IN THE SUPREME COURT OF THE STATE OF NEVADA

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MICHAEL A. TRICARICHI,

Appellant,

v.

COÖPERATIEVE RABOBANK U.A., UTRECHT-AMERICA FINANCE CO. and SEYFARTH SHAW LLP,

Respondents.

Case Number: 73175

District Court Case Number: A-16-735910-B

SEYFARTH SHAW LLP'S ANSWERING BRIEF

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RULE 26.1 DISCLOSURE

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

Respondent Seyfarth Shaw LLP is a limited liability partnership. There is no corporation that owns 10% or more of its stock.

Respondent Seyfarth Shaw LLP was represented in the district court by Morris Law Group and is represented by the same firm on appeal.

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I. ROUTING STATEMENT

Respondent Seyfarth Shaw LLP ("Seyfarth") agrees with appellant Michael Tricarichi that this appeal presents a principal issue of statewide importance that supports the Court's retention of the appeal under NRAP 17(a)(11). That issue is whether *Davis v. Eighth Jud. Dist. Ct.*, 97 Nev. 332, 629 P.2d 1209 (1981) ("*Davis*"), on the facts of this case, confers specific jurisdiction in Nevada over Seyfarth as an alleged conspirator for acts of alleged co-conspirators that entered into tax-avoidance transactions with Tricarichi in Ohio in 2003 that caused him to sustain federal income tax liability in Nevada in 2015. Resolution of this issue implicates recent decisions of this Court and the United States Supreme Court that call into question the viability of the *Davis* analysis on which Tricarichi contends Seyfarth is subject to specific personal jurisdiction in Nevada. Cases decided by this Court and others since *Davis* was decided 35 years ago support Seyfarth's position here and in the district court that out-of-state conduct that injures a Nevada plaintiff, without more, is not sufficient for personal jurisdiction. Rather, the foreign defendant's suit-related conduct must, under due process standards, have a substantial, purposeful connection with the forum state and not merely with the plaintiff. *See, e.g., In re Beatrice B. Davis Family Heritage Tr. v. Dist. Ct.*, 133 Nev. Adv. Op. 26,

394 P.3d 1203, 1208 (2017) ("*Beatrice B. Davis*"); *Bristol-Myers Squibb Co. v. Super. Ct. of Cal.*, 582 U.S. __, 137 S. Ct. 1773 (2017) ("*Bristol-Myers*"); *Walden v. Fiore*, 571 U.S. __, 134 S. Ct. 1115, 1121-23 (2014) ("*Walden*"); *Daimler AG v. Bauman*, 571 U.S. __, 134 S. Ct. 746, 751 (2014) ("*Daimler AG*").

II. STATEMENT OF THE ISSUES

1. Is Seyfarth subject to specific personal jurisdiction based on its alleged participation in an out-of-state conspiracy that injured Tricarichi in Nevada, when Seyfarth's legal opinion letter—of which he was not aware but on which Tricarichi nonetheless bases his claim against the law firm—was rendered to a third party in Ireland for the exclusive use of that party in a transaction unrelated to Nevada or to Tricarichi's tort claims?

2. Did the district court abuse its discretion in denying jurisdictional discovery when the relevant jurisdictional facts are undisputed and do not make a prima facie case to support general or specific jurisdiction over Seyfarth?

III. STATEMENT OF THE CASE

A. Nature of the Case.

Until May 2003, Tricarichi was an Ohio resident and the president and sole shareholder of an Ohio cellular phone business—

Westside Cellular, Inc. ("Westside"). I. App. 0010 (Compl.¶ 27).[1] When Westside, his C corporation, received a $65 million settlement in an Ohio lawsuit that required him to shutdown the corporation, Tricarichi had a "tax problem." I. App. 0062-83 (U.S. Tax Court Memorandum Decision 2015-201 (hereafter "Tax Court Memo") at 3).[2] To avoid federal income taxes at two levels—once at the corporate level and again at the shareholder level—Tricarichi consulted with Ohio lawyers (not Seyfarth lawyers) and accountants to come up with a method to pay less than the 35% corporate tax rate and avoid the two levels of tax. *Id*. The tax-avoidance device that he and his advisors settled on in Ohio in early 2003 is referred to as a "Midco transaction" by which an intermediary would purchase Tricarichi's Westside's stock, merge with the company, and offset Westside's taxable gain from the settlement funds with bogus bad debt deductions that would eliminate Westside's federal corporate tax liability. I. App. 0063 (Tax Court Memo at 2). To avoid Ohio state income tax on his personal gain from sale of his stock, Tricarichi moved to Nevada in May

[1] Citations to "App." are to the Joint Appendix. The Roman numeral that precedes "App." refers to the volume of the Appendix where the page citation(s) can be found.

[2] The Tax Court refers to the corporation as "West Side." I. App. 0064.

2003. I. App. 0005 (Compl. at 4); I. App. 0065 (Tax Court Memo at 4). But the device did not work. The Internal Revenue Service challenged and disallowed Westside's deductions for bad debts as fictional and imposed liability on Tricarichi as the transferee of Westside's cash from settlement. In 2015, the Tax Court affirmed the IRS's position and its imposition of transferee liability on Tricarichi. I. App. 0080 (Tax Court Memo at 19).

Tricarichi contends that the defendants, including Seyfarth—which never dealt with him anywhere, at any time—conspired with third-parties outside Nevada to defraud him, which he alleges caused him to incur damages while residing in Nevada. The sole basis of his claims against Seyfarth, as indicated above, is a tax opinion letter which Seyfarth provided to Millennium Recovery Fund in Ireland for its exclusive use in connection with specific transactions in 2001 unrelated to Tricarichi and/or Westside. I. App. 0089, 0152 (Letter at 1, 64).

IV. STATEMENT OF RELEVANT FACTS

A. Tricarichi's Ohio Business: Westside.

In 1988, appellant Michael Tricarichi incorporated Westside in Cleveland, Ohio. I. App. 0063 (Tax Court Memo at 2); VIII App. 1678, 1681. Tricarichi was Westside's president and sole shareholder. I. App. 0005 (Compl. ¶ 9); I. App. 0063 (Tax Court Memo at 2); VIII. App. 1696.

