

# EXHIBIT “1” Part 2 of 2

EXHIBIT “1” Part 2 of 2

1 **section 4.4 L.** [Emphasis Added]. Accordingly, Plaintiff NRS is an intended third party  
2 beneficiary of the FRANCHISE AGREEMENTS.

3 68. The FRANCHISE AGREEMENT requires WM and/or its affiliates "charge and  
4 collect from Customers for Collection Services the Rates provided on the Scope of Services,  
5 which Rates may be adjusted as provided in this Agreement." See, FRANCHISE AGREEMENT,  
6 attached hereto at exhibit 3 at p.35, 6.2A.

7 69. The current "Franchise Rates" that WM and/or its affiliates are required to  
8 charge under the FRANCHISE AGREEMENT are set forth in Exhibit 3, attached hereto and  
9 incorporated herein.

10 70. WM has materially breached the FRANCHISE AGREEMENT and its obligations  
11 thereunder to the CITY, its commercial customers and third-party beneficiaries under the  
12 FRANCHISE AGREEMENT, NRS and RR, by consistently and intentionally failing to charge the  
13 "Franchise Rates" as set forth in and required under the FRANCHISE AGREEMENT.

14 71. As a representative example, on February 1, 2015, WM billed and charged a  
15 commercial customer located in Reno at 4670 Aircenter Circle and thus, covered under the  
16 FRANCHISE AGREEMENT, \$120.58 for "4 Yard dumpster service- recycle materials." See,  
17 Exhibit 10, attached hereto. However, the current and applicable "Franchised Rate" for a 4  
18 Yard Bin for Recyclable Materials, as set forth in Exhibit 8 attached hereto, is \$135.47.  
19 Accordingly, WM and/or its affiliates, are undercharging the commercial customer by \$14.89,  
20 in material breach of the FRANCHISE AGREEMENT and to the direct detriment of Plaintiffs as  
21 licensed competitors authorized to do business in the CITY.

22 72. Further, the DISPOSAL AGREEMENT additionally requires that REFUSE and/ or  
23 its affiliates, including but not limited to WM, to "use commercially reasonable efforts to  
24 commence and diligently prosecute construction of the Eco-Center" (also known as a "MRF") in  
25 the CITY OF RENO by March 7, 2015. See, DISPOSAL AGREEMENT, attached hereto at Exhibit 4,  
26 at p. 13, 3.3A. The rates that WM collects from commercial customers subsidizes the residential  
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1 customers within the CITY. This is so that Residential Customers can have single stream  
2 recycling under the Residential Franchise Agreement, which Defendants appear to be in breach  
3 of as well. The rates charged by WM were also supposed to be used to build the "Eco-Center."  
4 The "Eco-Center" is necessary to adequately service the CITY and without it, WM does not have  
5 the ability to adequately service this local area and in turn, is not properly recycling as agreed  
6 to in both the Residential and Commercial FRANCHISE AGREEMENTS.

7 73. On the permanent public record, at the October 10, 2012 City Council meeting,  
8 upon inquiry by Vice Mayor Dave Aiazzi asking, "So what is the penalty for not building [Eco-  
9 Center] in 28 months, they [WM/ REFUSE] have been collecting the money and if it doesn't get  
10 built, what happens?" One of the Reno City Attorneys, Jonathan Shipman, answered, WM/  
11 REFUSE, would be in material breach of the agreement [the FRANCHISE AGREEMENT].

12 74. However, more than 28 months later, WM/ REFUSE has failed to move forward  
13 with construction of the Eco-Center. As such, WM is in material breach of the DISPOSAL  
14 AGREEMENT for failing to "use commercially reasonable efforts to commence and diligently  
15 prosecute construction of the Eco-Center ..." by March 7, 2015.

16 75. In addition and as set forth above, WM has materially breached the FRANCHISE  
17 AGREEMENT by intentionally interfering with and limiting Plaintiffs' rights thereunder by  
18 refusing to service commercial customers with 96-gallon tote service as required by the  
19 FRANCHISE AGREEMENT, holding customers to contracts after January 1, 2015, under  
20 charging commercial customers and charging rates outside of the required current "Franchised  
21 Rates," in a blatant and intentional attempt to deliberately force Plaintiffs' customers out of  
22 compliance with the FRANCHISE AGREEMENT and to push Plaintiffs out of the market.

23 76. At all times relevant herein, REFUSE and WM, and/ or their affiliates, knew  
24 and/or should have reasonably foreseen that the explicit rights and provisions set forth in the  
25 FRANCHISE AGREEMENT and the DISPOSAL AGREEMENT relating to Exempted Haulers (RR)  
26 and the Exempted Facility (NRS), was for the benefit of the intended third party beneficiaries  
27  
28

1 thereunder, the Plaintiffs herein.

2 77. As a direct and foreseeable consequence of WM's actions in materially breaching  
3 the FRANCHISE AGREEMENT and the DISPOSAL AGREEMENT, as intended third party  
4 beneficiaries, RR and NRS have been directly damaged in an amount to be proven at trial but  
5 which exceeds \$10,000.00. In addition, the conduct of the Defendants should be punished, and  
6 an example made of said conduct, to discourage Defendants and others in similar positions  
7 from engaging in like conduct in the future, through the award of punitive damages in a just  
8 and reasonable amount for Plaintiffs herein. As a direct and proximate result of the reckless,  
9 malicious and oppressive conduct of Defendants and the reckless disregard for the rights of  
10 Plaintiffs herein, Plaintiffs are entitled to an award of punitive damages in order to deter  
11 Defendants from engaging in such egregious conduct in the future.

12 78. It has been necessary for Plaintiffs to retain the services of legal counsel to  
13 prosecute this action and, as such, Plaintiffs are entitled to recover all costs and expenses  
14 associated herewith, including the reasonable fees of their attorneys.

15 **FOURTH CLAIM FOR RELIEF**  
16 **(Breach of Implied Covenant of Good Faith and Fair Dealing)**

17 79. Plaintiffs re-allege each and every allegation contained in paragraphs 1 through  
18 123 of this Complaint, inclusive, and incorporates them herein by reference.

19 80. Every contract in Nevada contains an implied covenant of good faith and fair  
20 dealing. This duty of good faith and fair dealing exists for the benefit of direct parties to a  
21 contract, as well as intended third party beneficiaries of a contract.

22 81. REFUSE, WM and/or their affiliates had a duty to deal with RR and NRS in good  
23 faith.

24 82. REFUSE, WM and/or their affiliates failed to deal with RR and NRS in good faith.

25 83. As the natural, actual, direct, and proximate result and cause of the acts and/or  
26 omissions/ failures to act of REFUSE, WM and/or their affiliates, as intended third party



1 beneficiaries, RR and NRS have been damaged in an amount to be proven at trial but which  
2 exceeds \$10,000.00. In addition, the conduct of the Defendants should be punished, and an  
3 example made of said conduct, to discourage Defendants and others in similar positions from  
4 engaging in like conduct in the future, through the award of punitive damages in a just and  
5 reasonable amount for Plaintiffs herein. As a direct and proximate result of the reckless,  
6 malicious and oppressive conduct of Defendants and the reckless disregard for the rights of  
7 Plaintiffs herein, Plaintiffs are entitled to an award of punitive damages in order to deter  
8 Defendants from engaging in such egregious conduct in the future.

9 84. It has been necessary for Plaintiffs to retain the services of legal counsel to  
10 prosecute this action and, as such, Plaintiffs are entitled to recover all costs and expenses  
11 associated herewith, including the reasonable fees of their attorneys.

12 **FIFTH CLAIM FOR RELIEF**  
13 **(Unfair Trade Practices/ Conspiracy to Restrain Trade)**

14 85. Plaintiffs re-allege each and every allegation contained in paragraphs 1 through  
15 123 of this Complaint, inclusive, and incorporates them herein by reference.

16 86. NRS 598A.060 provides,

17 "Every activity enumerated in this subsection constitutes a contract, combination or  
18 conspiracy in restraint of trade, and it is unlawful to conduct any part of any such  
activity in this State:

19 (a) ***Price fixing, which consists of raising, depressing, fixing, pegging or***  
20 ***stabilizing the price of any commodity or service, and which includes,***  
21 ***but is not limited to:***

22 (1) Agreements among competitors to depress prices at which they will buy  
23 essential raw material for the end product.

24 (2) Agreements to establish prices for commodities or services.

25 (3) Agreements to establish uniform discounts, or to eliminate discounts.

26 (4) Agreements between manufacturers to price a premium commodity a  
27 specified amount above inferior commodities.

28 (5) Agreements not to sell below cost.

(6) Agreements to establish uniform trade-in allowances.

(7) Establishment of uniform cost surveys.

(8) Establishment of minimum markup percentages.

(9) Establishment of single or multiple basing point systems for  
determining the delivered price of commodities.

(10) Agreements not to advertise prices.

1 (11) Agreements among competitors to fix uniform list prices as a place to  
2 start bargaining.

3 (12) Bid rigging, including the misuse of bid depositories, foreclosures of  
4 competitive activity for a period of time, rotation of jobs among  
5 competitors, submission of identical bids, and submission of  
6 complementary bids not intended to secure acceptance by the customer. . .  
7 "

8 ...  
9 (14) Agreements to restrict volume of production.  
10 ...

11 (e) Monopolization of trade or commerce in this State, including, without  
12 limitation, *attempting to monopolize or otherwise combining or  
13 conspiring to monopolize trade or commerce in this State. . . .*

14 [Emphasis Added].

15 87. In the seminal case of *Cargill, Inc. v. Monfort of Colorado, Inc.*, 479 U.S. 104, 117-  
16 18, 107 S.Ct. 484, 93 L.Ed.2d 427 (1986), the United States Supreme Court also addressed the  
17 issue of predatory pricing as follows:

18 "Predatory pricing may be defined as *pricing below an appropriate  
19 measure of cost for the purpose of eliminating competitors in the short  
20 run and reducing competition in the long run*. It is a practice that harms  
21 both competitors and competition. In contrast to price cutting aimed simply  
22 at increasing market share, predatory pricing has as its aim the elimination  
23 of competition. Predatory pricing is thus a practice "inimical to the  
24 purposes of [the antitrust] laws."

