

# IN THE SUPREME COURT OF THE STATE OF NEVADA

## INDICATE FULL CAPTION:

HEAT & FROST INSULATORS AND ALLIED WORKERS  
LOCAL 16;

Appellant,

vs.

LABOR COMMISSIONER OF THE STATE OF NEVADA;  
THE UNIVERSITY OF NEVADA, RENO; CORE  
CONSTRUCTION; and RENO TAHOE CONSTRUCTION,

Respondents.

No. 71848

Electronically Filed  
Jan 26 2017 01:53 p.m.

Elizabeth A. Brown  
Clerk of Supreme Court  
**DOCKETING STATEMENT  
CIVIL APPEALS**

## GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

## WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Second Department 10  
County Washoe Judge Elliot A. Sattler  
District Ct. Case No. CV16-00353

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

Attorney Eric B. Myers Telephone (702) 386-5107  
Firm McCracken, Stemerma & Holsberry, LLP  
Address 1630 S. Commerce Street, Suite A-1  
Las Vegas, Nevada 89102

Client(s) Heat & Frost Insulators and Allied Workers Local 16

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

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

Attorney Bryan L. Wright Telephone (775) 784-3493  
Firm University of Nevada, Reno  
Address 1664 N. Virginia Street, MS 550  
Reno, Nevada 89557-0550

Client(s) University of Nevada, Reno

Attorney Melissa L. Flatley Telephone (775) 684-1100  
Firm Nevada Office of the Attorney General  
Address 100 North Carson Street  
Carson City, Nevada 89701

Client(s) Labor Commissioner of the State of Nevada

(List additional counsel on separate sheet if necessary)

1. Judicial District Second Department 10  
County Washoe Judge Elliot A. Sattler  
District Ct. Case No. CV16-00353

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

Attorney Eric B. Myers Telephone (702) 386-5107  
Firm McCracken, Stemerman & Holsberry, LLP  
Address 1630 S. Commerce Street, Suite A-1  
Las Vegas, Nevada 89102

Client(s) Heat & Frost Insulators and Allied Workers Local 16

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

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

Attorney Eric D. Hone Telephone (702) 550-4400  
Firm DICKINSON WRIGHT PLLC  
Address 8363 West Sunset Road, Suite 200  
Las Vegas, Nevada 89113-2210

Client(s) Counsel for Core Construction

Attorney Michael B. Springer Telephone (775) 853-8746  
Firm Reese Kintz Guinasso  
Address 190 W. Huffaker Ln., Suite 402  
Reno, Nevada 89511

Client(s) Counsel for Reno Tahoe Construction

(List additional counsel on separate sheet if necessary)

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

- |   |   |
|---|---|
| <input type="checkbox"/> Judgment after bench trial         | <input checked="" type="checkbox"/> Dismissal:                          |
| <input type="checkbox"/> Judgment after jury verdict        | <input checked="" type="checkbox"/> Lack of jurisdiction                |
| <input type="checkbox"/> Summary judgment                   | <input type="checkbox"/> Failure to state a claim                       |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute                           |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input type="checkbox"/> Other (specify): _____                         |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:                                |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination     | <input type="checkbox"/> Other disposition (specify): _____             |

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

- ☐ 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.

**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:

None.

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

Appellant filed a petition for judicial review of a final decision by the Nevada Labor Commissioner. The petition was brought pursuant to the Nevada Administrative Procedure Act, NRS 233B.130. The Labor Commissioner moved to dismiss, claiming that an oversight in serving a copy of the petition on the Attorney General created a jurisdictional defect, despite the statute's language permitting the district court to extend the time for such service. The district court dismissed the action pursuant to NRCP 12(b)(1).

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

Appellant Local 16 did not timely serve a copy of the petition for judicial review on the Attorney General, but did serve all other parties including the Labor Commissioner. This was because the requirement to serve the Attorney General was added to NRS 233B.130 in 2015, and the versions of the statute on which Appellant relied (online at [www.leg.state.nv.us/nrs/](http://www.leg.state.nv.us/nrs/) and the printed Legislative Counsel Bureau edition of the Nevada Statutes) did not include the change at the time the petition was filed. The question on appeal is whether the district court erred in finding that Local 16's failure to serve a copy of the petition for judicial review on the Attorney General created a jurisdictional defect that required dismissing the case, where subsection (5) of NRS 233B.130 expressly permits the district court to extend the time for such service.

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

None.

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

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

☒ Reversal of well-settled Nevada precedent (identify the case(s))

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

☐ A substantial issue of first impression

☐ An issue of public policy

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

☐ A ballot question

If so, explain: This appeal is directly contrary to *Civil Service Commission v. Second Judicial Dist. Court*, 118 Nev. 186, 189, 42 P.3d 268,271 (2002) (overruled on other grounds by *Washoe County v. Otto*, 282 P.3d 719, 725 n.9 (2012)). That case held, and it is still good law, that a failure of service of a petition for judicial review on one party does not deprive the district court of jurisdiction over that petition.

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If 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:

This appeal raises a question of statewide public importance and is presumptively retained by the Supreme Court under NRAP 17(a)(14). The question is whether procedural requirements for seeking judicial review of an administrative ruling should be construed as jurisdictional even where the statute expressly permits the district court to modify those requirement for good cause. The opinion below incorrectly declared one such requirement to be jurisdictional, despite good cause for inadvertent noncompliance. This decision unnecessarily restricts Nevadans' ability to hold administrative agencies accountable for arbitrary decisions.

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

Was it a bench or jury trial? \_\_\_\_\_

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?  
No.