Westside's principal place of business was Cleveland, Ohio. VIII. App. 1678. Between 1991 and 2003, Westside provided telecommunications services in Ohio, including the resale of cell phone services. I. App. 0063 (Tax Court Memo at 2).

B. Westside obtains a $65 million settlement from litigation in Ohio.

In 1993, Westside retained an Ohio law firm to file a complaint with the Public Utilities Commission of Ohio against certain cellular service providers believed to be engaging in anticompetitive practices against Westside. I. App. 0063. Westside ultimately prevailed on liability and thereafter received a $65 million settlement in April and May 2003. *Id*. As part of the settlement, Westside was required to terminate its business as a retail provider of cell phone service. *Id*.; I. App. 0010 (Compl. ¶¶ 27–28).

C. Tricarichi's "tax problem" from the settlement.

Westside realized approximately $40 million of net income from the settlement, after accounting for attorneys' fees and expenses to wind down its cellular telephone business. I. App. 0010 (Compl. ¶ 28). But because Westside was a C corporation, the settlement amount would be taxable both to Westside and, after distribution, to Tricarichi as its sole

shareholder. I. App. 0011 (Compl. ¶ 29). Westside and Tricarichi now had a "tax problem." I. App. 0064 (Tax Court Memo at 3).

D. Tricarichi pursues tax avoidance.

To avoid double taxation, and to "maximize whatever after-tax proceeds were available," Tricarichi consulted the tax partner of the Ohio law firm that had represented Westside in the settled lawsuit—not Seyfarth. I. App. 0011 (Compl. ¶ 29); I. App. 0064. The "solution" to Westside's tax problem was a so-called "Midco" transaction. I. App. 0063–64 (Tax Court Memo at 2–3). In a nutshell, in a Midco transaction, an intermediary company would purchase Tricarichi's Westside shares, merge its debt collection business into Westside and bring in bad debt that would be charged off against Westside's gain from settlement. *Id.*; I. App. 0011 (Compl. ¶ 31).

Tricarichi executed the Midco transactions while he resided in Ohio, and planned to move from Ohio to a state without income tax to avoid state tax on his gain. I. App. 0063, 0065 (Tax Court Memo at 2, 4); I. App. 0012 (Compl. ¶ 37). In May 2003, Tricarichi purchased a house in Las Vegas, Nevada. I. App. 0005 (Compl. ¶ 9).

E. Seyfarth's Opinion letter to Millennium in Ireland.

Seyfarth Shaw LLP is a "law firm with its principal office in Chicago, Illinois." I. App. 0006 (Compl.¶ 13). Seyfarth does not have, nor is it alleged to have, offices, agents, employees, or real property in Nevada. I. App. 0155–0156 (Affidavit of Lori Roeser ¶¶ 3–9).

On August 21, 2003, one of Seyfarth's former San Francisco partners, Graham Taylor, issued a legal opinion letter to Millennium Recovery Fund, LDC ("Millennium") in Dublin, Ireland. I. App. 0089, 0152 (Letter at 1, 64). The letter does not address, discuss, or even reference the tax transaction involving Westside or the sale of Tricarichi's stock under the Stock Purchase Agreement that was being negotiated between Westside and Nob Hill, Inc., the intermediary shell company that Fortrend International LLC allegedly would use to purchase the stock. The letter does not mention Fortrend, Westside, Tricarichi, or Nob Hill. I. App. 0089-0152. Rather, the letter addresses third-party transactions that apparently took place in March 2001—more than two years earlier. I. App. 0089 (*id*. at 1). Taylor opined to Millennium that, with respect to the 2001 transaction, it would be treated as a partnership for tax purposes. I. App. 0097–0098 (*id*. at 9–10). Seyfarth expressly limited its opinion letter exclusively to Millennium. It could be "relied upon solely by [Millennium] in connection

with the specific transactions described [] and for no other purpose and by no other person without our prior written consent . . . ." I. App. 0152 *(id.* at 64).

F. The IRS audits Westside's tax return and Tricarichi is found personally liable for Westside's tax liabilities.

The IRS audited Westside for 2003 and in 2009 rejected Westside's 2003 tax return and the tax deduction for fictitious bad debt, finding the stock sale to Nob Hill was a "reportable transaction" for federal income tax purposes. I. App. 0028–29 (Compl.¶ 75); I. App. 0062 (Tax Court Memo at 1). The IRS imposed a $15 million tax deficiency on Westside and $6 million in penalties. I. App. 0029 (Compl. ¶ 75). The IRS thereafter pursued Tricarichi individually as the "transferee" of Westside's tax liability for 2003. I. App. 0029 (Compl. ¶¶ 77–78). In an October 14, 2015 opinion, the United States Tax Court found Tricarichi individually liable as a "transferee" for the full amount of Westside's tax liability for 2003 under Ohio's fraudulent transfer statute. I. App. 0029–30 (Compl. ¶ 79); I. App. 0062, 0080 (Tax Court Memo at 1, 19).[3]

[3] The Tax Court reached this conclusion after hearing Tricarichi's testimony by which he, as he did in his statement of the Case, portrayed himself as the victim of false representations (none made by Seyfarth) that the "Midco transaction" would have certain legitimate tax benefits. Appellant's Opening Brief (hereafter "OB") at 4. "Unbeknownst to Mr. Tricarichi, those

G. The Complaint.

On April 29, 2016, Tricarichi filed a complaint against Seyfarth, Graham Taylor, PricewaterhouseCoopers, LLP ("PwC"), Cooperative Rabobank U.A. ("Rabobank"), and Utrecht-America Finance Company ("Utrecht"). I. App. 0001–0039. Tricarichi claimed gross negligence and negligent misrepresentation against PwC, and aiding and abetting fraud, civil conspiracy and racketeering against Seyfarth and the other defendants. *Id*. at 0030–0037.

Tricarichi's relevant allegations against Seyfarth are that the firm "facilitated" Westside's stock transaction with Nob Hill by providing Fortrend with a legal opinion letter "blessing steps" Seyfarth knew were

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representations were false. . . . As a result of Respondents' actions Appellant was forced to defend himself before the IRS and in Tax Court, and was found liable for millions of dollars in back taxes, penalties, and interest." *Id*. at 4–5. The Tax Court, however imposed liability on Tricarichi after finding that he was a knowledgeable, "sophisticated entrepreneur" who entered into a tax avoidance transaction that "made absolutely no sense." I. App. 0075 (Tax Court Memo at 14).