25 [Emphasis Added]:

26 88. In this case, WM has engaged in predatory pricing by charging commercial  
27 customers below the Franchised Rates, for customers who compete with Plaintiffs, while at the  
28 same time, charging commercial customers more than the Franchised Rates, for customers who  
do not compete with Plaintiffs.

89. The current Franchised Rates, which must be charged by WM under the  
FRANCHISE AGREEMENT are set forth in Exhibit 8, attached hereto and incorporated herein by  
reference.

90. The following are representative examples of WM's price fixing/ predatory  
pricing:



1        94.    Months after the FRANCHISE AGREEMENTS were signed, WM announced that it  
2 had purchased CASTAWAY, thus, taking over its Franchised Zone and leaving only one  
3 FRANCHISEE left, WM.

4        95.    As such, WM has engaged in a scheme and entered into agreements with  
5 CASTAWAY to deliberately create a monopoly without disclosing such intent to the CITY to the  
6 detriment of Plaintiffs and in direct violation of NRS 598A.

7        96.    Based on the foregoing, WM has engaged in unfair trade practices in violation of  
8 Nevada law.

9        97.    As the actual, direct, and proximate result and cause of the acts of WM, RR and  
10 NRS have been damaged in an amount to be proven at trial but which exceeds \$10,000.00. In  
11 addition, the conduct of the Defendants should be punished, and an example made of said  
12 conduct, to discourage Defendants and others in similar positions from engaging in like  
13 conduct in the future, through the award of punitive damages in a just and reasonable amount  
14 for Plaintiffs herein. As a direct and proximate result of the reckless, malicious and oppressive  
15 conduct of Defendants and the reckless disregard for the rights of PLAINTIFFS herein, Plaintiffs  
16 are entitled to an award of punitive damages in order to deter Defendants from engaging in  
17 such egregious conduct in the future.

18        98.    It has been necessary for Plaintiffs to retain the services of legal counsel to  
19 prosecute this action and, as such, Plaintiffs are entitled to recover all costs and expenses  
20 associated herewith, including the reasonable fees of their attorneys.

21  
22                                    **SIXTH CLAIM FOR RELIEF**  
                                  **(Fraud, Fraud in the Inducement, Fraudulent Misrepresentation)**

23        99.    Plaintiffs re-allege each and every allegation contained in paragraphs 1 through  
24 123 of this Complaint, inclusive, and incorporates them herein by reference.

25        100.    When WM was in negotiations and lobbying the CITY for the FRANCHISE  
26 AGREEMENTS and thereafter and for the purpose of inducing the CITY to agree to both

1 residential and commercial FRANCHISE AGREEMENTS, WM represented to the CITY and  
2 publically to the citizens and business owners of the CITY that the Commercial rates set forth  
3 under the FRANCHISE AGREEMENT were established to subsidize and offset the Residential  
4 Rates to assist in covering the costs associated with single stream recycling.

5 101. To intentionally and fraudulently induce the CITY, residents and business owners  
6 to support the Single Stream Recycling Program as well as commercial recycling services, WM  
7 has and continues to represent that the Single Stream Recycling Program increases the amount  
8 of recyclable material collected, and decreases the amount of waste sent to Landfills.

9 102. WM further represents that "Reno residents have been asking for single-stream  
10 recycling for several years. As a result, on Nov. 7, 2012, the Reno City Council approved the  
11 single-stream recycling program to make recycling easy and convenient for the residents and  
12 *to increase recycling within the city.*" [Emphasis Added].

13 103. WM admits that "All customers are billed for recycling, regardless if they use  
14 their single-stream recycling cart or not."

15 104. Both the Commercial and Residential FRANCHISE AGREEMENTS and the Reno  
16 Municipal Code Section Sec. 5.90.010 defines "Recycle," "recycled," and "recycling" as, "the  
17 process of collection, sorting, cleansing, treating and reconstituting of recyclable materials that  
18 would otherwise be disposed of, *and returning them to the economy* in the form of raw  
19 materials for new, reused, repaired, refabricated, remanufactured, or reconstituted products."  
20 [Emphasis Added].

21 105. WM represents that "Single-stream recycling allows for the collection and  
22 processing of a wider variety of recyclable material, including:

- 23 • Plastics bottles (#1 - #7)
- 24 • **Plastic containers (#1 - #7)**
- 25 • Cardboard
- 26 • Paperboard
- 27 • Paper
- 28 • Junk Mail
- Newspaper
- Magazines

- Glass bottles (without caps)
- Glass jars (without caps)
- Aluminum cans
- Steel cans" [Emphasis Added].

106. At all times herein and as set forth more fully herein, Plaintiff NRS and RR, respectively, haul and accept recyclable materials as permitted by the FRANCHISE AGREEMENT. Plaintiff, NRS has the only facility within the CITY of Reno with an actual sort line for recyclable materials and works diligently to ensure as many materials as possible are prepared for recycling and returned to the economy.

106. Under the FRANCHISE AGREEMENT, residents and business owners have suffered regular and ongoing rate increases. WM represented that these rate increases were necessary to offset costs of building an Eco-Center within the CITY of Reno as well as implementing the Single Stream Recycling Program. WM represented that the Eco-Center was necessary because "The current Waste Management facilities cannot accommodate the increase in recycling volumes that will be generated by the single-stream recycling program. An expanded facility is required to meet the needs of the community." Under the FRANCHISE AGREEMENT, WM's construction of the Eco-Center was required to commence on or before March 7, 2015. To date, construction has not commenced.

107. Because the Commercial Recycling Program in Reno subsidizes the rates for residential services, including the Single Stream Recycling Program, Plaintiffs' respective costs of doing business have increased. In addition, as a result of the FRANCHISE AGREEMENTS, which include the recycling programs, Plaintiffs' have been forced to change their internal operating procedures in order to ensure compliance with the FRANCHISE AGREEMENTS. With respect to recyclable materials collected, accepted and sorted by Plaintiffs, respectively, every effort is made to ensure those materials are sold for the purpose of "**returning them to the economy** in the form of raw materials for new, reused, repaired, refabricated, remanufactured, or reconstituted products." [Emphasis Added].

108. Despite the rate increase residents and business owners of the CITY of Reno have experienced, and in turn, the increased costs that Plaintiffs have been forced to incur in order to survive over the past two and a half (2½) years which have at all times been represented by WM to be necessary for the construction of an Eco-Center within the CITY and also necessary in order to implement the Single Stream Recycling Program, and upon information and belief, WM is not recycling the recyclable materials contained in residents and commercial business owners' WM recycling containers.

109. One specific example of WM not recycling residential Single Stream Recycling under the Single Stream Recycling Program is as follows:

Spencer Investigations, a licensed private investigation company, placed a GPS tracker inside of a recyclable empty blue Laundry Detergent container marked with the plastic recycling number 2 on the bottom, making it appropriate for the Single Stream Recycling Program. Upon securing the GPS tracker unit in the container and sealing it, Spencer Investigations then placed the Laundry Detergent Container, containing the secured GPS tracker, inside of a blue lid WM Residential Single Stream Recycling Tote. See, Photo, attached hereto at Exhibit 14. On March 10, 2015, the blue lid WM Residential Single Stream Recycling Tote was properly placed at the curb for regular recycling collection by WM. WM collected the recyclables from that blue lid WM Residential Single Stream Recycling Tote at approximately 1:57 p.m. that same day. Less than forty-eight (48) hours later, the recyclables from the blue lid WM Residential Single Stream Recycling Tote reached their final destination at the Kiefer Landfill located in Sacramento County, California at 7:01 a.m. on March 12, 2015- where it still remains today. See, Photo attached hereto at Exhibit 15. See also, Affidavit of Dustin Grate, attached hereto at Exhibit 16.

110. The recyclable No. 2 Plastic container placed in the blue lid WM Residential Single Stream Recycling Tote in Reno, Nevada on March 10, 2015, was not recycled or returned to the economy at all. It was dumped in a landfill in California, where it remains today.

111. Based on the foregoing, WM has expressly breached the FRANCHISE AGREEMENT and misrepresented that it would be actually recycling the recyclable materials collected through the Single Stream Recycling Program, which the Reno City Council relied on in granting WM the FRANCHISE AGREEMENTS, of which Plaintiffs herein are express Third Party Beneficiaries.



1 112. WM intentionally and fraudulently made representations which were misleading  
2 to the CITY, the citizens and business owners of Reno and Plaintiffs and other haulers during  
3 FRANCHISE NEGOTIATIONS and/or WM intentionally suppressed and concealed the true  
4 nature of its recycling programs. Additionally, WM breached the FRANCHISE AGREEMENT.

5 113. WM, in the course of its business, supplied and continues to supply false  
6 information for the guidance of the CITY and others, in their business transactions with the  
7 CITY and the FRANCHISE AGREEMENTS, which the CITY, Council Members and community  
8 supporters justifiably relied upon. As a result, Plaintiffs have suffered direct damages and  
9 losses to their business through the limitation of competition, cost increases, business  
10 interferences, loss of business and other such business damages.

11 114. Based on the foregoing, WM has engaged and committed fraud, fraud in the  
12 inducement and fraudulent misrepresentations against the CITY, the citizens and business  
13 owners of the City of Reno, Plaintiffs and other small haulers.

14 115. As the actual, direct, and proximate result and cause of the acts of WM, RR and  
15 NRS have been damaged in an amount to be proven at trial but which exceeds \$10,000.00. In  
16 addition, the conduct of the Defendants should be punished, and an example made of said  
17 conduct, to discourage Defendants and others in similar positions from engaging in like  
18 conduct in the future, through the award of punitive damages in a just and reasonable amount  
19 for Plaintiffs herein. As a direct and proximate result of the reckless, malicious and oppressive  
20 conduct of Defendants and the reckless disregard for the rights of Plaintiffs herein, Plaintiffs  
21 are entitled to an award of punitive damages in order to deter Defendants from engaging in  
22 such egregious conduct in the future.