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** Nov 3, 2016

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

**17. Date written notice of entry of judgment or order was served** Nov 3, 2016

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59      Date of filing \_\_\_\_\_

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

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

(c) Date written notice of entry of order resolving tolling motion was served \_\_\_\_\_

Was service by:

☐ Delivery

☐ Mail



**19. Date notice of appeal filed** Dec 1, 2016

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

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

NRAP 4(a)

---

**SUBSTANTIVE APPEALABILITY**

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

(a)

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205              |
| <input type="checkbox"/> NRAP 3A(b)(2)            | <input checked="" type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3)            | <input type="checkbox"/> NRS 703.376             |
| <input type="checkbox"/> Other (specify) _____    |  |
- 

(b) Explain how each authority provides a basis for appeal from the judgment or order:  
The district court dismissed Appellant's petition for judicial review. Dismissal is a final judgment. It is therefore appealable under NRAP 3A(b)(1) because it is a final order in an action commenced in the district court. It is also appealable under NRS 233B.150, which gives this Court jurisdiction over final judgments of district courts in actions for review of administrative decisions.

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

(a) Parties:

Heat & Frost Insulators and Allied Workers Local 16; Labor Commissioner of the State of Nevada; The University of Nevada, Reno; Core Construction; Reno-Tahoe Construction

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

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

Heat & Frost Insulators Local 16: petition for judicial review.

Labor Commissioner: made administrative decision under review.

University of Nevada, Reno: made prevailing wage decision affirmed by Labor Commissioner.

Core Construction and Reno-Tahoe Construction: Parties affected by Labor Commissioner decision.

All claims dismissed on November 3, 2016 with dismissal of action by the district court.

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

☒ Yes

☐ No

**25. If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

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

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

## VERIFICATION

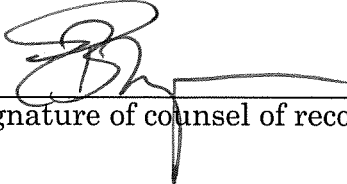
I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Heat & Frost Insulators and Allied  
Workers Local 16  
\_\_\_\_\_  
Name of appellant

January 26, 2017  
\_\_\_\_\_  
Date

San Francisco, California  
\_\_\_\_\_  
State and county where signed

Eric B. Myers  
\_\_\_\_\_  
Name of counsel of record

  
\_\_\_\_\_  
Signature of counsel of record

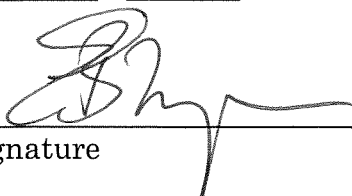
## CERTIFICATE OF SERVICE

I certify that on the 25th day of January, 2017, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ 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.)

See attached for separate proof of service by electronic service.

Dated this 26th day of January, 2017

  
\_\_\_\_\_  
Signature

# **ATTACHMENT 1**

1 **3550**  
2 SARAH VARELA, SBN 12886  
3 MCCracken, Stemerman & Holsberry  
4 1630 S. Commerce St.  
5 Las Vegas, NV 89102  
6 Telephone: (702) 386-5107  
7 Fax: (702) 386-9848  
8 svarela@dcbsf.com

9 *Attorneys for Petitioner*

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

14 HEAT & FROST INSULATORS AND ALLIED  
15 WORKERS LOCAL 16;

16 Petitioner,

17 vs.

18 LABOR COMMISSIONER OF THE STATE OF  
19 NEVADA; THE UNIVERSITY OF NEVADA,  
20 RENO; CORE CONSTRUCTION; and RENO  
21 TAHOE CONSTRUCTION,

22 Respondents.

CASE NO.:

DEPT. NO.:

**PETITION FOR JUDICIAL  
REVIEW**

23 Petitioner Heat and Frost Insulators and Allied Workers Local 16 hereby petitions this Court  
24 for judicial review of the final administrative determination by the Labor Commissioner concerning  
25 the prevailing wage determination by the University of Nevada, Reno, about prevailing wages for  
26 the installation of Gilsulate insulation by Core Construction and Reno Tahoe Construction. The  
27 Labor Commissioner's Order Affirming Awarding Body's Determination, dated February 2, 2016,  
28 is attached to this Petition as **Exhibit 1**. This petition is brought pursuant to the Nevada  
Administrative Procedure Act, NRS 233B.130.

The grounds for judicial review are as follows:

First, the Labor Commissioner's order is arbitrary and capricious and clearly erroneous. It

1 ignores the plain language of the scope-of-work determination for the Mechanical Insulator job  
2 classification, which was issued by the Labor Commissioner. That determination is attached as  
3 **Exhibit 2.**

4 Second, the Labor Commissioner's order is an exercise in illegal underground regulation.  
5 Without engaging in the required administrative procedures, it substantially modifies the  
6 Mechanical Insulator and Laborer job classifications that were previously issued by the Labor  
7 Commissioner.

8 Third, the Labor Commissioner failed to afford Petitioner an evidentiary hearing on its  
9 administrative complaint, despite Petitioner's request for such a hearing, and the Labor  
10 Commissioner's order is procedurally deficient in other ways.

11 Fourth, the Labor Commissioner's order completely failed to address an issue raised by  
12 Petitioner in the administrative proceedings concerning UNR's failure to order the payment of  
13 Insulator rates to workers involved in wrapping pipes with insulation.

14 For these reasons, the Court should vacate the order by the Labor Commissioner, and remand  
15 the matter for proper determination.

16  
17 Dated: February 17, 2016

Respectfully submitted,

18 McCracken, Stemerman & Holsberry

19  
20  
21 By:

  
Sarah Varela, SBN 12886  
1630 S. Commerce Street, Suite A-1  
Las Vegas, Nevada 89102  
Tel: 702-386-5107  
Fax: 702-386-9848

*Attorneys for Petitioner*

[illegible]

Dated: February 17, 2016

By:

*Attorneys for Petitioner*



**EXHIBIT LIST**

- Exhibit 1: Labor Commissioner's Order Affirming  
Awarding Body's Determination  
Dated February 2, 2016 4 pages**
- Exhibit 2: 2014 Prevailing Wage Rates Washoe County  
Determination Date: October 1, 2013 7 pages**

FILED  
Electronically  
2016-02-18 09:18:25 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 5374064 : mcholino

# EXHIBIT 1

4 16 21 PM

BEFORE THE NEVADA STATE LABOR COMMISSIONER  
LAS VEGAS, NEVADA

IN THE MATTER OF:

Case # 28163

HEAT & FROST INSULATORS & ALLIED  
WORKERS LOCAL 16,

Complainants,

v.