Nothing implicated Seyfarth in this "transaction." *See* I. App. 0081 (Tax Court Memo at 20, n. 9). After listening to Tricarichi's testimony about how he was deceived, which the Court deemed "not credible," *see, e.g., id.* at 3, 5, 6 (evasive), 10 (preposterous contentions), the Court concluded that Tricarichi "had constructive knowledge that Fortrend intended to implement an illegitimate scheme to evade Westside's accrued tax liabilities and leave it without assets to satisfy those liabilities." I. App. 0064, 0066-67, 0071, 0076.

"illegitimate for tax purposes" but failed to disclose to Tricarichi. I. App. 0004 (Compl. ¶¶ 5–6). Seyfarth and Taylor allegedly conspired with Fortrend, Utrecht, and Rabobank to defraud Tricarichi. I. App. 0034. (Compl. ¶ 105). Tricarichi further vaguely alleges Seyfarth and Taylor "knew or should have known—via their participation in this transaction and otherwise—that their [alleged] co-conspirators Fortrend, McNabola and Conn Vu were directing and undertaking the acts alleged herein at Plaintiff and in the Nevada forum" and that "Seyfarth and Taylor's actions caused harm to [him] in Nevada." *Id.* I. App. 0027 (Compl. ¶ 71).

Tricarichi does *not* allege that he or Westside saw, received, or relied on the Seyfarth opinion letter before he agreed to sell his Westside stock to Nob Hill, much less that he did so in Nevada. He does not allege that Seyfarth provided any legal services in connection with the sale to Nob Hill; all of the parties were separately represented by different legal counsel. III. App. 0562–0566; IV App. 0844–0847. He also does not allege that Seyfarth had any contacts with him or with Nevada related to the Millennium opinion letter or to the "Midco transaction" that the IRS and the Tax Court disregarded. It is undisputed that neither Tricarichi nor Westside ever dealt with respondent Seyfarth—whether in Nevada or elsewhere. *See* I. App. 0155–0157 (Roeser Affidavit).

The only contacts Seyfarth has had with Nevada are unrelated to the allegations of his complaint and most post-date the Midco transactions that are the basis of his claims. For example, since October 2015, Seyfarth has employed an attorney who resides in Roseville, California but also maintains a Nevada Bar license. I. App. 0156 (Compl. ¶ 9). A few Seyfarth attorneys were allegedly involved in real estate and retail property transactions in Las Vegas several years ago. V. App. 0936, 0938. Some of Seyfarth's attorneys had professional speaking engagements in Nevada between 2013 and 2015. V. App. 0941–0952. Several of its attorneys have appeared *pro hac vice* in cases pending in the United States District Court of Nevada. V. App. 0954–1099.

Based on these undisputed facts, the district court held that Seyfarth is not subject to personal jurisdiction in Nevada. VIII. App. 1840–1846. For the reasons set out above and below, the Court should affirm the district court's order dismissing Seyfarth from this action.

V. SUMMARY OF ARGUMENT

It has been a principle of due process for more than thirty-five years that an out-of-state defendant cannot be haled into a forum merely because its alleged out-of state conduct caused or contributed to an effect in the forum—even if it was foreseeable that the conduct would have such

effect. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 296 (1980) ("*Volkswagen*"). What would be necessary to establish jurisdiction in this case over Seyfarth, but is absent here, is "suit-related conduct" by this law firm that establishes "a substantial connection with the forum State." The plaintiff's residence in the State is not such a substantial connection. *Walden*, 134 S. Ct. at 1123. "These same principles apply when intentional torts are involved," such as Tricarichi's alleged claim of conspiracy. *Id*. Specific jurisdiction over an "out-of-state intentional tortfeasor" requires "intentional conduct by the defendant that creates the necessary contacts with the forum." *Id*. But such forum-connected intentional conduct is utterly absent here. Seyfarth's "intentional conduct" of providing an opinion to a client in Ireland *after* Tricarichi executed the Midco transaction in Ohio lacks *any* connection to Nevada. The sum total of Seyfarth's "suit-related" conduct in Nevada is zero.

It is irrelevant—even if it were true—that "Seyfarth and Taylor [who wrote the Millennium opinion letter] . . . knew or should have known . . . that their *co-conspirators* . . . were directing and undertaking the acts alleged herein at Plaintiff and in the Nevada forum." I. App. 0027 (Compl. ¶ 72). As this Court and the United States Supreme Court have repeatedly held, a defendant cannot be haled into a forum solely as a result of

unilateral forum-related acts of another party or third parties, such as Seyfarth's alleged co-conspirators. *Walden*, 134 S. Ct. at 1123; *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 475 (1985); *Sharpstown Gen. Hosp. v. Laborers Health and Welfare Tr. Fund*, 110 Nev. 431, 432, 874 P.2d 728, 729 (1994).

It is equally irrelevant that the Millennium opinion letter allegedly became an "integral part" of a conspiracy "directed at the Appellant and Nevada" and "caused harm to Plaintiff in Nevada." I. App. 0027 (¶ 72); OB at 51. The Supreme Court rejected those precise arguments in *Walden*: a defendant's out-of-state actions do "not create sufficient contacts with Nevada simply because he allegedly *directed his conduct at plaintiffs* whom he knew had Nevada connections" or because a plaintiff allegedly "suffered foreseeable harm in Nevada." 134 S. Ct. at 1124–25 and n.8 (rejecting a similar analysis of the Ninth Circuit Court of Appeals and the respondents in *Walden*) (emphasis added). What is missing in Tricarichi's analysis of specific personal jurisdiction is the "meaningful" connection that *Walden* requires between Seyfarth's conduct and Nevada. A legal opinion letter sent to Millennium Recovery Fund in Ireland that by its terms was meant only for that entity with reference to specific transactions in 2001 and does not in *any* way connect Seyfarth to Nevada

would not even satisfy the "conspiracy theory of personal jurisdiction" that Tricarichi urges this Court to adopt. The Millennium letter was not "aimed at" Nevada or Tricarichi, as he repeatedly, but mistakenly, contends in his Opening Brief.

The order of the district court dismissing Seyfarth should be affirmed.