23 116. It has been necessary for Plaintiffs to retain the services of legal counsel to  
24 prosecute this action and, as such, Plaintiffs are entitled to recover all costs and expenses  
25 associated herewith, including the reasonable fees of their attorneys.

26 **SEVENTH CLAIM FOR RELIEF**  
27 **(Preliminary and Permanent Injunction, Declaratory Relief)**



1  
2 117. Plaintiffs re-allege each and every allegation contained in paragraphs 1 through  
3 123 of this Complaint, inclusive, and incorporates them herein by reference.

4 118. As a result of WM and its affiliates' continued and ongoing conduct, Plaintiffs  
5 suffer the threat of irreparable harm in that, WM's misrepresentations to prospective  
6 customers of Plaintiffs cause and continue to cause Plaintiffs to lose the business of those  
7 prospective customers. In addition, Plaintiffs continue to suffer irreparable harm to their  
8 business reputation with each misrepresentation made by WM and its agents.

9 119. When weighing the relative interests of the parties; if WM is restricted from  
10 continuing to disparage and misrepresent the lawfulness of Plaintiffs' respective businesses,  
11 WM does not suffer any loss, but is merely required to operate within the confines of the law  
12 and without making fraudulent misrepresentations about Plaintiffs in order to directly damage  
13 their respective businesses. However, if the restraint is denied and WM and its agents are  
14 permitted to engage in its misconduct, Plaintiffs will likely be damaged to the point that their  
15 businesses will be permanently damaged because customers will choose not to use Plaintiffs' as  
16 a direct result of WM's deliberate misrepresentations regarding Plaintiffs' respective  
17 businesses.

18 120. Plaintiffs' have a very high likelihood of success on the merits, as even the City of  
19 Reno has issued a letter stating that the Plaintiffs' are lawfully licensed to do business within  
20 the CITY of Reno, thus, affirming the fraudulent nature of WM and its agents' fraudulent  
21 comments.

22 121. The public has a right to choose which entity or entities it wishes to do business  
23 with. The public's interest in receiving true and accurate information when selecting a hauling  
24 or disposal business is vital to the public's freedom to choose whom it wishes to do business  
25 with.

1           122. Based on the foregoing, Plaintiffs are entitled to a preliminary and permanent  
2 injunction to stop WM's deceitful misconduct that continues to harm Plaintiffs. In addition, the  
3 conduct of the Defendants should be punished, and an example made of said conduct, to  
4 discourage Defendants and others in similar positions from engaging in like conduct in the  
5 future, through the award of punitive damages in a just and reasonable amount for Plaintiffs  
6 herein. As a direct and proximate result of the reckless, malicious and oppressive conduct of  
7 Defendants and the reckless disregard for the rights of Plaintiffs herein, Plaintiffs are entitled to  
8 an award of punitive damages in order to deter Defendants from engaging in such egregious  
9 conduct in the future.

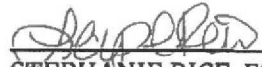
10           123. It has been necessary for Plaintiffs to retain the services of legal counsel to  
11 prosecute this action and, as such, Plaintiffs are entitled to recover all costs and expenses  
12 associated herewith, including the reasonable fees of their attorneys.

13  
14           WHEREFORE, Plaintiffs pray for relief as follows:

- 15           1. That treble damages, general damages and compensatory damages in excess of  
16 \$10,000.00 be awarded and specifically determined according to proof at trial in  
17 favor of NEVADA RECYCLING AND SALVAGE, LTD. and AMBC, LLC dba RUBBISH  
18 RUNNERS, (collectively "Plaintiffs") herein;
- 19           2. For all judgments requested and set forth herein and all other such relief  
20 requested;
- 21           3. For an Order declaring that Defendants have engaged in price fixing amounting  
22 to Unfair Trade Practices in violation of NRS 589A to the direct detriment of  
23 Plaintiffs and for additional damages in favor of Plaintiffs herein;
- 24           4. For immediate, temporary, preliminary and permanent injunction ordering  
25 Defendants to immediately and forever cease engaging in the misconduct set  
26 forth herein;
- 27           5. For an award of punitive damages in favor of Plaintiffs in order to deter  
28 Defendants from engaging in such egregious conduct in the future;
6. That Plaintiffs be awarded their attorney's fees and costs incurred herein in  
accordance with NRS 598A and all other applicable laws;
7. For any and all pre-judgment and post-judgment interest as allowed by law; and,

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8. For such other and further relief as the Court deems just and proper in the premises.

DATED this 7<sup>th</sup> day of June, 2016.

  
STÉPHANIE RICE, ESQ.  
DEL HARDY, ESQ.  
Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of WINTER STREET LAW GROUP,  
3 96 & 98 Winter Street, Reno, Nevada 89503, and that on this date I served the foregoing  
4 document(s) described as **SECOND AMENDED COMPLAINT** on all parties to this action by:

5 \_\_\_\_\_ Placing an original or true copy thereof in a sealed envelope placed for collection  
6 and mailing in the United States Mail, at Reno, Nevada, postage paid, following  
7 ordinary business practices.

8 \_\_\_\_\_ Personal Delivery

9 \_\_\_\_\_ Facsimile (FAX): and/or Email:

10 \_\_\_\_\_ Federal Express or other overnight delivery

11 \_\_\_\_\_ Messenger Service

12 \_\_\_\_\_ Certified Mail with Return Receipt Requested

13 ☒ \_\_\_\_\_ Electronically filed

14 addressed as follows:

15 Mark Simons, Esq.  
16 Scott Hernandez, Esq.  
17 Therese Shanks, Esq.  
18 Robison, Belaustegue, Sharp and Lowe  
19 71 Washington Street  
20 Reno, Nevada 89503

21 Leslie Bryan Hart, Esq.  
22 Fennemore Craig, P.C.  
23 300 E. Second Street, Suite 1510  
24 Reno, Nevada 89501

25 **AFFIRMATION**

26 Pursuant to NRS 239B.030, the undersigned does hereby affirm that the proceeding document  
27 and attached exhibits, if any, do not contain the Social Security Number of any person.

28 DATED this 8th day of June, 2016.

  
EMPLOYEE OF WINTER STREET LAW GROUP

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IN THE SECOND JUDICIAL DISTRICT COURT

NEVADA RECYCLING AND SALVAGE, et al  
V.

RENO DISPOSAL COMPANY, INC. et al

CASE NO. CV15-00497

SECOND AMENDED COMPLAINT

EXHIBIT INDEX

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4	Disposal Agreement Solid Waste and Recyclable Materials between City of Reno and Refuse, Inc.	39
5	Email Correspondence between Cherolyn Gilletti and Stewart Brown	2
6	Waste Management Service Agreement with Les Schwab Tire Center	3
7	Exhibit D Commercial Franchise Agreement Scope of Services	6
8	Exhibit D Commercial Franchise Agreement Scope of Services, Effective April 1, 2014	6
9	Information Regarding the Funding of an Ecocenter by Waste Management	3
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# EXHIBIT “1” Part 1 of 2

EXHIBIT “1” Part 1 of 2

1 CODE: 1090  
2 DEL HARDY, ESQ.(SBN 1172)  
3 STEPHANIE RICE, ESQ. (SBN 11627)  
4 WINTER STREET LAW GROUP  
5 96 & 98 Winter Street  
6 Reno, Nevada 89503  
7 Telephone: (775) 786-5800  
8 Fax: (775) 329-8282

9 *Attorneys for Plaintiffs*

10 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
11 **IN AND FOR THE COUNTY OF WASHOE**

12 NEVADA RECYCLING AND SALVAGE, LTD, a  
13 Nevada Limited Liability Company; and,  
14 AMCB, LLC, a Nevada Limited Liability  
15 Company doing business as RUBBISH  
16 RUNNERS,

17 Plaintiffs,

18 vs.

19 RENO DISPOSAL COMPANY, INC., a Nevada  
20 Corporation doing business as WASTE  
21 MANAGEMENT; REFUSE, INC., a Nevada  
22 Corporation; WASTE MANAGEMENT OF  
23 NEVADA, INC., a Nevada Corporation, ABC  
24 CORPORATIONS, I through X; BLACK AND  
25 WHITE COMPANIES,  
26 I through X; and, JOHN DOES I through X,  
27 inclusive,

28 Defendants.

CASE NO.: CV15-00497

DEPT. NO.: 7

29 **SECOND AMENDED COMPLAINT**

30 Plaintiffs, NEVADA RECYCLING AND SALVAGE, LTD ("NRS") and AMCB, LLC doing  
31 business as RUBBISH RUNNERS ("RR"), by and through its undersigned counsel, alleges and  
32 claims as follows:

1 **PARTIES**

2 1. Plaintiff, NEVADA RECYCLING AND SALVAGE, LTD (hereinafter referred to as  
3 "NRS"), is a limited liability company formed under the laws of the State of Nevada with its  
4 principal place of business in Washoe County, Nevada.

5 2. Plaintiff, AMCB, LLC, is a limited liability company formed under the laws of the  
6 State of Nevada and doing business as RUBBISH RUNNERS (hereinafter referred to as "RR"),  
7 with its principal place of business in Washoe County, Nevada.

8 3. Upon information and belief, Defendant, RENO DISPOSAL COMPANY, INC., is a  
9 corporation formed under the laws of the State of Nevada and believed to be doing business as  
10 WASTE MANAGEMENT, (hereinafter and interchangeably referred to as "WM") with its  
11 principal place of business in Washoe County, Nevada.

12 4. Upon information and belief, Defendant, REFUSE, INC., is a corporation formed  
13 under the laws of the State of Nevada.

14 5. Upon information and belief, Defendant, WASTE MANAGEMENT OF NEVADA,  
15 INC., is a corporation formed under the laws of the State of Nevada.

