of the RDI Board of Directors Compensation Committee had wrongfully authorized the exercise of the 100,000 share option. [*Id.*] Plaintiff's FAC further alleged EC and MC sought to exercise the 100,000 share option to enhance their ability to retain control of RDI at any contest for control at the not then yet held at the ASM. [*Id.*] Plaintiff's FAC also alleged that the individual defendants in October 2015 forced the "retirement" of RDI director Timothy Storey and added to the RDI board of directors two in-

dividuals who had no qualifications germane to serving on the RDI board of directors, but who had personal relationships with Cotter family members such that EC and MC them expected to be loyal. [*Id.*]

In February 2016, the Intervening Plaintiffs filed a First Amended Complaint (the "Intervenors' FAC"). [1 App. 101] It included allegations regarding the 2015 RDI ASM held in November 2015 and additional allegations regarding the 100,000 share option, as well as other allegations regarding ownership and counting of the votes of such shares of the 2015 ASM. [*Id.*] The Intervenors' FAC also added allegations regarding the forced "retirement" of Timothy Storey as a director in October 2015 and the addition to the RDI board of directors of two persons with no apparent qualifications other than personal connections to EC and/or MC. [*Id.*] The Intervenor's AC also added allegations regarding the CEO search that concluded in January 2015 with the selection of EC to be CEO. [*Id.*]

Plaintiff in September 2016 filed a Second Amended Complaint ("Plaintiff's SAC"). [2 App. 442] It added allegations based on facts learned in discovery and included allegations about actionable conduct that post-dated Plaintiff's FAC, including in connection with the CEO

search, developments in March 2015 regarding employment and compensation of MC by RDI, and developments in June of 2016 regarding the response, or lack thereof, of the individual director defendants of the third-party offer to purchase all of the outstanding stock of RDI at a price in excess of that at which it traded in the open market. [*Id.*]

C. The Privilege Log

In April 2016, Defendants filed a "Motion to Compel Plaintiff James J. Cotter, Jr. to Produce an Adequate Privilege Log," which was ultimately heard on June 21, 2016. [1 App. 140] The District Court ordered Plaintiff to provide a revised privilege log, and reserved a ruling on whether any of the communications between the attorneys for Plaintiffs and Intervening Plaintiffs must be produced pending production of the privilege log. [1 App. 162]

Plaintiff in turn produced 350 responsive communications, and also provided a supplemental privilege log to Defendants. [1 App. 192 – 2 App. 343] The log included approximately 150 emails between Lewis Roca Rothgerber Christie and Robertson & Associates containing attorney mental impressions of matters related to the instant litigation.[1]

[1] Through inadvertent error, the communications originating from

[*Id.*] Those communications were designated as attorney work product and withheld accordingly.

Shortly after Plaintiff produced the documents and privilege log, Defendants demanded the production of the attorney work product communications between Lewis Roca Rothgerber Christie and Robertson & Associates. Plaintiff explained that, because the communications contained attorney mental impressions concerning the Plaintiffs' litigation against Defendants, they contained protected work product and were not subject to production. Defendants in turn took the position that work product protection had been waived by virtue of the fact that it had been shared between the two parties. [2 App. 355-57] In response, Plaintiff pointed out that the very authorities upon which Defendants relied indicated that "when the disclosure is to a party with a common interest, or common litigation objectives, that does not waive work product protections." [2 App. 354-55]

Mark Krum were mislabeled as communication with advice in connection with derivative litigation, and designated attorney-client privilege in addition to work product. Counsel for plaintiff subsequently explained the inadvertent error to counsel for Defendants, including that those communications should have been described as communication regarding mental impressions of litigation matters and designated as work product only.