VI. ARGUMENT

A. Standard of review

Dismissal orders for lack of personal jurisdiction are reviewed *de novo* when the facts are undisputed. *Dogra v. Liles*, 129 Nev. Adv. Op. 100, 314 P.3d 952, 955 (2013) (citing *Baker v. Eighth Judicial Dist. Ct.*, 116 Nev. 527, 531, 999 P.2d 1020, 1023 (2000)). Factual findings regarding personal jurisdiction issues are reviewed for clear error. *Dogra*, 129 Nev. ___, 314 P.3d at 955. A district court's decision to deny discovery on jurisdictional facts is reviewed for an abuse of discretion. *Boschetto v. Hansing*, 539 F.3d 1011, 1020 (9th Cir. 2008).

B. Seyfarth is not subject to personal jurisdiction in Nevada.

Tricarichi does not appeal from the district court's ruling that there is no general jurisdiction over Seyfarth, *see* OB at 7 n.3, nor could he credibly do so. Seyfarth is an international, 900-attorney firm that has no

offices in Nevada. The sporadic seminars, pro hac vice appearances, and selected transactional work performed in Nevada by some of the firm's attorneys, OB at 53, are "only a fraction of [its] overall business." These are "not substantial activities that are so continuous and systematic that Nevada can be considered [Seyfarth's] home." *Fulbright & Jaworski LLP v. Dist. Ct.*, 131 Nev. ___, 342 P.3d 997, 1002 (2015) (reviewing similar contacts for an out-of-state law firm).[4]

Thus, Tricarichi must meet the requirements for specific jurisdiction. The inquiry for specific jurisdiction must focus "on the relationship among the defendant, the forum, and the litigation." *Walden*, 134 S. Ct. at 1121 (internal quotation marks and quotations omitted). Specific jurisdiction requires that: (a) the nonresident defendant "purposefully avail" itself "of the "protections of Nevada's laws" or "purposefully direct" its "conduct towards Nevada"; (b) "the plaintiff's claim [must] actually arise[s] from that purposeful conduct"; and (c) the exercise of personal jurisdiction over the out-of-state defendant must be reasonable. *Dogra*, 129 Nev. ___, 314 P.3d at 955; *accord Catholic Diocese of Green Bay, Inc. v. Doe*, 131 Nev. Adv. Op. 29, 349 P.3d 518, 520 (2015)

[4] Tricarichi concedes this point: "Appellant is not appealing the [district court's] ruling as to general jurisdiction." OB at 7 n. 3.

(paraphrasing the same three factors, citing *Arbella Mut. Ins. Co. v. Dist. Ct.*, 122 Nev. 509, 512-13, 134 P.3d 710, 712-13 (2006)). As explained above and below, Tricarichi meets none of these requirements.

1. Seyfarth did not purposefully direct its conduct to Nevada.

"Purposeful direction" to support specific jurisdiction requires a plaintiff to show that "the defendant's suit-related conduct . . . create[s] a *substantial connection* with the forum State." *Walden*, 134 S. Ct. at 1121 (emphasis added). This substantial connection has two related aspects that are relevant to this case. *Id*. at 1121–22. *First*, the connection between the defendant and the forum state cannot be based on the *plaintiff's* contacts with the forum state but must arise out of contacts that the "defendant *himself*" created with the forum state. *Id*. at 1122 (emphasis added). Thus, the mere fact that Tricarichi resides in Nevada and may have been subject to transferee liability while residing here does not confer jurisdiction over Seyfarth. *Second*, the contacts created by the defendant must be "with the forum State itself"—not the state's *residents*. *Id*. "These same principles apply when intentional torts are involved," *id*. at 1123, such as Tricarichi's civil conspiracy claim. Seyfarth's contact with Millennium in Ireland does

not "create a substantial connection with [Nevada,] the forum state." *Id*. at 1121.

Walden is not only instructive and on point, it is dispositive. There, the plaintiffs sued Anthony Walden, a Georgia police officer, in the United States District Court of Nevada for allegedly seizing $97,000 in cash from them at the Atlanta airport in Georgia. *Id*. at 1119–20. The plaintiffs contended that personal jurisdiction over Walden was proper because they suffered injury in Nevada from the delay in recovering the seized money and from Walden's alleged false probable-cause affidavit to support a potential forfeiture action by the government that was abandoned. *Id*. at 1120, 1125. The Supreme Court rejected those arguments because it was "undisputed that no part of [the defendant's] course of conduct occurred in Nevada." *Id.* at 1124. Walden allegedly searched the plaintiffs and seized cash from them in Georgia. He also allegedly "helped draft a 'false probable cause affidavit' in Georgia and forwarded that affidavit to the United States Attorney's Office in Georgia . . . ." *Id*. Walden, however, "never traveled to, conducted activities within, contacted anyone in, or sent anything or anyone to Nevada." *Id*. Therefore, "the mere fact that his conduct affected plaintiffs with connections to [Nevada did] not suffice to authorize jurisdiction." *Id*. at 1126.

Here, as in *Walden*, no part of Seyfarth's alleged conduct—no suit-related conduct—occurred in or was directed at Nevada. Seyfarth wrote an opinion letter for a third party—Millennium—and sent it overseas to an individual in Dublin, Ireland. I. App. 0089. Seyfarth did not have any dealings with Tricarichi anywhere at anytime.

The opinion letter does not mention Tricarichi, nor was it meant for or sent to him: only Millennium could rely on it. I. App. 0152 (Letter at 64); App. 0081 (Tax Court Memo at 20, n.9). Seyfarth did not reach out to Nevada to solicit this legal work from Tricarichi or anyone else. As this Court recently pointed out, "a lack of solicitation on the out-of-state law firm's part is highly relevant to the inquiry of whether the firm purposefully availed itself of the privileges of acting in Nevada." *Fulbright*, 131 Nev. ___, 342 P.3d at 1004.[5]

[5] Tricarichi attempts to escape the reach of *Walden, Viega*, and other like cases by contending that in *Walden*, the plaintiffs were merely "incidentally" detained in Georgia on their way to Nevada. But in each of the cases he relies on to give that observation meaning, OB 37–39, the defendant, unlike Seyfarth here, had "his own affiliation with the State," not just "random, fortuitous, or attenuated contacts . . . by interacting with other person affiliated with the State." *Walden*, 134 S. Ct. at 1123. So in *Exobox Tech. Corp. v. Tsambis*, the court found the defendant had "expressly aimed his conduct into Nevada." 2015 WL 82886 at *4 (D. Nev. Jan. 6, 2015). In *Rilley v. MoneyMutual, LLC,* the court acknowledged that personal jurisdiction could arise out of "commercial contacts with businesses or