CORE CONSTRUCTION and RENO  
TAHOE CONSTRUCTION,

Respondents.

University of Nevada, Reno

West Stadium Utility Trench, UNR  
Project #1211-P238

PWP #WA-2015-014

**FILED**

**FEB 02 2016**

NEVADA  
LABOR COMMISSIONER - CC

ORDER AFFIRMING AWARDING BODY'S DETERMINATION

On August 11, 2015, Heat & Frost Insulators and Allied Workers Local 16 ("Heat & Frost/Local 16") filed a Verified Complaint for Prevailing Wage Violations with the Office of the Labor Commissioner ("OLC") against the Prime Contractor CORE Construction ("CORE") and its subcontractor, Reno-Tahoe Construction ("RTC"), for the University of Nevada Reno ("UNR") West Stadium Utility Trench, UNR Project #1211-P238, PWP #WA-2015-014 ("Project"); the Complaint alleged that work performed under this contract fell primarily within the job description of Mechanical Insulators and that RTC had underpaid its employees by misclassifying them as Laborers and Operating Engineers. The Complaint stated that its claim was supported by the UNR Contract requirement to install Gilsulate and use experienced insulation installers. Heat & Frost supported their Complaint stating they had personally observed the jobsite and noted that the work fell within the Mechanical Insulator Job Classification, which resulted in misclassification of workers and the

1 underpayment of wages to workers performing work on this job. The Complaint further  
2 alleged that RTC failed to specify the job class of its apprentice on its Certified Payroll  
3 Reports ("CPR's"), in accordance with the reporting requirements of Nevada Revised  
4 Statutes (NRS) Section 338 and Nevada Administrative Code (NAC) Section 338. The OLC  
5 notified UNR of the Complaint on September 15, 2015, and requested an investigation  
6 pursuant to NRS 338.070.

7 On November 9, 2015, UNR issued a Determination that there were no violations of  
8 NRS 338.010 to 338.090, inclusive, or NAC 338.005 to 338.125, inclusive. UNR based its  
9 Determination on the following: copies of timesheets; payroll statements; CPR's;  
10 confirmation of the type of insulation used on this project; schedule of Values and Daily Logs  
11 listing specific dates and hours the insulation of Gilsulate was being poured; names of  
12 workers; identification of workers in photos taken during the application of Gilsulate; the  
13 materials and method used to apply the Gilsulate; and meetings with Jim Miller from CORE,  
14 and Fred Reeder from RTC. In addition, a teleconference was held on November 9, 2015,  
15 with Andrew Kahn, Esq., counsel for Heat & Frost/Local 16. Based on the investigation and  
16 evidence reviewed by UNR, UNR determined that the work performed on the Project was  
17 properly performed by the Laborer and Operating Engineer Job Classifications.

18 On November 19, 2015, Heat and Frost/Local 16 filed an Objection to the November  
19 9, 2015, Determination.

20 The Determination issued by UNR on November 9, 2015, is affirmed. The  
21 November 9, 2015 Determination, clearly lays out all of the evidence and information that  
22 was considered by UNR. The nature of the Project required a different method for applying  
23 the Gilsulate that required the work of Operating Engineers and Laborers. Heat &  
24 Frost/ Local 16 was offered an opportunity to present information regarding their position,  
25 and there is no additional information contained in the November 30, 2015, Objection that  
26 would support the modification of the Determination issued by UNR on November 9, 2015.

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THEREFORE, it is ORDERED that:

1. The allegations contained in the Complaint filed by Heat & Frost/Local 16 with the OLC on August 11, 2015, are unsubstantiated.
2. The November 9, 2015 Determination issued by UNR is hereby AFFIRMED pursuant to NAC 338.112.

DATED this 2nd day of February, 2016.



Shannon M. Chambers  
Labor Commissioner

## CERTIFICATE OF MAILING

I, Rosiland M. Hooper, do hereby certify that I mailed a true and correct copy of the foregoing ORDER AFFIRMING AWARDING BODY'S DETERMINATION, via the United States Postal Service, Carson City, Nevada, in a postage-prepaid envelope to the following:

Chris Greaney, Esq.  
Heat & Frost Insulators &  
Allied Workers Local 16  
3801 Park Road  
Benicia, California 94510

Michael B. Springer, Esq.  
LAW OFFICES OF MICHAEL B.  
SPRINGER, P.C.  
9460 Double R Boulevard, Suite 103  
Reno, Nevada 89521  
Attorney for Reno-Tahoe Construction

Denise Baclawski, Senior Director  
University of Nevada, Reno  
Planning & Construction Services  
Facilities Services Department  
1664 No. Virginia Street  
Reno, Nevada 89557

Dean Hitchcock, Director  
University of Nevada, Reno  
Planning & Construction Services  
University of Nevada, Reno/0182  
Reno, Nevada 89557-0182

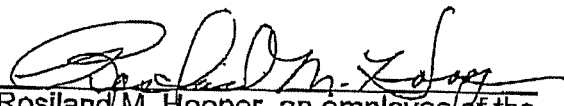
Mary Phelps Dugan, General Counsel  
University of Nevada, Reno  
Sarah H. Fleischmann Bldg., Suite 100C  
1664 No. Virginia Street  
Reno, Nevada 89557

Jim Miller  
CORE Construction  
750 Cascade Valley Court  
Las Vegas, Nevada 89128

Fred Reeder  
Reno-Tahoe Construction  
2050 Kleppe Lane  
Sparks, Nevada 89431

Andrew Kahn, Esq.  
McCRACKEN STEMERMAN BOWEN  
& HOLSBERY  
1630 So. Commerce Street  
Las Vegas, Nevada 89102

Dated this 2nd day of February, 2016.