16 6. Plaintiffs do not know the true names and identities of those defendants herein  
17 referred to by fictitious names but is informed and believes and on that basis alleges that they  
18 are persons or entities who are servants, agents, employees, or representatives of the named  
19 defendants or persons acting in concert with said defendants with reference to the premises  
20 pleaded herein and are liable to the Plaintiff by reason thereof. Plaintiffs specifically pray for  
21 leave to amend this Complaint to allege the true names, identities, and capacities with  
22 appropriate allegations when the same become more fully known to Plaintiffs.

23 **GENERAL ALLEGATIONS**

24 7. Plaintiff, RR, is in the business of providing the services of collection, hauling and  
25 disposal of debris and recyclables for commercial accounts within the CITY OF RENO and other  
26 surrounding areas.



8. Plaintiff, NRS, is a facility that is in the business of accepting, processing, recycling and disposing of materials up to the limit allowable by law and local ordinance.

9. WASTE MANAGEMENT OF NEVADA, INC., is believed to be the parent company and an affiliate of RENO DISPOSAL COMPANY, INC., which is in the business of providing the service of collection, hauling and disposal of garbage, recyclable materials and other materials within the CITY OF RENO and surrounding areas. Plaintiffs are informed and believe and thereon allege that at all times mentioned herein, Defendants, WASTE MANAGEMENT OF NEVADA, INC. and RENO DISPOSAL COMPANY, INC., were the agents and alter egos, of one another and performed the acts described herein in such capacity; and, as such, each of them, are liable for the acts of each other pursuant to Nevada statutes and the doctrines of joint and several and alter ego liability.

10. CASTAWAY TRASH HAULING is an entity that was previously in the business providing collection, hauling and disposal of trash and recycling for commercial and industrial accounts within the CITY OF RENO, as well as surrounding areas.

11. For many years, WASTE MANAGEMENT was granted a franchise to service residential trash collection and disposal within the CITY OF RENO.

12. Upon information and belief, beginning in approximately October 2011, WASTE MANAGEMENT OF NEVADA, INC. and RENO DISPOSAL COMPANY, INC. undertook to lobby the CITY OF RENO to franchise both residential and commercial recycling services within the CITY OF RENO.

13. On May 2, 2012, CASTAWAY TRASH HAULING filed a lawsuit against RENO DISPOSAL COMPANY, INC. (and others) alleging, among other things, that "Since 2009, to present, CASTAWAY and its affiliate 433 LLC have been jointly planning the development and siting in Washoe County, Nevada, of a materials recovery facility capable of recycling solid waste containing comingled food waste and other recyclable materials." See, Exhibit 1, attached hereto at 3:4-7.

1           14. In that lawsuit, CASTAWAY TRASH HAULING requested a preferential trial  
2 setting and sought declaratory relief that, "CASTAWAY is entitled to collect, haul, and recycle  
3 mixed loads of recyclable materials from commercial customers, including food waste,  
4 pursuant to the Waste Management Regulations and the Code ..." and other similar relief. *Id.* at  
5 12:8-21.

6           15. Upon information and belief, between May 2, 2012 (when CASTAWAY TRASH  
7 HAULING sued RENO DISPOSAL COMPANY) and September 2012, Defendants and CASTAWAY  
8 TRASH HAULING held several private meetings together discussing and orchestrating a buy-  
9 out agreement by which, CASTAWAY TRASH HAULING would dismiss its lawsuit against RENO  
10 DISPOSAL COMPANY and assist Defendants in securing a Commercial Franchise Agreement for  
11 recyclables with the CITY OF RENO; and, in return, CASTAWAY TRASH HAULING would be  
12 purchased by Defendants with CASTAWAY TRASH HAULING receiving the sum of  
13 approximately \$17,000,000.00.

14           16. Upon information and belief, in accordance with the agreement reached between  
15 CASTAWAY TRASH HAULING and Defendants, on August 1, 2012, CASTAWAY TRASH HAULING  
16 voluntarily dismissed its lawsuit against WASTE MANAGEMENT without prejudice. See,  
17 Exhibit 2, attached hereto.

18           17. Plaintiffs had absolutely no knowledge of these private meetings or any  
19 knowledge whatsoever about any Defendants purchase agreement with CASTAWAY TRASH  
20 HAULING at any time prior to January 1, 2013.

21           18. To the contrary, counsel for CASTAWAY TRASH HAULING, Dan Reasor, spoke at  
22 Reno City Council meetings on October 10, 2012 and October 24, 2012 making statements in  
23 support of a Commercial Franchise leading people to believe that CASTAWAY TRASH HAULING  
24 had all of a sudden flipped their position, because it was best for the community. See for  
25 example, Reno City Council Meeting on October 24, 2012 at 2:20 where Mr. Reasor states,  
26 "We're asked on the flipside to give up an open commercial market so that the other objectives  
27  
28

1 that the city has before it can be achieved. And Castaway has been willing and is willing to  
2 come to the table and assume those business risks and change the business model. We  
3 understand the other trash haulers don't want to do that. They want to use the model that  
4 Castaway has perfected in going after Waste Management's business. They want to preserve  
5 that right. We are willing to give that up and we think that other people should come to the  
6 table and likewise give it up too."

7 19. Relying in part on the statements and representations made by CASTAWAY and  
8 Defendants before the Council and without disclosing the private Agreement reached between  
9 the two of them, on November 7, 2012, upon approval by the Reno City Council, the CITY OF  
10 RENO (hereinafter referred to as "the CITY") entered into two Exclusive Service Area Franchise  
11 Agreements for Commercial Solid Waste and Recyclable Materials.

12 20. One FRANCHISE AGREEMENT was between the CITY OF RENO (hereinafter  
13 referred to as the "CITY") and Defendant, RENO DISPOSAL COMPANY, INC. (also known as  
14 WASTE MANAGEMENT and WASTE MANAGEMENT OF NEVADA, INC.) (hereinafter and  
15 collectively referred to as "WM"). See, Exhibit 3, attached hereto and incorporated herein by  
16 reference.

17 21. The other FRANCHISE AGREEMENT was between the CITY and CASTAWAY  
18 TRASH HAULING (hereinafter referred to as "CASTAWAY"). However, WM formally announced  
19 its purchase of CASTAWAY in July of 2013, less than nine (9) months after the FRANCHISE  
20 AGREEMENT was signed, leaving the remaining WM FRANCHISE AGREEMENT in effect  
21 (hereinafter referred to as the "FRANCHISE AGREEMENT").

22 22. Upon information and belief, before the ink was even dry on the FRANCHISE  
23 AGREEMENTS, WM and CASTAWAY began telling people and sharing details of their  
24 Purchase Agreement; showing that WM and CASTAWAY knew and conspired to workout an  
25 Agreement to give WM the entire FRANCHISE and thus, a monopoly, even before the  
26 FRANCHISE AGREEMENT was entered into with the CITY of Reno.

23. On November 7, 2012, the CITY also entered into a DISPOSAL AGREEMENT with Defendant, REFUSE, INC. (hereinafter referred to as "REFUSE")). See, Exhibit 4, attached hereto and incorporated herein by reference.

24. Section 3.2(a) of the FRANCHISE AGREEMENT provides, "City hereby grants contractor [WM], and contractor [WM] shall have throughout the term of this agreement, *except as provided in sections 3.2 d and 4.4 L hereof*, the exclusive right, privilege, franchise and obligation within the exclusive service area of contractor to provide collection services to commercial customers." [Emphasis Added].

25. Section 3.2(D) of the FRANCHISE AGREEMENT reads: "Subject to the terms and conditions in this Section 3.2 D, ***the franchised exclusive right and obligation of Contractor hereunder to provide Collection Services shall not include or apply to*** i) Exempted Drop Box Materials collected and transported by Exempted Haulers using Exempted Drop Box Services, or ii) Exempted Hauler Account Materials collected and transported by Exempted Haulers using Exempted Hauler Account Services." [Emphasis Added].

26. Plaintiff, RR is a designated "Exempted Hauler" under the FRANCHISE AGREEMENT. See, Schedule 1, attached to the FRANCHISE AGREEMENT.

27. Section 4.4(L)(1) of the FRANCHISE AGREEMENT reads: "Subject to the Exempted Facility **Material limit** and otherwise as provided in this Section 4.4 L, i) the requirement and obligation of the Contractor to deliver all Collection Materials to a Designated Facility shall not include or apply to Exempted Facility Materials delivered by Contractor to the Exempted Facility and accepted by, processed or recycled at or disposed from the Exempted Facility and ii) this Agreement and the Disposal Agreement shall not limit or preclude the Exempted Facility from accepting, processing, recycling or disposing of any Exempted Facility Materials."

28. Plaintiff, NRS, is defined in the FRANCHISE AGREEMENT as the "Exempted Facility." See, FRANCHISE AGREEMENT at p. 7.

1           29. Section 3.2(A) of the FRANCHISE AGREEMENTS specifies the nature of the  
2 "FRANCHISE AGREEMENT" as follows:

3           "City hereby grants Contractor, and Contractor shall have throughout  
4 the Term of this Agreement, ***except as provided in Sections 3.2 D and***  
5 ***4.4L hereof***, the exclusive right, privilege, franchise and obligation  
6 within the Exclusive Service Area of Contractor to provide Collection  
7 Services to Commercial Customers. No person or entity other than  
8 Contractor and its subcontractors shall i) collect Collection Materials in  
9 Contractor's Exclusive Service Area, ii) transport anywhere in the City  
10 Collection Materials Collected in Contractor's Exclusive Service Area, or  
11 iii) deliver any Collection Materials Collected in Contractor's Exclusive  
12 Service Area to any Disposal, processing, recycling or similar facility,  
13 except as expressly provided under this Agreement. The preceding  
14 sentence is intended to be broadly interpreted to preclude, without  
15 limitation and except as provided in Sections 3.2 D and 4.4 L hereof, any  
16 activity relating to the collection or transportation of Collection  
17 Materials from Commercial Activities that is solicited, arranged,  
18 brokered, or provided by any person or combination of persons in  
19 exchange for the payment, directly or indirectly, of a fee, charge, rebate,  
20 discount, commission, or other consideration, in any form or amount.  
***Notwithstanding any other provision of this Agreement, the***  
***exclusive right of Contractor hereunder shall not apply to Excluded***  
***Materials, Excluded Recyclable Materials, Exempted Drop Box***  
***Materials, Exempted Hauler Account Materials and subject to and as***  
***provided in Section 4.4 L, Exempted Facility Material delivered to***  
***Exempted Facilities. Contractor and other service providers may***  
***collect and transport Excluded Materials, Exempted Drop Box***  
***Materials and Exempted Hauler Account Materials (if Contractor has***  
***been approved for Exempted Hauler Accounts under Schedule 1) in***  
***the Exclusive Service Area and elsewhere in the City and may charge fees***  
***and charges for services as the service provider may elect.*** Contractor  
shall only provide under this Agreement Collection Services to Commercial  
Customers in Contractor's Exclusive Service Area and in no other areas in the  
City; provided, however, Contractor may provide Special Services to  
Commercial Customers or other customers anywhere in the City.