Tricarichi's residence in Nevada and claim to have suffered injuries here from respondents' alleged conspiracy elsewhere do not create personal jurisdiction over Seyfarth, nor does the allegation that Seyfarth should have known that its alleged "co-conspirators . . . were directing and undertaking [wrongful] acts [] at Plaintiff and in the Nevada forum." I. App. 0027 (Compl. ¶ 71). These types of allegations of passive conduct were considered and rejected in *Walden* as jurisdictionally irrelevant. As this Court has held, "[s]pecific personal jurisdiction arises when the defendant purposefully enters the forum's market or establishes contacts in the forum *and affirmatively directs conduct there*, and the claims arise from that purposeful contact or conduct." *Viega GmbH v. Eighth Jud. Dist. Ct.*, 130 Nev. Adv. Op. 40, 328 P.2d 1152, 1157 (2014) (emphasis added).

a. Tricarichi's alleged injuries in Nevada and Seyfarth's alleged knowledge of them are not sufficient to create jurisdiction.

A jurisdictional approach that focuses on an out-of-state defendant's knowledge of a plaintiff's residence in the forum combined

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residents . . . *inside* the forum." 884 N.W.2d 321, 329 (Minn. 2016) (emphasis added). So too in *Leibman v. Prupes*, 2015 WL 898454 (C.D. Cal. 2015) and *Cook v. McQuate*, 2016 WL 5793999 at *6 (W.D. Va. 2016): the defendants had direct contact with the plaintiffs in the forum state. In this case, Seyfarth had no contact—direct or indirect—with Tricarichi.

with foreseeable injuries suffered there "impermissibly allows a *plaintiff's* contacts with the . . . forum to drive the jurisdictional analysis." *Walden*, 134 S. Ct. at 1125 (emphasis added). "[M]ere injury to a forum resident is not a sufficient connection to the forum." *Id*.

Thus, even assuming Seyfarth knew that the opinion letter written to Millennium in Ireland might somehow reach Nevada, which is not even alleged, "the mere foreseeability of causing injury in another state 'is not a sufficient benchmark' for exercising personal jurisdiction." *Trierweiler v. Croxton & Trench Holding Corp*., 90 F.3d 1523, 1534 (10th Cir. 1996) (additional internal quotation marks omitted)(quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 473 (1985)); *accord Rockwood Select Asset Fund XI v. Devine, Millimet & Branch*, 750 F.3d 1178, 1179 (10th Cir. 2014) (personal jurisdiction over New Hampshire law firm in Utah could not be based on the plaintiff's own strong connections to Utah or the law firm's knowledge that its opinion letter would be sent to Utah) (relying on *Walden*).[6]

[6] Although not binding on this Court, the *Trierweiler* and *Rockwood* opinions are instructive, because, like here, both involved lawsuits alleging injuries from opinion letters prepared by out-of-state law firms. In *Fulbright & Jaworski*—also a personal jurisdiction case involving an out-of-state law firm—the Court likewise looked to an opinion of the Tenth Circuit Court of

Appellant's allegations that Seyfarth "knew or should have known" that *others—i.e.*, its alleged "co-conspirators"—were directing and undertaking acts at Plaintiff in Nevada, and that Seyfarth's actions "caused harm to Plaintiff in Nevada," I. App. 0027 (¶ 72), are therefore of no jurisdictional consequence. As this Court recently confirmed, the foreseeability relevant to due process is " 'that the *defendant's conduct* and *connection with* the forum State are such that he should reasonably anticipate being haled into court there.' " *Catholic Diocese*, 131 Nev. at ___, 349 P.3d at 521 (quoting *Volkswagen*, 444 U.S. at 297) (emphasis added). Seyfarth's preparation of an opinion letter in California for Millennium in Ireland was not related to Nevada such that Seyfarth could have anticipated being sued in Nevada, particularly when the letter stated that only Millennium could rely on it in connection with specific transactions that did not involve Tricarichi and played no part in Tricarichi's consideration of his transaction. I. App. 0089–94; 0152 (Letter at 1–6, 64).

Appeals for guidance. 131 Nev. at ___, 342 P.3d at 1003-04 (relying on and discussing *Newsome v. Gallacher*, 722 F.3d 1257, 1279-81 (10th Cir. 2013)).

b. Seyfarth's alleged intentional torts have no meaningful connection with Nevada.

The jurisdictional analysis does not change because Tricarichi has alleged intentional torts, such as aiding and abetting, fraud, and civil conspiracy: "The same principles apply when intentional torts are involved." *Walden*, 134 S. Ct. at 1123. This means that a "forum State's exercise of jurisdiction over an out-of-state intentional tortfeasor must be based on intentional conduct by the defendant that creates the necessary contacts with the forum." *Id*. Tricarichi's argument that *Walden* did not involve a civil conspiracy claim, OB 46, is of no jurisdictional consequence: The Supreme Court's "intentional torts" holding is inclusive; it does not make an exception for civil conspiracy claims.

In coming to this conclusion, the *Walden* Court compared the facts before it with the facts in *Calder v. Jones*, 465 U.S. 783 (1984), a defamation case. The connection with California in *Calder* was not merely that the *plaintiff* resided in California and suffered injuries from the alleged defamation there; the key point of *Calder* "was that the reputation-based 'effects' of the alleged libel connected the *defendants* to *California*." *Walden*, 134 S. Ct. at 1123-24 (emphasis added). "California [wa]s the focal point both of the story and the harm suffered." *Id*. at 1123.