D. The Motion to Compel

Two weeks after the parties discussed the work product emails, Defendants filed a Motion to Compel the emails, requesting it be heard on an expedited basis. [1 App. 171] The Motion asserted that Plaintiffs had not provided an adequate basis to assert work product privilege, and that work product protection had been waived by disclosure of other communications between Lewis Roca Rothgerber Christie and Robertson & Associates, and because there was no joint prosecution agreement between the parties. [*Id.*]

Plaintiff responded that, because the communications contained attorney mental impressions (as clearly stated in the log), they were work product protected, and that Defendants' waiver arguments were in error because they conflated work product doctrine with attorney client privilege (which was not asserted). In particular, Plaintiff pointed out that "Just as in [*United States v. American Telephone & Telegraph Co.*, 642 F.2d 1285 (D.C. Cir. 1980) ("*AT&T*")], Plaintiff and the Intervening Plaintiffs had a common adversary on multiple issues in this litigation: Defendants." [3 App. 508] In addition, "Because they had common adversaries in Defendants when they conveyed mental impressions about

this litigation to each other, those communications were made under circumstances that were unlikely to result in disclosure to Defendants." [3 App. 509] In addition, during oral argument on the Motion, Plaintiff explained:

> …they filed claims for breach of fiduciary duty based on the decision to terminate Mr. Cotter, the decision to appoint an executive committee, and several other decisions. There was no – why is that not a common interest? We're talking the same – we're pursuing the same claims against the same defendants.

[3 App. 538]

The Court's ruling was as follows:

> The mere fact that you and Mr. Robertson's clients are both plaintiffs is not sufficient for a common interest. For that reason the motion is granted.

[3 App. 539]

ARGUMENT ON THE MERITS

I.

THE WORK PRODUCT OF PLAINTIFF'S COUNSEL DID NOT BECOME DISCOVERABLE WHEN SHARED WITH INTERVENING PLAINTIFFS' COUNSEL

The District Court misapprehended the law and ignored the procedural realities of the litigation in ruling that the Plaintiff and the Intervening Plaintiffs did not have common litigation interests as against

their mutual adversaries, Defendants, and by extension that sharing work product between them was a waiver of the work product doctrine. The District Court's erroneous ruling must therefore be reversed.

A. To Protect their Work Protect, Attorneys Do Not Have to Keep it in Confidence; they Just Have to Keep it From Adversaries.

The work product doctrine is rooted in protecting the adversarial system of justice by permitting an attorney to assess, prepare, and develop his case without fear that his opposing counsel will be able to obtain and examine those preparatory materials. *Hickman*, 329 U.S. 495, 510 (1947); *Phillips v. C.R. Bard, Inc.*, 290 F.R.D. 615, 635 (D. Nev. 2013); *Lisle v. State*, 113 Nev. 679, 695, 941 P.2d 459, 470 (1997) (quotation omitted), *overruled on other grounds by Middleton v. State*, 114 Nev. 1089, 1117 n. 9, 968 P.2d 296, 315 n. 9 (1998); *see also AT&T* , 642 F.2d at 1299 ("the work product privilege does not exist to protect a confidential relationship, but rather to promote the adversary system by safeguarding the fruits of an attorney's trial preparations from the discovery attempts of the opponent."). To facilitate that preparatory process, "the work-product doctrine allows disclosures as long as they do not undercut the adversary process." *United States v. Deloitte LLP*, 610

F.3d 129, 140 (D.C. Cir. 2010). Thus, work product protection "does not disappear when the balloon wall of confidentiality is breached unless the breach has substantially increased the opportunities for potential *adversaries* to obtain the information." *Goff v. Harrah's Operating Co., Inc.*, 240 F.R.D. 659, 661 (D. Nev. 2007) (emphasis supplied). Likewise, "[a] disclosure made in the pursuit of such trial preparation, and not inconsistent with maintaining secrecy against *opponents*, should be allowed without waiver of the privilege." *AT&T*, 642 F.2d at 1299 (emphasis supplied). Permitting such transfer is entirely consistent with the adversarial system in which the work product is rooted because "with common interests on a particular issue against a common adversary, the transferee is not at all likely to disclose the work product material to the adversary." *Id.* at 1299.