20 [Emphasis Added].

21           30. As set forth in the FRANCHISE AGREEMENT, WM's exclusive rights do not apply  
22 to "Excluded Materials, Excluded Recyclable Materials, Exempted Drop Box Materials,  
23 Exempted Hauler Account Materials and as provided in Section 4.4 L, Exempted Facility  
24 Material delivered to Exempted Facilities." *Id.*

25           31. "Excluded Materials" are defined as:

26           (i) Hazardous Waste; (ii) Medical and Infectious Waste; (iii) volatile,  
27 corrosive, biomedical, infectious, biohazardous, and toxic substances or  
28

1 material, including without limitation batteries;(iv) waste that  
2 Contractor reasonably believes would, as a result of or upon disposal, be  
3 a violation of Federal, State, or local law, regulation or ordinance,  
4 including land use restrictions or conditions;(v) waste that in  
5 Contractor's reasonable opinion would present a significant risk to  
6 human health or the environment, cause a nuisance or otherwise create  
7 or expose Contractor or City to potential liability;(vi) electronic waste  
8 determined by Contractor to be Excluded Materials (including without  
9 limitation television sets, computers and computer components);(vii)  
10 materials collected and processed at rendering facilities;(viii) Special  
11 Waste, (ix) incidental amounts of Self-Haul materials which are delivered  
12 by an individual directly to a transfer station, recycling facility or  
13 Disposal facility in a manner consistent with City ordinances and codes  
14 and other applicable laws;(x) Construction and Demolition Debris;(xi)  
15 materials which otherwise would constitute Collection Materials that  
16 are removed from premises by landscaping, gardening, cleaning service,  
17 appliance sale and service company or construction contractors as an  
18 incidental part of a gardening, landscaping, tree trimming, cleaning,  
19 maintenance, appliance sale or service or construction or similar service  
20 offered by that service provider, using its own personnel and  
21 equipment, rather than as a hauling service;(xii) Scrap Metals;(xiii)  
22 Paper Shredder Materials;(xiv) Bulky Items and items Contractor  
23 determines to be excessively bulky or heavy; and (xv) Source Separated  
24 Recyclable Materials donated by the generator to any United States  
25 revenue Code Section 501(c) 3 or other federally recognized non-profit  
26 organization, including charities, youth groups and civic organizations,  
27 which materials may be transported from the non-profit organization  
28 by Self-Haul or by a third party hauler.

See, FRANCHISE AGREEMENT at p. 5.

32. "Excluded Recyclable Materials" are defined as:

18 "[e]ither or both i) Approved Recyclable Materials from Commercial  
19 Activity that are a) separated by the generator thereof from all other  
20 materials and which contain not less than ninety percent (90%)  
21 Approved Recyclable Materials and b) sold by the generator thereof  
22 directly to a buyer of Recyclable Material at market price, title to  
23 which materials transfers to the buyer upon collection or pickup of  
24 such materials, but excluding such materials collected and transported  
25 as a service, and ii) any other Recyclable Materials that are not  
26 Approved Recyclable Materials."

See, FRANCHISE AGREEMENT at p. 5-6.

33. By explicit definition as set forth above and taken directly from the FRANCHISE  
AGREEMENT, the definition of "Excluded Recyclable Materials" explicitly includes "Approved  
Recyclable Materials" as long as they are from commercial activity, separated from non-



1 approved recyclable materials and contain no less than 90% "Approved Recyclable Materials"  
2 and purchased by a buyer of recyclable materials. *Id.*

3 34. "Exempted Drop Box Materials" are defined as: "Solid Waste and Approved  
4 Recyclable Material collected and transported in an Exempted Drop Box using Exempted  
5 Drop Box Services, but excludes; (i) Garbage; and, (ii) Compacted Solid Waste and  
6 compacted Approved Recyclable Materials." *Id.* at p. 6.

7 35. "Exempted Hauler Account Material" is defined as: "Solid Waste and  
8 Recyclable Material collected from an identified customer under an Exempted Account  
9 and transported by such Exempted Hauler using Exempted Hauler Account Services, but  
10 excluding Garbage." *Id.* at p. 7.

11 36. Despite the above guaranteed rights explicitly granted to Plaintiffs NRS and  
12 RR in the FRANCHISE AGREEMENT, WM has intentionally engaged in an unlawful, fraudulent  
13 scheme to harm and destroy the business of NRS, RR and their lawful enterprises by allowing  
14 and encouraging its agents and employees to make misleading statements to customers and/or  
15 prospective customers of Plaintiffs, including but not limited to the following:

16 "We [WM] are the only hauler that's allowed in Sparks and Reno."

17 "Any other provider that goes in there, there will be fines."

18 "We [WM] have an agreement with the city and we are the only trash hauler  
19 that is allowed in either of those cities [Reno and Sparks]."

20 37. Plaintiffs know and understand that each commercial business located in the  
21 CITY must have trash (food waste) service with WM and Plaintiffs work hard to ensure each  
22 and every one of their respective contractors and customers are in compliance with that  
23 requirement.

24 38. However, in breach of the FRANCHISE AGREEMENTS, WM has refused to service  
25 certain commercial customers who had requested 96-gallon trash service in order to be in  
26 compliance with the FRANCHISE AGREEMENT. One such instance of these occurrences is a

1 customer of Plaintiffs in collaboration with a rental business, who first called Waste  
2 Management on September 30, 2014 to request to downgrade their service to a 96-gallon tote-  
3 which is explicitly in compliance with the FRANCHISE AGREEMENT. This occurred despite the  
4 fact that this customer only deals in recyclable material that is outside of the FRANCHISE  
5 AGREEMENT. At that time, on September 30, 2014, that customer was given a confirmation  
6 number for the order downgrading their service and assured the downgrade would be  
7 effectuated within 1-5 business days. Follow up calls were then made to WM twice in  
8 November and once in December still trying to accomplish the same downgrade as initially  
9 requested on September 30, 2014. As of December 1, 2014, more than 60 days later, WM had  
10 still failed to downgrade the service. On December 3, 2014 follow up emails were sent  
11 demanding that the downgrade be effectuated as requested and confirmed back in September.  
12 However, these follow up inquiries were ignored. Some commercial customers have had these  
13 issues resolved and some have not.

14 39. WM has intentionally misrepresented information to the CITY in an attempt to  
15 damage Plaintiffs respective businesses. As a representative example of numerous documented  
16 occurrences, on October 2, 2014, a customer of Plaintiffs called and spoke with a WM customer  
17 service representative named Cassandra (sp?) and requested 96-gallon tote service one time  
18 per week in order to be in compliance with the FRANCHISE AGREEMENT. During the call, the  
19 customer's agent was provided a confirmation number and told 96-gallon tote would be  
20 delivered within 1-5 business days- which would have meant delivery no later than October 9,  
21 2014.

22 40. On October 16, 2014 and despite the fact that the Customer had already started  
23 service with WM as a result of the Customer's request two weeks earlier on October 2, 2014,  
24 WM employee, John Langelle, provided the CITY a list of customers that WM alleged were in  
25 violation of the FRANCHISE AGREEMENT because they purportedly did not have 96-gallon tote  
26 service. The customer who ordered service on October 2, 2014 was included in that list.



1        41. As a result, the CITY, believing WM's allegations without further investigation,  
2 sent out violation notices and even fined Plaintiffs' Customer (as well as other customers of  
3 Plaintiffs not specifically used in this representative example).

4        42. It was later determined that more than half of the list of customers purportedly  
5 in violation of the FRANCHISE AGREEMENT that WM employee John Langelles provided to the  
6 CITY, was false in that, more than half of those customers included on that list did in fact have  
7 service with WM in compliance with the FRANCHISE AGREEMENT and at the time that WM  
8 provided the list to the CITY.

9        43. WM deliberately and intentionally misrepresented to the CITY that many of  
10 Plaintiffs customers and/or Plaintiff's contractor's customers did not have service with WM as  
11 required by the FRANCHISE AGREEMENT when the customers did in fact have the appropriate  
12 service.

13        44. A different and longtime customer of Plaintiffs, who also has service with WM in  
14 compliance with the FRANCHISE AGREEMENT, was recently approached by WM employee  
15 John Langelles. Despite the fact that this customer was and always has been in clear compliance  
16 with the FRANCHISE AGREEMENT, Mr. Langelles told him that his [Mr. Langelles's] sole job  
17 purpose with WM is to put Plaintiffs out of business.

18        45. During that conversation, Mr. Langelles also made misleading and fraudulent  
19 statements and misrepresentations to the customer regarding the FRANCHISE AGREEMENT.

20        46. On October 30, 2014, WM employee, Cherolyn Gilletti, intentionally  
21 misrepresented the current FRANCHISE AGREEMENT to one of Plaintiffs' customers by writing  
22 in an email the following:

23        " . . . . At this time Waste Management is the assigned hauler for the  
24 city of Reno. Please note the following.

25        **Solid Waste:** Every business generating Solid Waste in the City of Reno is  
26 required to subscribe to Reno Disposal Company for the collection,  
27 transportation and disposal of all of franchised Solid Waste materials  
28 **generated by the business**, except for businesses to which the City of  
Reno has specifically granted in writing an exemption. . . .