There are no analogous allegations or facts supporting intentional conduct by Seyfarth that make Nevada the focal point of Seyfarth's opinion letter to Millennium in Ireland. Here, as in *Viega GmbH* and *Walden*, all the alleged tortious conduct occurred elsewhere: Seyfarth's attorney did not write the legal opinion in Nevada or for a Nevada resident. The opinion letter does not mention or target Nevada, its laws, or Tricarichi. It was not distributed to anyone in Nevada, did not discuss the legal consequences of the opinion in Nevada, and expressly limited reliance on it to Millenium—and only with respect to the separate 2001 transactions with an entirely unrelated party. Under *Walden*, the conclusory allegation that Seyfarth conspired with other defendants and third parties elsewhere to harm plaintiff in Nevada is therefore jurisdictionally meaningless.

c. *Davis* is not controlling and cannot be reconciled with *Walden*, which does not allow specific jurisdiction over Seyfarth.

Appellant's reliance on *Davis v. Eighth Judicial Dist. Ct.*, 97 Nev. 332, 629 P.2d 1209 (1981) is misplaced for several reasons. There, the co-administrators for the estate of Howard Hughes and three of his Nevada businesses—Summa Corporation, Hughes Air Corporation, and Hughes Properties—sued a group of out-of-state "aides, physicians, attorneys, and

business executives *who had attended* the late Hughes during the last years of his life" *in Nevada*. *Id*. at 334, 629 P.2d at 1211 (emphasis added). The Hughes plaintiffs alleged that these non-resident defendants conspired "to seize control of the Hughes' empire for their own financial gain by taking advantage of the trust and confidence Hughes had placed in them." *Id*. They allegedly "had conspired out of the state of Nevada to cause injury to [plaintiffs'] *property located in Nevada*." *Id*. at 338, 629 P.2d at 1213 (emphasis added). The Court ruled on these facts that jurisdiction over the defendants was proper and reasonable in Nevada, where the effects of their alleged conspiracy were *intended* to be felt and the alleged injury to property occurred. *Id*. at 338, 629 P.2d at 1213.

Although the facts in *Davis* are spare, two key facts were present there that are absent here. *First*, the out-of-state defendants' alleged conduct connected them with Nevada: they were aides, doctors, attorneys, and business executives who personally "attended" Howard Hughes and his Nevada businesses. *Second*, the alleged conspiracy itself was connected with Nevada: the defendants were allegedly out to "seize control of the Hughes empire for their own financial gain. . . ." 97 Nev. at 334, 629 P.2d at 1211. In other words, both the acts and the alleged

conspiracy were aimed at and connected with Nevada where Hughes' property and business interests were located.

No similar facts or allegations appear in Tricarichi's complaint, and he does not address these distinctions. OB 51 n.6. Seyfarth never represented or even dealt with Tricarichi. Its opinion letter has no connection with Nevada. Moreover, the alleged conspiracy to defraud Tricarichi has no ties to Nevada: "at the time the Midco transactions were executed, petitioner [Tricarichi] resided in Ohio." I. App. 0063 (Tax Court Memo at 2). No allegations are made that Seyfarth conspired with others to deprive Tricarichi of his property in Nevada, as was the case in *Davis.*

Further, although *Davis* involved an alleged conspiracy, the Court's opinion did not discuss the conspiracy or rely on the attribution of contacts as the basis for finding jurisdiction. Rather, Tricarichi assumes the Court relied on the location of the plaintiff's injury, an approach that *Walden* has since overruled. Tricarichi quotes the very language from *Davis* that *Walden* discredits under due process as a basis for personal jurisdiction over Seyfarth. OB at 42. *Compare* this passage from *Davis,* 97 Nev. at 338–39, 629 P.2d at 1213:

> A state has power to exercise judicial jurisdiction over an individual who causes effects in the state by an omission or act done elsewhere with respect to

> causes of action arising from these effects. . . . We conclude that it is reasonable and constitutionally permissible to require the respondent-defendants to appear and defend their activities in Nevada where the alleged injuries occurred.
>
> *with* this language from *Walden*, 134 S. Ct. at 1125:
>
> mere injury to a forum resident is not a sufficient connection to the forum. Regardless of where a plaintiff lives or works, an injury is jurisdictionally relevant only insofar as it shows that the defendant has formed a contact with the forum State. **The proper question is not where the plaintiff experienced a particular injury or effect but whether the defendant's conduct connects him to the forum in a meaningful way**.

(emphasis added).

This holding in *Walden* is mirrored in recent decisions of this Court.

For example, the Court held in *Dogra* that purposeful direction requires "purposeful conduct toward *Nevada*." 314 P.3d at 955–56 (emphasis added). Similarly, in *Catholic Diocese of Green Bay, Inc.*, the Court emphasized that personal jurisdiction must be based on "the *defendant's conduct* and connection with the forum State . . . ." 349 P.3d at 521 (internal quotation marks and quotations omitted) (emphasis added). These controlling principles may not be disregarded because the plaintiff has alleged an intentional tort because: "a forum State's exercise of jurisdiction over an out-of-state intentional tortfeasor must be based on intentional

conduct by the defendant that creates the necessary contacts with the forum." *Walden*, 134 S. Ct. at 1123 (requiring a connection between the intentional conduct and the forum *other* than the plaintiff and his injuries).

Even assuming *Davis* held thirty-five years ago that an out-of-state defendant can be haled in to court in Nevada for an alleged out-of-state conspiracy aimed at a Nevada resident, such a holding could not be reconciled with *Walden* or this Court's more recent cases, as the district court found. VIII. App. 1844-45 (Order at 5-6).

d. The conspiracy theory of personal jurisdiction does not apply in Nevada in any event and should be rejected by this Court as inconsistent with due process.

"The conspiracy theory of personal jurisdiction is based on the premise that a conspirator's acts in furtherance of a conspiracy are attributable to the other members of the conspiracy." *In re Western States Wholesale Natural Gas Litig.*, 605 F. Supp. 2d 1118, 1138 (D. Nev. 2009) (" *In Re Western States*") (citing *Textor v. Bd. of Regents of N. Ill. Univ.*, 711 F.2d 1387, 1392 (7th Cir.1983)). To successfully invoke the theory, the plaintiff must allege either: (1) "specific overt acts in the forum state that furthered the conspiracy"; or (2) "substantial acts in furtherance of the conspiracy in the forum" and that the "co-conspirator knew or should have known his co-

conspirator would perform those acts in the forum." *In re Western States*, 605 F. Supp. 2d at 1138 (citing *Underwager v. Channel 9 Australia*, 69 F.3d 361, 364 (9th Cir.1995)).