Plaintiff has not, and never has released attorney mental impressions to his adversaries in this litigation – that is, Defendants. Nor has Plaintiff does anything "inconsistent with maintaining secrecy against his opponents" – that is, Defendants. *AT&T*, 642 F.2d at 1299. The only release of mental impressions has been to Intervening Plaintiffs, and in light of the shared adversarial relationship Plaintiff and Intervening

Plaintiffs had against Defendants, that transfer did not "substantially increase the opportunities for [Defendants] to obtain the information." *Goff*, 240 F.R.D. at 661.

Plaintiff has not done anything to substantially increase the opportunities for Defendants to obtain attorney mental impressions on litigation matters in this case. There has therefore been no waiver of the work product doctrine. The District Court's order requiring production of those mental impressions to Defendants must therefore be reversed.

1. Disclosure Among Parties with a Common Interest is Not a Waiver.

Courts have recognized that "while the mere showing of a voluntary disclosure to a third person will generally suffice to show waiver of the attorney-client privilege, it should not suffice in itself for waiver of the work product privilege." *AT&T*, 642 F.2d at 1299. This is especially so with respect to information sharing between attorneys for parties with common interests. *Id.* "The 'common interests' requirement exists as a proxy for the true concern: whether the transferee is likely to share the transferred material with the adversary." *In re Visa Check/MasterMoney Antitrust Litig.*, 190 F.R.D. 309, 315 (E.D.N.Y. 2000). Permitting parties with common litigation interests to share

work product and attorney mental impressions "furthers the purpose of the work product privilege by protecting attorneys' preparations for trial and encouraging the fullest preparation without fear of access by adversaries." *AT&T*, 642 F.2d at 1300.

2. Defendants Failed to Show that Co-plaintiffs Here Lacked a Common Interest.

"So long as transferor and transferee anticipate litigation against a common adversary on the same issue or issues, they have strong common interests in sharing the fruit of the trial preparation efforts." *AT&T*, 642 F.2d at 1299. In this case, it is plain that Plaintiff and Intervening anticipated and engaged in "litigation against a common adversary on the same issue or issues," that is, Defendants, and therefore they had "strong common interests in sharing the fruit of trial preparation efforts." *Id.* Plaintiff and Intervening Plaintiffs, all shareholders of RDI, were both asserting derivative claims against Defendants for breach of their fiduciary obligations to RDI and its shareholders; a fact apparent in the pleadings and nature of the litigation, of which the District Court was well aware. Thus, sharing mental impressions with Intervening Plaintiffs was consistent with and permitted by the work product doctrine, and constituted no waiver of work product protection.

B. Plaintiff's Counsel's Communications with Intervening Plaintiffs' Counsel Did Not Risk Disclosing Work Product to Defendants, their Common Adversary.

As was the case in *AT&T*, "with common interests on a particular issue against a common adversary, the transferee is not at all likely to disclose the work product material to the adversary." 642 F.2d at 1299. Because Plaintiff and Intervening Plaintiff had mutual adversaries in Defendants, there was no likelihood that their shared mental impressions would result in disclosure to Defendants – that would have been contrary to the adversarial litigation interests of both. Therefore, to the extent the District Court's order assumes that the Plaintiffs and Intervening Plaintiffs increased the likelihood that their mutual adversaries, Defendants would obtain their mental impressions by virtue of their communications, that is false. The District Court's order must be reversed.

II.

THE DISTRICT COURT'S WAIVER RULING APPLIES THE WRONG STANDARD

The District Court's ruling further misapprehends the work product analysis in that the District Court summarily ordered the release of

all of the communications between the attorneys for Plaintiff and Intervening Plaintiffs without regard to their subject matter. As noted above, it is without question that Plaintiff and Intervening Plaintiffs had common litigation interests as to their mutual adversaries, Defendants. While it is theoretically possible, as the District Court implied, that a plaintiff and a plaintiff in intervention may not have common interests on particular issues such that communications between them on those issues would not necessarily be protected, the District Court made no findings and conducted no inquiry into whether that was the case as to any of the communications at issue in the Motion to Compel.