  
Rosiland M. Hooper, an employee of the  
Nevada State Labor Commissioner

FILED  
Electronically  
2016-02-18 09:18:25 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 5374064 : mcholico

# **EXHIBIT 2**



nevada

Office of the Labor Commissioner



## 2014 PREVAILING WAGE RATES WASHOE COUNTY

DATE OF DETERMINATION: October 1, 2013

APPLICABLE FOR PUBLIC WORKS PROJECTS BID/AWARDED  
OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2014\*

**\*Pursuant to NAC 338.040(3), "After a contract has been awarded, the prevailing rates of wages in effect at the time of the opening of bids remain in effect for the duration of the project."**

As Amendments/Addenda are made to the wage rates, such will be posted to sites of the respective counties. Please review regularly for any amendments posted or contact our offices directly for further assistance with any amendments to the rates.

AIR BALANCE TECHNICIAN  
ALARM INSTALLER  
BOILERMAKER  
BRICKLAYER  
CARPENTER  
CEMENT MASON  
ELECTRICIAN-COMMUNICATION TECH.  
ELECTRICIAN-LINE  
ELECTRICIAN-NEON SIGN  
ELECTRICIAN-WIREMAN  
ELEVATOR CONSTRUCTOR  
FENCE ERECTOR  
FLAGPERSON  
FLOOR COVERER  
GLAZIER  
HIGHWAY STRIPER  
HOD CARRIER-BRICK MASON  
HOD CARRIER-PLASTERER TENDER

2013-2014 Prevailing Wage Rates – Washoe County



IRON WORKER  
LABORER  
MECHANICAL INSULATOR  
MILLWRIGHT  
OPERATING ENGINEER  
OPERATING ENG. STEEL FABRICATOR/ERECTOR  
OPERATING ENGINEER-PILEDRIIVER  
PAINTER  
PILEDRIIVER (NON-EQUIPMENT)  
PLASTERER  
PLUMBER/PIPEFITTER  
REFRIGERATION  
ROOFER (Does not include sheet metal roofs)  
SHEET METAL WORKER  
SPRINKLER FITTER  
SURVEYOR (NON-LICENSED)  
TAPER  
TILE /TERRAZZO WORKER/MARBLE MASON  
TRAFFIC BARRIER ERECTOR  
TRUCK DRIVER  
WELL DRILLER  
LUBRICATION AND SERVICE ENGINEER (MOBILE AND GREASE RACK)  
SOIL TESTER (CERTIFIED)  
SOILS AND MATERIALS TESTER

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**PREVAILING WAGE RATES INCLUDE THE BASE RATE AS WELL AS ALL APPLICABLE FRINGES**

**NRS 338.010(21) "Wages" means:**

- (a) The basic hourly rate of pay; and
- (b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the workman.

NRS 338.035 Discharge of part of obligation of contractor or subcontractor engaged on public work to pay wages by making certain contributions in name of workman. The obligation of a contractor engaged on a public work or a subcontractor engaged on a public work to pay wages in accordance with the determination of the Labor Commissioner may be discharged in part by making contributions to a third person pursuant to a fund, plan or program in the name of the workman.

Plasterer Tender-Journeyman	35.01
Plasterer Tender-Gun Tender	36.01
Plasterer Tender-Foreman	36.37

#### **IRON WORKER**

Ironworker-Journeyman	59.30
Ironworker-Foreman	62.60
Ironworker-General Foreman	66.23

#### **LABORER**

#### **ADD ZONE RATE**

#### **SEE GROUP CLASSIFICATIONS**

Landscaper	26.41
Furniture Mover	27.91
Group 1	31.57
Group 1A	28.70
Group 2	31.67
Group 3	31.82
Group 4	32.07
Group 4A	33.22
Group 5	32.37
Group 6	
Nozzlemen, Rodmen	32.37
Gunmen, Materialmen	32.07
Reboundmen	31.72
Gunite Foremen	32.77

#### **MECHANICAL INSULATOR**

#### **ADD ZONE RATE**

Mechanical Insulator-Mechanic	58.43
Mechanical Insulator-Foreman	61.71
Mechanical Insulator-General Foreman	64.99

#### **MILLWRIGHT**

#### **ADD ZONE RATE**

Millwright	53.26
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#### **OPERATING ENGINEER**

#### **ADD ZONE RATE**

#### **SEE GROUP CLASSIFICATIONS**

Group 1	44.74
Group 1A	47.50
Group 2	48.03

2013-2014 Prevailing Wage Rates – Washoe County

13. Handling, racking, sorting, cutting, bending, hoisting, placing, burning, welding and tying all material used to reinforce concrete construction;

**LABORER**, includes but is not limited to:

Perform tasks involving physical labor at building, highway, and heavy construction projects, tunnel and shaft excavations, and demolition sites. May operate hand and power tools of all types: air hammers, earth tampers, cement mixers, small mechanical hoists, and a variety of other equipment and instruments. May clean and prepare sites, dig trenches, set braces to support the sides of excavations, erect scaffolding, clean up rubble and debris, and remove asbestos, lead, and other hazardous waste materials. May assist other craft workers.

**MARBLE MASON**, includes but is not limited to:

1. Cutting, tooling, and setting marble slabs in floors and walls of buildings and renovating and polishing marble slabs previously set in buildings;
2. Trimming, facing and cutting marble to a specific size using a power saw, cutting and facing equipment, and hand tools
3. Drilling holes in marble slabs and attaching brackets;
4. Spreading mortar on the bottom and sides of a marble slab and on the side of adjacent marble slabs;
5. Setting blocks in positions, tamping a marble slab into place and anchoring bracket attachments with wire;
6. Filling joints between marble slabs with grout and removing excess grout with a sponge;
7. Cleaning and beveling cracks and chips on marble slabs using hand tools and power tools;
8. Heating cracked or chipped areas of a marble slab with a blowtorch and filling the defect with a composition mastic that matches the grain of the marble slab; and
9. Polishing marble slabs and other ornamental stone to a high luster by using hand tools and power tools.