Neither this Court nor the Ninth Circuit has adopted the conspiracy theory of personal jurisdiction. *See In re Western States*, 605 F. Supp. 2d at 1138 ("The Ninth Circuit has not expressly accepted or rejected the conspiracy theory of personal jurisdiction"). Contrary to Tricarichi's suggestion, OB at 52, the United States District Court of Nevada *did* express doubt as to the viability of this theory. *See id*. at 1139 (noting the doubt expressed by the Ninth Circuit and adding that due process considerations "still would apply to outline the contours of a conspiracy theory of personal jurisdiction, if one is to exist at all"); *see also Menalco, Fze v. Buchan*, 602 F. Supp. 2d 1186, 1193 (D. Nev. 2009) (same).

California and Washington have rejected the theory as inconsistent with due process. *See, e.g., Mansour v. Superior Court*, 38 Cal. App. 4th 1750, 1760 (1995) ("California does not recognize conspiracy as a basis for acquiring personal jurisdiction over a party"); *EcoDisc Tech. AG v. DVD Format/Logo Licensing Corp*., 711 F. Supp. 2d 1074, 1089 (C.D. Cal. 2010) (to same effect); *Silver Valley Partners, LLC v. De Motte*, 400 F. Supp. 2d 1262, 1268 (W.D. Wash. 2005) ("The State of Washington . . . has rejected

the conspiracy theory of long-arm jurisdiction, finding that the theory violates due process principles"). Courts elsewhere, including New York, where the theory was in doubt prior to *Walden*, have expressed even more doubt after *Walden*. *See, e.g., In re North Sea Brent Crude Oil Futures Litig.*, 2017 WL 2535731 at * 9 (S.D.N.Y. June 8, 2017) (" . . . there is reason to think that basing specific personal jurisdiction on the acts of a defendant's co-conspirators is questionable after *Walden*"); *Cebulske v. Johnson & Johnson*, 2015 WL 1403148 (S.D. Ill. March 25, 2015) (citing general case trend in Illinois to move away from conspiracy theory and pointing to the recent *Walden* case as requiring "something more" than a remote link to an alleged conspiracy). Tricarichi does not discuss or cite these cases.

The problem with the conspiracy theory of personal jurisdiction is constitutional. It subjects a foreign alleged co-conspirator to personal jurisdiction in a forum based on the alleged defendant's "mere awareness or ability to foresee in-forum effects from his out-of-forum conduct." *In Re Western States*, 605 F. Supp. 2d at 1140. But "the defendant, *not his co-conspirator*, must choose to direct his activities *at* the forum in causing the effect in the forum." *Id*. (emphasis added); *accord Walden,* 134 S. Ct. at 1123 (personal jurisdiction "must be based on intentional conduct by the defendant *that creates the necessary contacts with the forum*") (emphasis

added). "[A] ***co-conspirator's activity*** directed at the forum, even if in furtherance of a conspiracy of which the foreign defendant is a member, cannot constitute purposeful direction at the forum by the [other] foreign defendant." *In Re Western States*, 605 F. Supp. 2d at 1140 (emphasis added). "[I]t is the *defendant*, not the plaintiff or third parties, who must create contacts with the forum State." *Walden*, 134 S. Ct. at 1126. Otherwise, due process would not be served.

In other words, it is not enough to allege or argue, as Tricarichi does here, that Seyfarth's opinion letter was an integral part of a conspiracy, and that Seyfarth knew or should have known that its alleged *co-conspirators* directed their conduct at Nevada and caused harm to the plaintiff here. I. App. 0027 (Compl. ¶ 72); OB at 51. Such allegations of passive activity fail to show that Seyfarth "affirmatively direct[ed]" the other members of the alleged conspiracy to take any action in Nevada. *See Viega GmbH*, 130 Nev. ____, 328 P.3d at 1161. "An allegation that a particular defendant caused or contributed to an effect in the forum state, by itself, is insufficient, even if it is foreseeable that the defendant's conduct

would have an effect in the forum." *In Re Western States*, 605 F. Supp.2d at 1140 (citing *World-Wide Volkswagen Corp.*, 444 U.S. at 296).[7]

Even assuming the conspiracy theory of jurisdiction applied—it does not and should not—Tricarichi did not make a prima facie showing that Seyfarth, in rendering a legal opinion to Millennium in Ireland, did so knowing or expecting it would have legal consequences in Nevada. In any event, Tricarichi's vague and conclusory allegations do not make out a conspiracy between the defendants to harm him. *See Jordan v. State DMV*, 121 Nev. 44, 74–75, 110 P.3d 30, 51 (2005), *abrogated on other grounds by Buzz Stew LLC v. City of NLV*, 124 Nev. 224, 181 P.3d 670 (2008) (setting out the specific allegations needed to allege conspiracy, none of which Tricarichi makes).

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[7] Tricarichi dismisses *In Re Western States* as applying Wisconsin law, but Judge Pro applied federal law when discussing the theory and due process principles. *Id*. at 1140. To the extent *In Re Western States* relied on *Bancroft & Masters, Inc. v. Augusta Nat'l Inc*., 223 F.3d 1082 (9th Cir. 2000), however, such reliance is no longer warranted post-*Walden*. The Ninth Circuit in *Fiore v. Walden*, 688 F.3d 558 (9th Cir. 2012) heavily relied on *Bancroft* to hold personal jurisdiction over Walden in Nevada was proper because the defendant's tortious conduct "individually targeted" a forum resident. *Fiore*, 688 F.3d at 577-581. The Supreme Court rejected that analysis. *Walden*, 134 S. Ct. at 1125 ("Petitioner's actions in Georgia did not create sufficient contacts with Nevada simply because he allegedly directed his conduct at plaintiffs whom he knew had Nevada connections").

2. Tricarichi's claims do not arise from Seyfarth's contacts with Nevada.

The second factor necessary for specific jurisdiction is also absent. As the Supreme Court reaffirmed earlier this year, "[i]n order for a state court to exercise specific jurisdiction, the *suit* must arise out of or relate to the defendant's contacts with the forum." *Bristol-Myers,* 137 S. Ct. at 1780 (internal citation to *Daimler* and quotation marks omitted); *accord Beatrice B. Davis,* 133 Nev. at ___, 394 P.3d at 1208 ("Unlike general jurisdiction, specific jurisdiction is proper only where the cause of action arises from the defendant's contacts with the forum") (also quoting from *Daimler*, citation and quotation marks omitted).