1                    **Recyclable Material. No business may allow or retain any service**  
2                    **provider other than Reno Disposal Company to collect, pickup,**  
3                    **transport or deliver Approved Recyclable Materials** in the City of Reno  
4                    in violation of the exclusive franchise agreement or the Reno Municipal  
5                    Code."

6                    [Emphasis Added]. See, Exhibit 5 attached hereto.

7                    47. All three of those statements are factual misrepresentations.

8                    48. The FRANCHISE AGREEMENT also limits WM's ability to continue with individual  
9                    service contracts directly with customers in the CITY stating,

10                    "If Commercial Customers in Contractor's Exclusive Service Area are party  
11                    to a 'Qualified Service Contract' (as defined below) as of the Effective Date,  
12                    Contractor will provide Collection Services to such customers 1) at the  
13                    lesser of a) the Rate for such service provided under this Agreement or b)  
14                    the rate or charge provided in the Qualified Service Contract; provided that  
15                    the rate or charge shall not be less than seventy five percent (75%) of the  
16                    Rate under this Agreement for the same or similar service ("Transition  
17                    Rate") and ii) the length of the term of Collection Services provided at the  
18                    Transition Rate to such Commercial Customers ("Transition Term") shall be  
19                    the longer of a) the initial or base term provided in the Qualified Service  
20                    Contract (without renewal, rollover or other extensions of such term) or b)  
21                    **the period ending January 1, 2015.** For purposes hereof, a 'Qualified  
22                    Service Contract' means a binding service contract with a commercial  
23                    customer for the collection and transportation in the City of Solid Waste or  
24                    Approved Recyclable Materials, or both, dated on or before October 24,  
25                    2012, by any service provider properly licensed to collect and transport  
26                    such materials in the City, excluding Exempted Hauler Accounts."

27                    [Emphasis Added]. FRANCHISE AGREEMENT at p. 22, Sec. 3.13(A).

28                    49. Upon information and belief, and despite the fact that after January 1, 2015, no  
further qualified service contracts are allowed with customers within the CITY under the  
FRANCHISE AGREEMENT, on January 22, 2015, when commercial business, Les Schwab  
(located at 4175 S. Virginia Street in Reno) attempted to down grade their service with WM to a  
96-gallon tote, the WM customer service representative told them that Les Schwab was locked  
into a contract with WM and that if they wanted to cancel or down grade their service with WM,  
Les Schwab would have to pay liquidated damages. See, 2006 Les Schwab Service Contract,  
attached hereto at Exhibit 6. This shows that WM is misleading customers into believing that

1 they are still locked into a contract when, by the very terms of the FRANCHISE AGREEMENT, all  
2 service contracts expired as of January 1, 2015.

3 50. Pursuant to the FRANCHISE AGREEMENT, WM is required to charge Customers  
4 the franchised rates set forth in the "Scope of Services" which is subject to change from time to  
5 time for CPI adjustments. See, Exhibits 7 and 8.

6 51. In direct violation of the FRANCHISE AGREEMENT, WM has and is charging  
7 customers rates other than those explicitly set forth in the FRANCHISE AGREEMENT which  
8 amounts to price fixing and is an attempt to deliberately drive Plaintiffs out of the market.

9 52. The DISPOSAL AGREEMENT additionally provides that REFUSE or its affiliates,  
10 including but not limited to WM, is to begin construction on an Ecocenter (also known as a  
11 "MRF") in the CITY OF RENO by March 7, 2015; however, to date, no such construction has  
12 commenced. See, DISPOSAL AGREEMENT, attached hereto at Exhibit 4, at p. 13, 3.3A.

13 53. Used as a tool to induce the CITY OF RENO to enter into the FRANCHISE  
14 AGREEMENT and subsequently an express condition of the FRANCHISE AGREEMENT, REFUSE  
15 and/or WM and/ or its affiliates have repeatedly represented to the CITY OF RENO and its  
16 citizens that the Ecocenter is to be built at the current Commercial Row Transfer Station in  
17 Reno and that "approximately 200 temporary jobs will be created during the construction  
18 phase." See, Exhibit 9, attached hereto.

19 **FIRST CLAIM FOR RELIEF**  
20 **(Defamation)**

21 54. Plaintiffs re-allege each and every allegation contained in paragraphs 1 through  
22 123 of this Complaint, inclusive, and incorporates them herein by reference.

23 55. As alleged herein, WM has and continues to make certain false and defamatory  
24 statements regarding Plaintiffs and their ability to lawfully engage in their respective  
25 businesses within the CITY.

26 56. The publication of these statements by WM and its agents and/or employees was  
27  
28

1 unprivileged.

2 57. In making these false and defamatory statements WM and its agents and/or  
3 employees acted either intentionally or with reckless disregard as to whether or not the  
4 statements were true.

5 58. As a result of these false and defamatory statements, Plaintiffs have incurred  
6 damages in an amount to be proven at trial but which exceeds \$10,000.00. In addition, the  
7 conduct of the Defendants should be punished, and an example made of said conduct, to  
8 discourage Defendants and others in similar positions from engaging in like conduct in the  
9 future, through the award of punitive damages in a just and reasonable amount for Plaintiffs  
10 herein. As a direct and proximate result of the reckless, malicious and oppressive conduct of  
11 Defendants and the reckless disregard for the rights of Plaintiffs herein, Plaintiffs are entitled to  
12 an award of punitive damages in order to deter Defendants from engaging in such egregious  
13 conduct in the future.

14 59. It has been necessary for Plaintiffs to retain the services of legal counsel to  
15 prosecute this action and, as such, Plaintiffs are entitled to recover all costs and expenses  
16 associated herewith, including the reasonable fees of their attorneys.

17 **SECOND CLAIM FOR RELIEF**  
18 **(Defamation Per Se)**

19 60. Plaintiffs re-allege each and every allegation contained in paragraphs 1 through  
20 123 of this Complaint, inclusive, and incorporates them herein by reference.

21 61. The false and defamatory statements made by WM and its agents and/or  
22 employees both infer and directly misrepresent that Plaintiffs are illegally engaging in their  
23 respective businesses both against the law and in violation of the WM FRANCHISE  
24 AGREEMENT, which is not accurate.

25 62. Despite repeated demands to immediately stop making any and all such false and  
26 defamatory statements, WM and its agents and/or employees continue to deliberately make

1 these statements to Plaintiffs' respective customers and/or prospective customers, causing  
2 direct damage to Plaintiffs in an amount to be proven at trial but which exceeds \$10,000.00.

3 63. WM and its agents and/or employees false statements constitute defamation per  
4 se and Plaintiffs are presumed to have incurred damages as a result of these false statements  
5 about Plaintiffs respective businesses. In addition, the conduct of the Defendants should be  
6 punished, and an example made of said conduct, to discourage Defendants and others in similar  
7 positions from engaging in like conduct in the future, through the award of punitive damages in  
8 a just and reasonable amount for Plaintiffs herein. As a direct and proximate result of the  
9 reckless, malicious and oppressive conduct of Defendants and the reckless disregard for the  
10 rights of PLAINTIFFS HEREIN, Plaintiffs are entitled to an award of punitive damages in order  
11 to deter Defendants from engaging in such egregious conduct in the future.

12 64. It has been necessary for Plaintiffs to retain the services of legal counsel to  
13 prosecute this action and, as such, Plaintiffs are entitled to recover all costs and expenses  
14 associated herewith, including the reasonable fees of their attorneys.

15 **THIRD CLAIM FOR RELIEF**  
16 **(Breach of Contract/Third Party Beneficiary)**

17 65. Plaintiffs re-allege each and every allegation contained in paragraphs 1 through  
18 123 of this Complaint, inclusive, and incorporates them herein by reference.

19 66. Section 3.2(D)(3) of the WM FRANCHISE AGREEMENT explicitly provides that,  
20 *"Each Exempted Hauler shall be a third party beneficiary with the right to enforce*, subject  
21 *to the terms and conditions in this Section 3.2 D, the rights of such Exempted Hauler under*  
22 *this Section 3.2 D."* [Emphasis Added]. Accordingly, Plaintiff RR is an intended third party  
23 beneficiary of the FRANCHISE AGREEMENT.

24 67. Section 4.4(L)(3) of the WM FRANCHISE AGREEMENT explicitly provides that,  
25 *"The exempted facility shall be a third party beneficiary with the right to enforce*, subject to  
26 *the terms and conditions in this section 4.4 L, the rights of the exempted facility under this*

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Electronically Filed  
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Elizabeth A. Brown  
Clerk of Supreme Court

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

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NEVADA RECYCLING AND SALVAGE,  
LTD, a Nevada Limited Liability Company;  
AMCB, LLC, a Nevada Limited Liability  
Company d/b/a RUBBISH RUNNERS,

Appellants,

vs.

RENO DISPOSAL COMPANY, INC, a  
Nevada Corporation doing business as  
WASTE MANAGEMENT; REFUSE, INC.,  
a Nevada Corporation; WASTE  
MANAGEMENT OF NEVADA, INC., a  
Nevada Corporation,

Respondents.

Supreme Court Case No.: 71497

District Court Case No.: CV15-00497

**JOINT DOCKETING STATEMENT<sup>1</sup>**

Appellants, NEVADA RECYCLING AND SALVAGE, LTD (“NRS”) and  
AMCB, LLC doing business as RUBBISH RUNNERS (“RR”), by and through their  
undersigned counsel of record, hereby file this Joint Docketing Statement herein as  
follows:

<sup>1</sup> In accordance with NRAP 14(e), both Appellants herein jointly file this Docketing Statement herein.