**MECHANICAL INSULATOR**, includes but is not limited to:

1. Covering and lining structures with cork, canvas, tar paper, magnesia and related materials;
2. Installing blown-on insulation on pipe and machinery;
3. Lining of mechanical room surfaces and air handling shafts;
4. Filling and damming of fire stops and penetrations including, but not limited to, electrical and mechanical systems;
5. Foam applications for the purpose of thermal, acoustical, or fire protective purposes, including RTV foams or equivalents, applied to mechanical or electrical systems;
6. Duct lining and duct wrapping, direct application and installation of fire protection of grease ducts, exhaust systems, or any other ductwork for acoustical or thermal purposes;

**2013-2014 Prevailing Wage Rates – Washoe County**

7. Insulation of field joints on pre-insulated underground piping and the pouring of Gilsilite or its equivalent;
8. The application of material, including metal and PVC jacketing, on piping, fittings, valves, flanges, boilers, ducts, plenums, flues, tanks, vats, equipment and any other hot or cold surface for the purpose of thermal control;

**MILLWRIGHT**, includes but is not limited to:

1. Installing machinery and equipment according to layout plans, blueprints and other drawings in industrial establishments by using hoists, lift trucks, hand tools and power tools;
2. Dismantling machines by using hammers, wrenches, crowbars and other hand tools;
3. Assembling and installing equipment, including, without limitation, shafting, conveyors, monorails and tram rails, by using hand tools and power tools;
4. Constructing foundations for machines by using hand tools and building materials, including, without limitation, wood, cement and steel;
5. Assembling machines and bolting, welding, riveting or otherwise fastening them to a foundation or other structure by using hand tools and power tools; and
6. Repairing and lubricating machines and equipment (at the site of the public work) assembled and used by millwrights.

**OPERATING ENGINEER**, includes but is not limited to:

Operate one or several types of power construction equipment, such as motor graders, bulldozers, scrapers, compressors, pumps, derricks, shovels, tractors, or front-end loaders to excavate, move, and grade earth, erect structures, or pour concrete or other hard surface pavement.

**PAINTER**, includes but is not limited to:

1. All painting of walls, equipment, buildings, bridges and other structural surfaces by using brushes, rollers and spray guns;
2. Application of wall coverings/wall paper;
3. Removing old paint to prepare surfaces before painting the surface;
4. Mixing colors or oils to obtain desired color or consistency;
5. Sanding surfaces between coats and polishing final coat to a specified finish;
6. Cutting stencils and brushing and spraying lettering and decorations on surfaces;
7. Washing and treating surfaces with oil, turpentine, mildew remover or other preparations;
8. Filling cracks, holes and joints with caulk, putty, plaster or other filler by using caulking gun or putty knife;

**PILEDRIIVER**, includes but is not limited to:

## **GROUP CLASSIFICATIONS**

**LABORER**, includes but is not limited to:

### **Group 1**

All cleanup work of debris, grounds, and building including windows and tile

Dumpmen or Spotter (other than asphalt)  
Handling and Servicing of Flares, Watchmen  
General Laborer  
Guide Posts and Highway Signs  
Guardrail Erection and Dismantling  
Limber, Brushloader and Piler  
Pavement Marking and Highway Striping  
Traffic Control Supervisor

### **Group 2**

Choker setter or Rigger (clearing work only) Pittsburgh  
Chipper and similar type brush shredders  
Concrete worker (wet or dry) all concrete work not listed in Group 3  
Crusher or Grizzly Tender  
Greasing Dowels  
Guinea Chaser (Stakemen)  
Panel Forms (wood or metal) handling, cleaning and stripping of Loading and unloading,  
(Carrying and handling of all rods and material for use in reinforcing concrete  
Railroad Trackmen (maintenance, repair or builders)  
Sloper  
Semi-Skilled Wrecker (salvaging of building materials other than those listed in Group 3)

### **Group 3**

Asphalt Workers (Ironers, Shovelers, Cutting Machine)  
Buggymobile  
Chainsaw, Faller, Logloader and Bucker  
Compactor (all types)  
Concrete Mixer under 1/2 yard  
Concrete Pan Work (Breadpan type), handling, cleaning\stripping  
Concrete Saw, Chipping, Grinding, Sanding, Vibrator  
Cribbing, Shoring, Lagging, Trench Jacking, Hand-Guided Lagging Hammer  
Curbing or Divider machine  
Curb Setter (precast or cut)  
Ditching Machine (hand-guided)  
Drillers Helper, Chuck Tender  
Form Raiser, Slip Forms  
Grouting of Concrete Walls, Windows and Door Jams  
Headerboardmen  
Jackhammer, Pavement Breaker, Air Spade  
Mastic Worker (wet or dry)  
Pipewrapper, Kettlemen, Potmen, and men applying asphalt, creosote and similar type

**2014-2015 Prevailing Wage Rates – Washoe County**

materials

All Power Tools (air, gas, or electric), Post Driver

Riprap-Stonepaver and RockSlinger, including placing of sack concrete wet or dry

Rototiller

Rigging and Signaling in connection with Laborers' work

Sandblaster, Potmen, Gunmen or Nozzlelemen

Vibra-screed

Skilled Wrecker (removing and salvaging of sash, windows, doors, plumbing and electrical fixtures)

#### Group 4

Burning and Welding in connection with Laborers' work

Joy Drill Model TWM-2A, Gardner Denver Model DN143 and similar type drills (in accordance with Memorandum of Understanding between Laborers and Operating Engineers dated at Miami, Florida, Feb. 3, 1954) and Track Drillers, Diamond Core Drillers, Wagon Drillers, Mechanical Drillers on Multiple Units

High scalers

Concrete pump operator

Heavy Duty Vibrator with Stinger 5" diameter or over

Pipelayer, Caulker and Bander

Pipelayer-waterline, Sewerline, Gasoline, Conduit

Cleaning of Utility Lines

Slip Lining of Utility Lines (including operation of Equipment)

