

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

2
3 KAYCEAN BUMA, Jason Buma's surviving
4 spouse, and DELANEY BUMA, Jason Buma's
5 surviving child,

6 Appellant,

7 vs.

8 PROVIDENCE CORP. DEVELOPMENT,
9 D/B/A MILLER HEIMAN, INC.;
10 GALLAGHER BASSETT SERVICES, INC.,
11 Respondents.

Supreme Court No. 73632

DOCKETING STATEMENT
CIVIL APPEALS

Electronically Filed
Sep 08 2017 03:14 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

12 **GENERAL INFORMATION**

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

19 **WARNING**

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

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

28 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 8 County Washoe
Judge Barry L Breslow District Ct. Docket No. CV17-00423

2. Attorney filing this docket statement:

Attorney: Charles C. Diaz, Esq. Telephone: (775) 324-6443

Firm: Diaz & Galt, LLC.

Address 443 Marsh Avenue
Reno, NV 89509

Client(s) Kaycean Buma, surviving spouse, and Delaney Buma, surviving
minor child, of Jason Buma, deceased.

If this is a **joint statement completed on** behalf of 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 respondent(s):

Attorney Lee Davis, Esq. and Lohn Lavery, Esq. Telephone (702) 583-6002

Firm Lewis Brisbois Bisgaard & Smith, LLP

Address 2300 W. Sahara Avenue, Suite 500, Box 300,
Las Vegas, NV 89102

Client(s) Providence Corp. Development, BDA Miller Heiman, Inc, and
Gallagher Basset Services, Inc.

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

- | | |
|--|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input 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"/> Other disposition (specify): |
| <input checked="" type="checkbox"/> Review of agency determination | |

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

1 ☐ Child Custody

2 ☐ Venue

3 ☐ Termination of parental rights

4
5 6. Pending and prior proceedings in this court. List the case name and docket number of
6 all appeals or original proceedings presently or previously pending before this court
7 which are related to this appeal:

8 N/A

9
10 7. Pending and prior proceedings in other courts. List the case name, number and court
11 of all pending and prior proceedings in other courts which are related to this appeal
12 (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of
13 disposition:

14 None

15
16 8. Nature of the action. Briefly describe the nature of the action and the result below:

17
18 This matter District Court Denied the Petition for Judicial Review after briefing.

19
20 9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate
21 sheets as necessary):

22
23 This is an appeal of the District Court's denial of appellant's petition for judicial
24 review of the Appeals Officer's decision and order in a worker's compensation matter
25 finding that Jason Buma was not in the course and scope of his employment at the
26 time of his death. The result of that ruling is that the surviving spouse and child will
27 not receive worker's compensation benefits.

28 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

1 similar issues raised in this appeal, list the case name and docket numbers and identify
2 the same or similar issue raised:

3
4 N/A

- 5
6 11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and
7 the state, any state agency, or any officer or employee thereof is not a party to this
8 appeal, have you notified the clerk of this court and the attorney general in
accordance with NRAP 44 and NRS 30.130?

9 ☐ N/A

10 ☐ Yes

11 ☐ No

12 If not, explain:

- 13
14 12. Other issues. Does this appeal involve any of the following issues?

15 ☐ Reversal of Well-settled Nevada precedent (identify the case(s))

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

17 ☒ A Substantial issue of first impression

18 ☒ An issue of public policy

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

20 ☐ A ballot question

21 If so, explain:

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

28 This case should be retained by the Supreme Court pursuant to NRAP 17(a)(14) in

1 that the issue presented, the traveling employee doctrine, is of importance to all
2 Nevada employers whose employees are required to travel in the course and scope
3 of their employment and to all Nevada employees who must travel in the course
4 and scope of their employment. This issue has not been addressed by the Nevada
5 Supreme Court.

6 14. Trial. If this action proceeded to trial, how many days did the trial last? N/A
7 Was it a bench or jury trial?

8
9 15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a
10 justice recuse him/herself from participation in this appeal? If so, which Justice?

11 No

12 **TIMELINESS OF NOTICE OF APPEAL**

13 16. Date of entry of written judgment or order appealed from? July, 25 2017
14 If no written judgment or order was filed in the district court, explain the basis for
15 seeking appellate review:

16 17. Date written notice of entry of judgment or order was served July 25, 2017

17 Was service by:

18 ☐ Delivery

19 ☒ Mail/electronic/fax

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

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

23 ☐ NRCP 50(b) Date of filing _____

24 ☐ NRCP 52(b) Date of filing _____

25 ☐ NRCP 59 Date of filing _____

26 NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration
27 may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington,
28 126 Nev. ____, 245 P.3d 1190 (2010).

1 (b) Date of entry of written order resolving tolling motion

2
3 (c) Date written notice of entry of order resolving tolling motion was served

4 Was service by:

5 ☐ Delivery

6 ☐ Mail

7 19. Date notice of appeal filed August 1, 2017

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

10 N/A

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

13 NRAP 4(a)

14 SUBSTANTIVE APPEALABILITY

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

17 (a)

18 ☒ NRAP 3A(b)(1)

19 ☐ NRS 38.205

20 ☐ NRAP 3A(b)(2)

21 ☒ NRS 233B.150

22 ☐ NRAP 3A(b)(3)

23 ☐ NRS 703.376

24 ☐ Other (specify) _____

25 (b) Explain how each authority provides a basis for appeal from the judgment or
26 order:

27 Order denying appeal was a final judgement issued by the Second Judicial
28 District Court.

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

30 (a) Parties:

31 Kaycean Buma, surviving spouse and Delaney Buma, surviving child, of Jason
32 Buma, deceased, represented by Charles Diaz, Esq.

1 Providence Corp. Development, dba Miller Heiman, Inc. and Gallagher Bassett
2 Services, Inc., represented by Lee Davis, Esq. and John Lavery, Esq.

3
4 (b) If all parties in the district court are not parties to this appeal, explain in detail
5 why those parties are not involved in this appeal, e.g., formally dismissed, not
6 served, or other:

7 Department of Administration, Appeals Division was named (pursuant to NRS
8 233.120 (2)(a), but did not file a Notice of Intent to Participate.

- 9
10 23. Give a brief description (3 to 5 words) of each party's separate claims,
11 counterclaims, cross-claims, or third-party claims and the date of formal disposition
12 of each claim.

13 Appellant claims death is covered under traveling employee doctrine.

14 Respondent claims death is not covered under workers compensation.

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

18 ☒ Yes

19 ☐ No

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

21 (a) Specify the claims remaining pending below:

22 (b) Specify the parties remaining below:

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

25 ☐ Yes

26 ☐ No

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

☐ Yes

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)):

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCPC 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

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.

State and counts where signed

Charles C. Diaz, Esq.

CERTIFICATE OF SERVICE

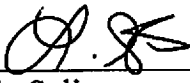
I certify that on the 5th day of September, 2017, I served a copy of this completed docketing statement upon all counsel of record:

By personally serving it upon him/her: or

By mailing it by first class mail with sufficient postage prepaid to the following address:

Lee Davis, Esq.
John Lavery, Esq.
Lewis, Brisbois, Bisgaard, & Smith, LLP.
2300 W. Sahara Avenue, Suite. 500, Box 300,
Las Vegas, NV 89193

DATED this 5th day of September, 2017.



Lila Salinas