1. Judicial District: Second Department: 7  
County: Washoe Judge: Honorable Judge Flanagan  
District Ct. Case No.: CV15-00497

**2. Attorney filing this docketing statement:**

Attorney(s): Stephanie Rice, Del Hardy and Richard Salvatore

Telephone: (775) 786-5800

Firm: Winter Street Law Group

Address: 96 & 98 Winter Street, Reno, Nevada 89503

Client(s): Appellants, Nevada Recycling and Salvage, Ltd. (“NRS”);  
And, AMCB, LLC dba Rubbish Runners (“RR”)

**3. Attorney(s) representing respondents(s):**

Attorney(s): Mark G. Simons and Therese M. Shanks

Telephone: (775) 329-3151

Firm: Robison, Belaustegui, Sharp &amp; Low

Address: 71 Washington Street, Reno, Nevada 89503

Client(s): Respondents, Reno Disposal Company, Inc. dba Waste Management (“RDI”); Refuse, Inc. (“Refuse”); and, Waste Management of Nevada, Inc. (“WMON”)

**4. Nature of disposition below (check all that apply):**

Judgment after bench trial

Dismissal:

Judgment after jury verdict

### Lack of jurisdiction

## X Summary judgment

X Failure to state a claim

\_\_\_\_\_ Default judgment

### Failure to prosecute

Grant/Denial of NRCP 60(b) relief

Other (specify):

Grant/Denial of injunction

Divorce decree:

Grant/Denial of declaratory relief

### Original Modification



\_\_\_\_\_ Review of agency determination      \_\_\_\_\_ Other disposition (specify):

**5. Does this appeal raise issues concerning any of the following?**

No.

\_\_\_\_\_ Child custody

### Venue

\_\_\_\_\_ Termination of parental rights

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None at this time.

7. **Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

Refuse, Inc., v. Nevada Recycling and Salvage, Ltd.- CV16-01817

\*Presently pending before the Honorable Judge Stiglich, Dept. 8, Second Judicial District Court

**8. Nature of the action.** Briefly describe the nature of the action, including a list of the causes of action pleaded, and the result below:

This case arises from the anticompetitive scheme and course of conduct by Reno Disposal Company, Inc., Refuse, Inc. and Waste Management of Nevada, Inc., in conspiring with Castaway Trash Hauling, whereby, among other things, Reno Disposal Company, Inc., Refuse, Inc., Waste Management of Nevada, Inc. and Castaway Trash Hauling colluded to combine and effectuate a secret acquisition as early as February of 2012, the explicit purpose of which was to create a monopoly and unlawfully exclude Nevada Recycling and Salvage, Ltd., AMCB, LLC dba Rubbish Runners, and other



1 competitors from the market.

2 Reno Disposal Company, Inc., Refuse, Inc. and Waste Management of Nevada,  
3 Inc. have utilized this anticompetitive scheme to foreclose competition, to unlawfully  
4 gain a monopolistic competitive advantage, to the detriment of Nevada Recycling and  
5 Salvage, Ltd., AMCB, LLC dba Rubbish Runners and other competitors, all in  
6 violation of Nevada's Unfair Trade Practice Act. ("NUTPA").

7 In carrying out this anticompetitive, conspiratorial scheme to create a monopoly,  
8 Respondents herein, along with Castaway Trash Hauling, used the municipal process  
9 as a conduit to carry out the private agreement between Respondents and Castaway  
10 Trash Hauling to create a monopoly.

11 In doing so, Reno Disposal Company, Inc. and Refuse, Inc. were granted  
12 Franchises (a collection franchise and a disposal franchise, respectively) by the City of  
13 Reno to collect and dispose of solid waste and recyclables within the City of Reno,  
14 with certain exceptions. In exchange for that privilege, Reno Disposal Company, Inc.  
15 and Refuse, Inc. were required to comply with the terms of the Franchise and Disposal  
16 Agreements, which Appellants allege they have failed to do. Instead, Reno Disposal  
17 Company, Inc. and Refuse, Inc. have and continue to intentionally violate the  
18 Franchise Agreements for the express purpose of interfering with Appellants'  
19 respective businesses in order to effectively force Appellants out of the market  
20 altogether.

21 Based on the foregoing, Appellants filed their Verified First Amended  
22 Complaint on March 25, 2015, alleging the following claims: (1) defamation, (2)  
23 defamation per se, (3) breach of contract/third party beneficiary, (4) breach of the  
24 implied covenant of good faith and fair dealing, (5) unfair trade practices/conspiracy to  
25 restrain trade, (6) fraud, fraud in the inducement, fraudulent misrepresentation, and (7)  
26 preliminary and permanent injunction and declaratory relief.

27 On September 15, 2015, the District Court granted Reno Disposal Company and  
28

1 Refuse, Inc.'s Motion to Dismiss, in Part, and Denied in Part, dismissing all of  
2 Appellants claims except the claim for Unfair Trade Practices for conspiracy to create  
3 a monopoly pursuant to NRS 598A.060(1)(e) and (f) as it relates to alleged collusion  
4 with Castaway Trash Hauling.

5 After obtaining leave to file a Second Amended Complaint to add Waste  
6 Management of Nevada, Inc. as a party to this action, Appellants filed their Second  
7 Amended Complaint on June 8, 2016 which, for the first time, added Waste  
8 Management of Nevada, Inc. as a party to the action.

9 As such, Waste Management of Nevada, Inc. appeared for the very first time in  
10 this case on June 15, 2016, after being joined as a party on June 8, 2016. The day after  
11 Waste Management of Nevada, Inc. made it's first appearance in this case, after  
12 Appellants had already filed their respective Oppositions to Reno Disposal Company  
13 and Refuse, Inc.'s Motions for Summary Judgment re: Liability and Damages, which  
14 were filed prior to Waste Management of Nevada, Inc. becoming a party to this action.  
15 Literally the day after its first appearance in this case, Waste Management of Nevada,  
16 Inc. filed Joinders in Reno Disposal Company and Refuse, Inc.'s Motions for  
17 Summary Judgment, which Appellants timely opposed. The District Court held oral  
18 arguments on Reno Disposal Company and Refuse, Inc.'s Motions for Summary  
19 Judgment re: Liability and Damages on August 18, 2016 and subsequently entered its  
20 Order thereon on September 19, 2016.

21 While the District Court never ruled on Waste Management of Nevada's  
22 Joinders in Reno Disposal Company and Refuse, Inc.'s Motions for Summary  
23 Judgment Re: Liability and Damages prior to the oral arguments and written Order  
24 thereon, in response to Respondents' Motion for Final Judgment, on October 25, 2016,  
25 the District Court entered an Order granting judgment in favor of Reno Disposal  
26 Company, Refuse, Inc., and Waste Management of Nevada, Inc.

1       **9. Issues on appeal.** State concisely the principal issue(s) in this appeal  
2       (attach separate sheets as necessary):

3       Appellants herein assert the following issues on appeal:

- 4           • The District Court's improper consideration and treatment of an absence  
5           of evidence;
- 6           • Consideration of inadmissible evidence;
- 7           • Consideration and treatment of conflicting affidavits;
- 8           • Ruling on the weight and credibility of evidence;
- 9           • Failing to consider, rule on or address NRCP 56(f) and other discovery  
10          matters;
- 11          • Application of the improper standard in antitrust suits;
- 12          • Failure to view all facts and inferences in light most favorable to the non-  
13          moving party;
- 14          • Failure to address burden shifting on Summary Judgment;
- 15          • District Court's ruling on questions of fact for the jury;
- 16          • Ignoring/improper consideration and findings regarding pre-petitioning  
17          private conduct;
- 18          • Application of the improper standard for damages as set forth in claims  
19          under NRS 598A.210

20  
21       **10. Pending proceedings in this court raising the same or similar issues.** If  
22       you are aware of any proceeding presently pending before this court  
23       which raises the same or similar issues raised in this appeal, list the case  
24       name and docket number and identify the same or similar issues raised:

25       None, that Appellants are aware of at this time.

26       **11. Constitutional issues.** If this appeal challenges the constitutionality of a  
27       statute, and the state, any state agency, or any officer or employee thereof  
28       is not a party to this appeal, have you notified the clerk of this court and

1 the attorney general in accordance with NRAP 44 and NRS 30.130?  
2   X   N/A

3        Yes

4        No

5 If not, explain: N/A

6  
7 **12. Other issues.** Does this appeal involve any of the following issues?

8        Reversal of well-settled Nevada precedent (on an attachment, identify  
9 the case(s))

10        An issue arising under the United States and/or Nevada Constitutions

11   X   A substantial issue of first impression

12  
13   X   An issue of public policy

14        An issue where en banc consideration is necessary to maintain  
15 uniformity of this court's decisions

16        A ballot question

17 **If so, explain:**

18  
19 An issue of first impression arises with respect to whether private parties who  
20 engage in private conduct and enter into an anticompetitive scheme and private  
21 conspiratorial agreement to create a monopoly and then use the public process to carry  
22 out the private anticompetitive agreement is protected by the *Noerr Pennington*  
23 Doctrine; and,

24 Public policy is implicated in that, if private parties are allowed to use the public  
25 process as a conduit to carry out the private agreement to limit competition and create  
26 a monopoly in order to shield themselves from liability under the guise of the First  
27 Amendment, the outcome of which results in a loss of integrity to the public process

1 and a loop hole by which private parties can essentially do whatever is necessary to  
2 carry out their private anticompetitive scheme and as long as some aspect of such  
3 scheme is carried out by way of First Amendment petitioning activity the parties are  
4 shielded from liability, to the detriment of the public.

5  
6 **13. Assignment to the Court of Appeals or retention in the Supreme**  
7 **Court.** Briefly set forth whether the matter is presumptively retained by  
8 the Supreme Court or assigned to the Court of Appeals under NRAP 17,  
9 and cite the subparagraph(s) of the Rule under which the matter falls. If  
10 appellant believes that the Supreme Court should retain the case despite  
its presumptive assignment to the Court of Appeals, identify the specific  
issue(s) or circumstance(s) that warrant retaining the case, and include an  
explanation of their importance or significance:

11 Appellants herein respectfully believe this matter should be presumptively  
12 retained by the Nevada Supreme Court in accordance with NRAP 17(a)(11),  
13 concerning, "Matters raising as a principal issue a question of statewide public  
14 importance, or an issue upon which there is an inconsistency in the published decisions  
15 of the Court of Appeals or of the Supreme Court or a conflict between published  
16 decisions of the two courts." Due to the fact that this case deals with antitrust liability  
17 as it applies to monopolization of the solid waste and recycling industry in a specific  
18 market, this matter rises to the level of a question of statewide public importance. In  
19 addition, there are very few published state law cases in which address the specific  
20 antitrust issues raised herein.