TV Monitoring and Grouting of Utility Lines

Asphalt Rakers

#### Group 4A

Foreman

#### Group 5

Construction Specialists

Blasters and Powdermen, all work of loading, placing, and blasting of all powder and explosives of any type, regardless of method used for such loading and placing

Asbestos removal

Lead abatement

Hazardous waste

Material removal

#### Group 6

Gunite Foremen, Nozzlelemen, Rodmen, Gunmen, Materialmen, Reboundmen

**OPERATING ENGINEER**, includes but is not limited to:

#### Group 1

Engineer Assistant

2014-2015 Prevailing Wage Rates – Washoe County

## **CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of McCracken, Stemerman & Holsberry, and that on the 1st day of January 26, 2017, I served a true copy of **DOCKETING STATEMENT CIVIL APPEALS** on all parties to this action by E-Filing through the E-Flex filing system addressed as follows:

### **By Electronic Service Through E-Flex:**

Bryan L. Wright  
Assistant General Counsel  
University of Nevada, Reno  
1664 N. Virginia Street, MS 550  
Reno, Nevada 89557-0550  
*Counsel for University of Nevada, Reno*

Melissa L. Flatley  
Deputy Attorney General  
Nevada Office of the Attorney General  
100 North Carson Street  
Carson City, Nevada 89701  
*Counsel for Labor Commissioner of the State of Nevada*

Eric D. Hone  
DICKINSON WRIGHT PLLC  
8363 West Sunset Road, Suite 200  
Las Vegas, Nevada 89113-2210  
*Counsel for Core Construction*

Michael B. Springer  
Reese Kintz Guinasso  
190 W. Huffaker Ln., Suite 402  
Reno, Nevada 89511  
*Counsel for Reno Tahoe Construction*

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Eric B. Myers

# **ATTACHMENT 2**



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

\* \* \*

HEAT & FROST INSULATORS and  
ALLIED WORKERS LOCAL 16,

Petitioners,

Case No.: CV16-00353

vs.

Dept. No.: 10

LABOR COMMISSIONER OF THE STATE  
OF NEVADA; THE UNIVERSITY OF NEVADA,  
RENO; CORE CONSTRUCTION; and RENO TAHOE  
CONSTRUCTION,

Respondents.

**ORDER**

Presently before the Court is a MOTION TO DISMISS FOR LACK OF JURISDICTION PURSUANT TO NRCP 12(b)(1) ("the Motion"). The Motion was filed by Respondent LABOR COMMISSIONER OF THE STATE OF NEVADA ("the Commissioner") on April 15, 2016. Respondent UNIVERSITY OF NEVADA, RENO ("UNR") filed UNIVERSITY OF NEVADA, RENO'S JOINDER IN LABOR COMMISSIONER'S MOTION TO DISMISS FOR LACK OF JURISDICTION PURSUANT TO NRCP 12(b)(1) ("UNR's Joinder") on April 19, 2016. Respondent CORE CONSTRUCTION ("Core") filed RESPONDENT CORE CONSTRUCTION'S JOINDER TO RESPONDENT LABOR COMMISSIONER OF THE STATE OF NEVADA'S MOTION TO DISMISS ("Core's Joinder") on April 22, 2016. Petitioner HEAT & FROST INSULATORS AND ALLIED WORKERS LOCAL 16 ("the Petitioner") filed PETITIONER'S OPPOSITION TO MOTION TO DISMISS ("the Opposition") on April 26, 2016. The Commissioner filed the REPLY TO MOTION TO DISMISS FOR LACK OF JURISDICTION

1 PURSUANT TO NRCP 12(b)(1) ("the Reply") on May 6, 2016, and contemporaneously submitted  
2 the matter for the Court's consideration. The Court heard oral argument on the Motion on August  
3 19, 2016. This ORDER follows.

4 The Petitioner filed a PETITION FOR JUDICIAL REVIEW ("the PJR") on February 18,  
5 2016. The PJR seeks review, "of the final administrative determination by the Labor Commissioner  
6 concerning the prevailing wage determination by [UNR] about prevailing wages for the installation  
7 of Gilsulate insulation by [Core] and Reno Tahoe Construction." The PJR 1:21-23.<sup>1</sup> The Motion  
8 argues the Court must dismiss the PJR because the Court lacks jurisdiction over the proceedings due  
9 to a failure to serve the appropriate parties. It is alleged the Petitioner failed to serve the Nevada  
10 Attorney General ("the AG") within the statutory 45 days mandated by NRS 233B.130(5), as  
11 amended by the 2015 session of the Nevada Legislature.<sup>2</sup> The Motion contends the Court has never  
12 been vested with jurisdiction over these proceedings given this procedural defect. The Opposition  
13 does not dispute the AG was not timely served.<sup>3</sup> The Opposition contends The Petitioner was  
14 unaware of its responsibility to serve the AG given the recent passage of AB 53 and its lack of  
15 publication; therefore, the procedural deficiency should be overlooked.<sup>4</sup> The Opposition offers no  
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21 <sup>1</sup> RENO TAHOE CONSTRUCTION ("RTC") is a named Respondent in these proceedings. It has been served with the  
22 PJR. *See generally* AFFIDAVIT OF SERVICE filed March 18, 2016. RTC has failed to take any action regarding the  
23 PJR.

24 <sup>2</sup> AB 53, ch. 160, § 9, 2015 Nev. Stat. 709.

25 <sup>3</sup> The PJR had to be served on the AG by the close of business on April 4, 2016. *See generally* NRCP 6. It was not.  
26 The Petitioner served the AG on April 25, 2016, well after the 45 day period prescribed in NRS 233B.130(5). *See*  
27 AFFIDAVIT OF SERVICE ON OFFICE OF THE ATTORNEY GENERAL, NEVADA filed April 27, 2016. The  
28 Petitioner filed a MOTION FOR EXTENSION OF TIME TO SERVE PETITION ("the Motion for Extension") on  
April 26, 2016. The Commissioner filed its OPPOSITION TO MOTION TO ENLARGE TIME ("the Opposition to  
Extension") on May 13, 2016. The Petitioner did not file a reply brief and the Motion for Extension was never  
submitted to the Court for consideration; therefore, it will not be considered by the Court in deciding the issue raised in  
the Motion. WDCR 12(4).