A. The District Court Appeared to Base its Decision on the Absence of a "Confidential Relationship," a Standard Applicable only to a Claim of Attorney-Client Privilege.

By simply ruling that "The mere fact that you and Mr. Robertson's clients are both plaintiffs is not sufficient for a common interest" misapprehends the inquiry. Indeed, the District Court's ruling appears to incorrectly assume that the analysis turns on whether there was a confidential relationship between *P*laintiff and Intervening Plaintiffs. As courts have made clear, because the work product doctrine is rooted in promoting the adversarial system, the question is not whether there is a

confidential relationship between the parties but rather whether the information has effectively been released to an adversary. *AT&T*, 642 F.2d at 635; *Goff*, 240 F.R.D. at 661; *Visa Check/MasterMoney*, 190 F.R.D. at 315. As the District Court's order rests upon faulty assumptions about the work product doctrine and waiver, it must be reversed.

B. The District Court Ignored the Relevant Question for Waiver of Work-Product Protection: whether Plaintiff and Intervening Plaintiffs are Adverse.

Communications containing attorney mental impressions must be afforded presumptive protection by the Court in order to promote trial preparation in an adversarial system. N.R.C.P. 26(b)(3); *Hickman*, 329 U.S. at 510. Furthermore, given that the communications were between shareholder Plaintiffs with the same or similar derivative claims against the same director Defendants and therefore had substantial common litigation interests throughout the case as discussed above, it would be an exceptional circumstance for a communication to be "inconsistent with maintaining secrecy against opponents." *AT&T*, 642 F.2d at 1299.

Under those circumstances, there should have been a clear finding that particular communications did not in fact implicate the Plaintiff's

and Intervening Plaintiffs' common litigation interests against Defendants before they were ordered released to Defendants in the midst of final trial preparation. The dearth of analysis reflected in the District Court's one-sentence ruling, however, provides no such basis to support the District Court's abrogation of the work product protection. Even assuming the District Court was concerned that some of the communications implicated an issue in which Plaintiff's and Intervening Plaintiff's interests in this litigation were somehow adverse, at minimum there should have been an in camera review of the communications to determine whether they involved such an issue. *See Goff*, 240 F.R.D. at 662 ("The only way to resolve this dispute appears to be for the Magistrate Judge to conduct an in camera review of the unredacted evidence and resolve both the relevance issue and the factual dispute regarding the scope of any waiver that occurred.").

No such review was conducted, and the circumstances of the alleged communications were not taken into account. The District Court's order was error and therefore must be reversed.

CONCLUSION

For these reasons, this Court should issue a writ of prohibition to prevent the district court from enforcing its order requiring the whole-sale release of communications between Plaintiffs and Intervening Plaintiffs containing attorney mental impressions to Defendants, their mutual adversaries.

Dated this 15th day of September, 2016.

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CERTIFICATE OF COMPLIANCE

1. I certify that this brief complies with the formatting, typeface, and type-style requirements of NRAP 32(a)(4)–(6) because it was prepared in Microsoft Word 2010 with a proportionally spaced typeface in 14-point, double-spaced Century Schoolbook font.

2. I certify that this brief complies with the type-volume limitations of NRAP 32(a)(7) because, except as exempted by NRAP 32(a)(7)(C), it contains 3,848 words.

3. I certify that I have read this brief, that it is not frivolous or interposed for any improper purpose, and that it complies with all applicable rules of appellate procedure, including NRAP 28(e). I understand that if it does not, I may be subject to sanctions.

Dated this 15th day of September, 2016.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

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CERTIFICATE OF SERVICE

I certify that on September 15, 2016, I served a copy of the foregoing PETITION FOR WRIT OF PROHIBITION OR, IN THE ALTERNATIVE, MANDAMUS by mailing a true and correct copy thereof, postage prepaid, at Las Vegas, Nevada, addressed as follows:

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