21 **14. Trial.** If this action proceeded to trial, how many days did the trial last?

22 N/A, this action did not proceed to trial.

23  
24 Was it a bench or jury trial?

25 N/A.

26  
27 **15. Judicial disqualification.** Do you intend to file a motion to disqualify or  
28

1 have a justice recuse him/herself from participation in this appeal? If so,  
2 which Justice?

3 No, the undersigned does not intend to file a motion to disqualify or have a  
4 justice recuse him or herself from participation at this time.

5  
6 **TIMELINESS OF NOTICE OF APPEAL**

7 **16. Date of entry of written judgment or order appeal from:**

8 September 19, 2016.

9  
10 If no written judgment or order was filed in the district court, explain the  
11 basis for seeking appellate review.

12 **17. Date written notice of entry of judgment or order served**

13 September 20, 2016.

14 Was service by:

15 \_\_\_\_\_ Delivery

16   X\*   Mail

17  
18 \*Service was by both ECF, electronic filing system, and Mail

19  
20 **18. If the time for filing the notice of appeal was tolled by a post-**  
21 **judgment motion (NRCP 50(b), 52(b), or 59)**

22 N/A. No tolling Motions pursuant to NRCP 50, 52 or 59 were filed herein.

23 (a) Specify the type of motion, the date and method of service of the  
24 motion, and the date of filing.

25 \_\_\_\_\_ NRCP 50(b) Date served \_\_\_\_\_ Date of filing \_\_\_\_\_

26 \_\_\_\_\_ NRCP 52(b) Date served \_\_\_\_\_ Date of filing \_\_\_\_\_

27 \_\_\_\_\_ NRCP 59 Date served \_\_\_\_\_ Date of filing \_\_\_\_\_

1 **NOTE: Motions made pursuant to NRCP 60 or motions for rehearing**  
2 **or reconsideration may toll the time for filing a notice of appeal. See, AA**  
3 **Primo Builders v. Washington, 126 Nev. \_\_\_\_\_, 245 P.3d 1190 (2010).**

4 (b) Date of entry of written order resolving tolling motion  
5 \_\_\_\_\_.

6 (c) Date written notice of entry of order resolving tolling motion  
7 served \_\_\_\_\_.

8 Was service by:

9 \_\_\_\_\_ Delivery

10 \_\_\_\_\_ Mail

11 **19. Date notice of appeal filed** October 6, 2016  
12 \_\_\_\_\_.

13 If more than one party has appealed from the judgment or order, list the date  
14 each notice of appeal was filed and identify by name the party filing the notice  
15 of appeal:

16 Both Appellants herein, Nevada Recycling and Salvage, Ltd. and AMCB, LLC  
17 dba Rubbish Runners, filed a Joint Notice of Appeal pursuant to NRAP 3(b)(1) on  
18 October 6, 2016.

19 **20. Specify statute or rule governing the time limit for filing the notice of**  
20 **appeal, e.g., NRAP 4(a), or other**

21 NRAP 4(a)(1).

22 **SUBSTANTIVE APPEALABILITY**

23 **21. Specify the statute or other authority granting this court jurisdiction**  
24 **to review the judgment or order appealed from:**

25 (a)

26   X   NRAP 3A(b)(1) \_\_\_\_\_ NRS 38.205  
27  
28



1        \_\_\_\_\_ NRAP 3A(b)(2)        \_\_\_\_\_ NRS 233B.150

2        \_\_\_\_\_ NRAP 3A(b)(3)        \_\_\_\_\_ NRS 703.376

3        \_\_\_\_\_ Other (specify) \_\_\_\_\_

4  
5        **(b) Explain how each authority provides a basis for appeal from the**  
6        **judgment or order:**

7        The instant appeal is an appeal to the Supreme Court by the aggrieved parties  
8        from a final decision/ judgment entered by the Second Judicial District Court in a civil  
9        action/ proceeding commenced in the Second Judicial District Court.

10        **22. List all parties involved in the action or consolidated actions in the**  
11        **district court:**

12        **(a) Parties:**

13        Nevada Recycling and Salvage, Ltd.

14        AMCB, LLC dba Rubbish Runners

15        Reno Disposal Company, Inc. dba Waste Management

16        Refuse, Inc.

17        Waste Management of Nevada, Inc.

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20        **(b) If all parties in the district court are not parties to this appeal, explain**  
21        **in detail why those parties are not involved in this appeal, e.g.,**  
22        **formally dismissed, not served, or other:**

23        N/A. All parties in the District Court are parties to this Appeal.

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1           **23. Give a brief description (3 to 5 words) of each party's separate**  
2           **claims, counterclaims, cross-claims, or third-party claims, and the**  
3           **date of formal disposition of each claim.**

4           Appellants Nevada Recycling and Salvage, Ltd. and AMCB, LLC dba Rubbish  
5           Runners brought claims against Respondents Reno Disposal Company, Inc. dba Waste  
6           Management and Refuse, Inc. for: (1) defamation, (2) defamation per se, (3) breach of  
7           contract/third party beneficiary, (4) breach of the implied covenant of good faith and  
8           fair dealing, (5) unfair trade practices/conspiracy to restrain trade, (6) fraud, fraud in  
9           the inducement, fraudulent misrepresentation, and (7) preliminary and permanent  
10          injunction and declaratory relief- formal disposition of claims (1),(2),(3),(4),(6) and (7)  
11          was entered by an Order granting Reno Disposal Company and Refuse, Inc.'s Motion  
12          to Dismiss entered on September 15, 2015 by the Honorable Judge Flanagan in  
13          Department 7 of the Second Judicial District Court.

14          Appellants Nevada Recycling and Salvage, Ltd. and AMCB, LLC dba Rubbish  
15          Runners brought claims against Respondents Reno Disposal Company, Inc. dba Waste  
16          Management, Refuse, Inc. and Waste Management of Nevada, Inc. for: (5) Unfair  
17          Trade Practices for conspiracy to create a monopoly pursuant to NRS 598A.060(1)(e)  
18          and (f) as it relates to alleged collusion with Castaway Trash Hauling- formal  
19          disposition of which was entered by an Order granting Summary Judgment re:  
20          Liability and Damages entered on September 19, 2016 by the Honorable Judge  
21          Flanagan and confirmed by Order on Respondents' Motion for Final Judgment entered  
22          on October 25, 2016 by the Honorable Judge Flanagan in Department 7 of the Second  
23          Judicial District Court.

24           **24. Did the judgment or order appealed from adjudicate ALL the claims**  
25           **alleged below and the rights and liabilities of ALL the parties to the action**  
26           **or consolidated actions below?**

27              X   Yes  
28                   No

1       **25. If you answered “No” to question 24, complete the following:**

2       N/A

3               (a) Specify the claims remaining pending below:

4               (b) Specify the parties remaining below:

5               (c) Did the district court certify the judgment or order appealed from as a  
6               final judgment pursuant to NRCP 54(b)?

7               \_\_\_\_\_ Yes

8               \_\_\_\_\_ No

9               (d) Did the district court make an express determination, pursuant to  
10              NRCP 54(b), that there is no just reason for delay and an express direction  
11              for the entry of judgment?

12              \_\_\_\_\_ Yes

13              \_\_\_\_\_ No

14       **26. If you answered “No” to any part of question 25, explain the basis for**  
15       **seeking appellate review (e.g., order is independently appealable**  
16       **under NRAP 3A(b)):**

17       N/A.

18       **27. Attach file-stamped copies of the following documents:**

- 19
- 20       • The latest-filed complaint, counterclaims, cross-claims, and third-party
  - 21       claims
  - 22       • Any tolling motion(s) and order(s) resolving tolling motion(s)
  - 23       • Orders of NRCP 41(a) dismissals formally resolving each claim,
  - 24       counterclaims, cross-claims and/or third-party claims asserted in the action or
  - 25       consolidated action below, even if not an issue on appeal
  - 26       • Any other order challenged on appeal
  - 27       • Notices of entry for each attached order

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**VERIFICATION**

**I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.**

Nevada Recycling and Salvage, Ltd.,  
AMCB, LLC dba Rubbush Runners  
**Name of appellant(s)**

Stephanie Rice, Esq., Del Hardy, Esq.,  
Richard Salvatore, Esq.  
**Name of counsel of record**

10/31/2016  
**Date**

  
**Signature of Counsel of Record**

Washoe County, Nevada  
**State and County Where Signed**

**CERTIFICATE OF SERVICE**

I certify that on the 15<sup>th</sup> day of November, 2016, I served a copy of this completed docketing statement upon all counsel of record:

X By personally serving it upon him/her; or

\_\_\_\_\_ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Mark Simons, Esq.  
Therese M. Shanks, Esq.  
Robison, Belaustegui, Sharp and Low  
71 Washington Street  
Reno, Nevada 89503  
Attorneys for Respondents

Debbie A. Leonard, Esq.  
McDonald Carano Wilson, LLP  
100 W. Liberty Street, 10<sup>th</sup> Floor  
Reno, Nevada 89501  
Settlement Judge

Dated this 15<sup>th</sup> day of November, 2016.

  
\_\_\_\_\_  
Signature

## EXHIBIT LIST

NO.	DESCRIPTION	PAGES
1	Second Amended Complaint for District Case No. CV15-00497	
	Part 1 of 2	16
	Part 2 of 2	17

*Due to size constraints for the Supreme Court Eflex Filing System, the Exhibits for the Second Amended Complaint have been omitted.*

**REMAINING EXHIBITS #2 TROUGH #11 FOR THE JOINT DOCKETING STATEMENT  
WILL BE FILED SEPARATELY**