<sup>4</sup> The amendments to NRS 233B.130 became effective July 1, 2015. AB 53, ch. 160, § 28, 2015 Nev. Stat. 722.

1 authority to support the lack of publication argument. The Court finds the Opposition unpersuasive.  
2 The Motion must be granted.

3 A district court does not have inherent authority to consider petitions for judicial review.  
4 “Generally, ‘[c]ourts have no inherent appellate jurisdiction over official acts of administrative  
5 agencies except where the legislature has made some statutory provisions for judicial review.’ Thus,  
6 ‘[w]hen the legislature creates a specific procedure for review of administrative agency decisions,  
7 such procedure is controlling.’” *Washoe County v. Otto*, 128 Nev. Adv. Op. 40, 282 P.3d 719, 724  
8 (2012) (citing *Crane v. Continental Telephone*, 105 Nev. 399, 401, 775 P.2d 705, 706 (1989)). The  
9 Nevada Legislature (“the Legislature”) enacted the Nevada Administrative Procedures Act (“the  
10 APA”) to guide courts in determining when their appellate jurisdiction may be invoked. The  
11 requirements of the APA are mandatory, and require strict compliance.<sup>5</sup> The parties do not dispute  
12 NRS 233B.130 is the statute that confers jurisdiction in the Court pursuant to the APA.

13 NRS 233B.130(2), as enacted at the time of the filing of the PJR, mandated four conditions  
14 precedent to invoke the Court’s appellate review authority. The PJR was required to:

- 15 (a) Name as respondents the agency and all parties of record to the administrative  
16 proceeding;
  - 17 (b) Be instituted by filing a petition in the district court in and for Carson City, in and for the  
18 county in which the aggrieved parte resides or in and for the county where the agency  
19 proceeding occurred;
  - 20 (c) Be served on the Attorney General, or his designee, and the person serving in the office  
21 of administrative head of the agency; and
  - 22 (d) Be filed within 30 days after service of the final decision of the agency.
- 23  
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26  
27 <sup>5</sup> “[A] court’s requirement for strict or substantial compliance may vary depending on the specific circumstances. In  
28 general, ‘time and manner’ requirements are strictly construed, whereas substantial compliance may be sufficient for  
‘form and content’ requirements.” *Einhorn v. BAC Home Loan Servicing, LP*, 128 Nev. Adv. Op. 61, 290 P.3d 249,  
254 (2012) (citing *Leven v. Frey*, 123 Nev. 399, 407, 168 P.2d 712, 717 (2007)).

1  
2 The Supreme Court of Nevada (“the Supreme Court”) has held failure to strictly comply with  
3 conditions (a), (b), or (d) results in a failure to confer jurisdiction on a district court. These failures  
4 have mandated dismissal of a petition for judicial review. *See generally Otto*, 128 Nev. Adv. Op.  
5 40, 282 P.3d at 726 (failure to strictly comply with NRS 233B.130(2)(a) mandates dismissal of  
6 petition for judicial review); *Liberty Mutual v. Thomasson*, 130 Nev. Adv. Op. 4, 317 P.3d 831  
7 (2014) (failure to strictly comply with NRS 233B.130(2)(b) mandates dismissal of petition for  
8 judicial review); *Bing Construction v. State of Nevada, Department of Taxation*, 107 Nev. 630, 632,  
9 817 P.2d 710, 711 (1991) (finding NRS 233B.130(2)(d) is “jurisdictional in nature and designed to  
10 place limits on the substantive rights of parties to seek review in a civil action commenced before an  
11 agency...”)<sup>6</sup> and *Civil Serv. Comm’n v. Second Judicial Dist. Court*, 118 Nev. 186, 189, 42 P.3d 268,  
12 271 (2002). The *Otto* Court held, “[w]hen a party seeks judicial review of an administrative  
13 decision, strict compliance with the statutory requirements for such review is a precondition to  
14 jurisdiction by the court of judicial review,’ and ‘[n]oncompliance with the requirements is grounds  
15 for dismissal.’” *Otto*, 282 P.3d at 725 (citing *Kame v. Emp’t Sec. Dep’t*, 105 Nev. 22, 25, 769 P.2d  
16 66, 68 (1998)). The *Otto* Court further held the term “must” in NRS 233B.130(2) applies to all  
17 conditions of the statute. *Id.*, 282 P.3d at 725.

18  
19 *Otto* had been the law for approximately 33 months when the Legislature amended NRS  
20 233B.130 to add the requirement the AG must be served. It must be assumed the Legislature knew  
21 of, and agreed with, the Supreme Court’s interpretation of NRS 233B.130 when it added the service  
22 of the AG requirement. *See City of Las Vegas Downtown Redevelopment Agency v. Crockett*, 117  
23 Nev. 816, 825 fn. 15, 34 P.3d 553, 559 fn. 15 (2001) (“[L]egislative inaction following a  
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<sup>6</sup> The Court is using the current statutory rubric in referencing the cases, *supra*.