In *Bristol-Myers*, a group of out-of-state plaintiffs sued the pharmaceutical company in California state court, alleging that its drug Plavix had damaged their health. *Id*. at 1775. Although Bristol-Myers engaged in business activities in California and sold Plavix there, it "did not develop, create a marketing strategy for, manufacture, label, package, or work on the regulatory approval for Plavix" in California, nor did the out-of-state plaintiffs allege "that they obtained Plavix from a California source, that they were injured by Plavix in California, or that they were treated for their injuries in California." *Id*. Because Bristol-Myers' forum activities—such as its operation of research laboratories not connected to

the drug at issue, Plavix, its employment of sales representatives, and its maintenance of a state government advocacy office—were unrelated to the plaintiffs' claims, they were not relevant to the jurisdictional analysis. *Id*.

Here, Tricarichi's brief includes a bullet-point list of Seyfarth's contacts with Nevada. OB at 53. But none of the contacts relates to the conspiracy and other claims asserted by Tricarichi. For example, the fact that one of Seyfarth's California attorneys has a Nevada Bar license, or the fact that other Seyfarth attorneys represented clients in court cases pending in Nevada or counseled on transactions regarding Nevada property, has nothing to do with the alleged conspiracy Tricarichi alleges against Seyfarth, nor does attendance at CLE seminars in Nevada by Seyfarth attorneys. *See Fulbright & Jaworski*, 131 Nev. ____, 342 P.3d at 1005 (laundry list of contacts with Nevada that would not support general jurisdiction did not show "purposeful availment sufficient to make a prima facie showing of specific personal jurisdiction"); *see also Bristol Myers,* 137 S. Ct. at 1780 ("specific jurisdiction is confined to issues deriving from, or connected with, the very controversy that establishes jurisdiction"). Because the unrelated Nevada contacts are all Tricarichi has to offer, personal jurisdiction fails on this basis as well.

3. Asserting jurisdiction over Seyfarth would be unreasonable.

The last factor to consider for specific jurisdiction is reasonableness: Would it be reasonable to assert personal jurisdiction over Seyfarth for attorney Taylor's letter to an Irish client about the tax consequences to Millenium of a 2001 transaction that may have had something to do with non-defendants who dealt with Tricarichi in Ohio in an unrelated transaction *before* he moved to Nevada? *See Arbella Mut. Ins. Co.*, 122 Nev. at 516, 134 P.3d at 714 ("Factors relevant to this inquiry include the burden that the defendant will face in defending claims in Nevada, Nevada's interest in adjudicating those claims, the plaintiffs' interests in obtaining expedited relief, along with interstate considerations such as efficiency and social policy); *see also Bristol-Myers*, 582 U.S. at__, 137 S. Ct. at 1780 (holding that a main concern in assessing whether to assert personal jurisdiction over an out-of-state defendant is " 'the burden on the defendant' ") (quoting *World-Wide Volkswagen*, 444 U.S. at 292)).

Here, the burden on Seyfarth to defend itself in Nevada in the absence of any suit-related ties to the forum or the plaintiff would be high. It has no office or attorneys here. Seyfarth never dealt with Tricarichi in Nevada. Nevada's interest in adjudicating claims arising in Ohio under Ohio fraudulent transfer law is close to none: "The parties agree that the

State law applicable here is that of Ohio, where petitioner resided, Westside did business, and the principal transactions occurred." I. App. 0070 (Tax Court Memo at 9). The fact that Appellant opened a bank account and bought a house in Nevada to avoid state income tax in Ohio does not necessarily mean he suffered injuries here, from the "principal transactions" in Ohio that gave rise to his fraudulent transfers to avoid federal income taxes. I. App. 0063 (Tax Court Memo at 2). He was an Ohio resident who dealt with a number of out-of-state defendants in places other than Nevada. Thus, on balance, the third factor fails as well.

C. The district court did not abuse its discretion in denying jurisdictional discovery.

To overcome a motion to dismiss for lack of jurisdiction, a party must make a prima facie showing of personal jurisdiction and produce "some evidence in support of all facts necessary for a finding of personal jurisdiction." *Fulbright & Jaworski LLP*, 342 P.3d at 1001 (internal quotation marks and quotation omitted). Tricarichi did not establish prima facie case and was therefore correctly denied jurisdictional discovery. Moreover, the discovery he now requests, OB 56-57, is *not* the discovery he requested in the district court relating to Seyfarth's "General Contacts With Nevada," which were all related to his specious and abandoned claim of general jurisdiction over Seyfarth. I. App. 0184–85. In any event, the aimless

discovery now proposed by Tricarichi cannot change these key, dispositive facts: Seyfarth's legal opinion letter does not connect Seyfarth to Nevada *and* none of Tricarichi's claims relate to or arise out of Seyfarth's occasional, unrelated Nevada contacts. The Court should not entertain such a futile request for fishing-expedition discovery. *See Boschetto,* 539 F.3d at 1020 (affirming denial of request for jurisdictional discovery where the request was based on little more than a hunch that it might yield jurisdictionally relevant facts). Instead, the Court should affirm the order of the district court in its entirety.

VII. CONCLUSION

For the reasons stated herein, the district court's order granting Seyfarth's motion to dismiss for lack of jurisdiction should be affirmed.

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that I have read this **SEYFARTH SHAW LLP'S ANSWERING BRIEF**, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

2. I also certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the typestyle requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Palatino 14 point font.

3. I further certify that this brief complies with the page-or type-volume limitations of NRAP 40 or 40A because it is proportionately spaced, has a typeface of 14 points and contains 7,888 words.

4. Finally, I certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular Nev. R. App. P. 28(e), which requires every section of the brief regarding matters in

the record to be supported by a reference to the page of the transcript or appendix where the matter relied is to be found.

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CERTIFICATE OF SERVICE

Pursuant to Nev. R. App. P. 25(b) and NEFR 9(f), I hereby certify that I am an employee of Morris Law Group; that on this date I electronically filed the following document: **SEYFARTH SHAW LLP'S ANSWERING BRIEF** with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (Eflex). Participants in the case who are registered with Eflex as users will be served by the Eflex system as follows:

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