1 contemporaneous and practical interpretation is evidence that the legislature intends to adopt such an  
2 interpretation.”); *Silvera v. Emp’rs Ins. Co. of Nev.*, 118 Nev. 105, 109, 40 P.3d 429, 432 (2002) (“It  
3 is presumed that the legislature approved of the supreme court’s interpretation of statutory provision  
4 when the legislature has amended the statute but did not change the provision’s language subsequent  
5 to the court’s interpretation.”); *Law Offices of Barry Levinson, P.C. v. Milko*, 124 Nev. 355, 364 fn.  
6 21, 184 P.3d 378, 385 fn. 21 (2008) (“When the Legislature has had ample opportunity to change  
7 statutory law after this court has interpreted that law but does not do so, we presume that the  
8 Legislature approves of our construction.”); *Northern Nev. Ass’n of Injured Workers v. Nev. State*  
9 *Indus. Ins. Sys.*, 107 Nev. 108, 112, 807 P.2d 728, 730 (1991) (holding the Legislature presumably  
10 knows of the Supreme Court’s interpretation of statutes when it amends a law: failure to modify the  
11 statute imparts an approval of the Supreme Court’s interpretation).  
12

13  
14 The Opposition contends the failure to timely serve the AG is merely a “technical  
15 dereliction;” therefore, dismissal is not mandatory. The Court is not persuaded. The Legislature  
16 inserted the requirement at issue into a section of the statute with *mandatory* conditions. Had the  
17 Legislature intended to confer “technical” status on the service of the AG, possibly opening the door  
18 for a substantial compliance analysis, it could have done so by creating a separate subsection of NRS  
19 233B.130. The Legislature did no such thing. The Court must conclude the Legislature acted  
20 intentionally, with full knowledge of the consequences, when it added the service requirement to  
21 NRS 233B.130(2).  
22

23  
24 The Opposition’s two additional arguments are also not persuasive. The Opposition  
25 contends the AG knew of the PJR even though it was not served; therefore, the Commissioner has  
26 suffered no prejudice. Notice of a suit is not a substitute for service of process. *See C.H.A. Venture*  
27 *v. G.C. Wallace Consulting Eng’rs, Inc.*, 106 Nev. 381, 384, 794 P.2d 707, 709 (1990); *Abreu v.*  
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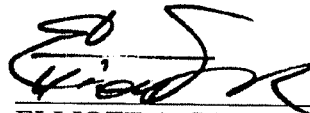
1 *Gilmer*, 115 Nev. 308, 314 fn. 5, 985 P.2d 746, 749 fn. 5 (1999). The Opposition also contends  
2 strong public policy favors resolving cases on their merits. The Supreme Court acknowledged this  
3 sentiment in *Kahn v. Orme*, 108 Nev. 510, 516, 835 P.2d 790, 794 (1992). The *Kahn* Court noted  
4 the policy has its limits, stating “[l]itigants and their counsel may not properly be allowed to  
5 disregard process or procedural rules with impunity.” *Id.* (citing *Lentz v. Boles*, 84 Nev. 197, 200,  
6 438 P.2d 254, 256 (1968)). The Supreme Court recently held the sound public policy of resolving  
7 issues on their merits is not boundless. In *Huckabay Prop., Inc. v. NC Auto Parts, LLC*, 130 Nev.  
8 Adv. Op. 23, 322 P.3d 429, 433 (2014), the Supreme Court acknowledged other interests come into  
9 consideration. These interests include: the court’s ability to manage its docket, the prejudice to the  
10 opposing party, and the public’s need for expeditious judicial process. The *Huckabay* Court  
11 concluded, “... a party cannot rely on the preference for deciding cases on the merits to the exclusion  
12 of all other policy considerations....” *Id.* The Court cannot simply ignore the jurisdictional  
13 requirements established by the Legislature so the Petitioner can have their “day in court.”  
14  
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#### 16 CONCLUSION

17  
18 The Motion notes the dismissal of the PJR is a “harsh” result. The Motion, 2:9. The Court  
19 agrees; however, the Court finds it has no alternative other than to dismiss. NRS 233B.130(2)  
20 creates the framework by which jurisdiction is conferred in a petition for judicial review. A  
21 petitioner *must* comply with all four requirements codified in that statute. The Petitioner did not  
22 serve the AG prior to the filing of the Motion, and it failed to file and submit a timely motion for  
23 extension.  
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1  
2 It is hereby ORDERED the MOTION TO DISMISS FOR LACK OF JURISDICTION  
3 PURSUANT TO NCRP 12(b)(1) is GRANTED. The PETITION FOR JUDICIAL REVIEW is  
4 DISMISSED.  
5

6 DATED this 3 day of November, 2016.  
7

8  
9   
10 ELLIOTT A. SATTLER  
11 District Judge  
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MICHAEL SPRINGER  
9460 DOUBLE R BLVD., SUITE 103  
RENO, NV 89521

11 I hereby certify that I am an employee of the Second Judicial District Court of the State of  
12 Nevada, in and for the County of Washoe; that on the 3 day of November, 2016, I  
13 electronically filed the foregoing with the Clerk of the Court by using the ECF system which will  
14 send a notice of electronic filing to the following:

MELISSA FLATLEY, ESQ.  
SARAH VARELA, ESQ.  
ERIC HONE, ESQ.  
BRYAN WRIGHT, ESQ.

*Sheila Mansfield*  
SHEILA MANSFIELD  
Judicial Assistant



1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of McCracken,  
3 Stemerman & Holsberry, and that on the 1st day of January 26, 2017, I served a true  
4 copy of **DOCKETING STATEMENT CIVIL APPEALS** on all parties to this action  
5 by E-Filing through the E-Flex filing system addressed as follows:


6 **By Electronic Service Through E-Flex:**

7  
8 Bryan L. Wright  
9 Assistant General Counsel  
10 University of Nevada, Reno  
11 1664 N. Virginia Street, MS 550  
12 Reno, Nevada 89557-0550  
*Counsel for University of Nevada, Reno*

13 Melissa L. Flatley  
14 Deputy Attorney General  
15 Nevada Office of the Attorney General  
16 100 North Carson Street  
17 Carson City, Nevada 89701  
*Counsel for Labor Commissioner of the State of Nevada*

18 Eric D. Hone  
19 DICKINSON WRIGHT PLLC  
20 8363 West Sunset Road, Suite 200  
21 Las Vegas, Nevada 89113-2210  
*Counsel for Core Construction*

22 Michael B. Springer  
23 Reese Kintz Guinasso  
24 190 W. Huffaker Ln., Suite 402  
25 Reno, Nevada 89511  
*Counsel for Reno Tahoe Construction*

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28   
Eric B. Myers