

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**
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3
4 Electronically Filed
5 Mar 23 2018 12:39 p.m.
6 Elizabeth A. Brown
7 Clerk of Supreme Court

8 **WASTE MANAGEMENT OF**
9 **NEVADA,**

Case No.: 74876

10 Appellant,

 District Court Case No. CV12-02995

11 vs.

12 **WEST TAYLOR STREET, LLC,**

13 Respondent.
14 _____ /

15 **APPELLANT'S RESPONSE TO ORDER TO SHOW CAUSE**
16

17 Appellant Waste Management of Nevada, by and through its attorney, Mark
18 G. Simons of Simons Law, PC, files this response to the Court's Order to Show
19 Cause filed March 1, 2018 in this matter.

20 The Court's Order to Show Case indicated a concern that the District Court
21 did not enter an order resolving the second claim for relief. The confusion appears
22 to be caused by the Respondent West Taylor Street, LLC ("WTS") filing of a
23 Second Amended Complaint after the District Court had previously rendered its
24 order granting declaratory relief on WTS's first and second claims for relief.
25 WTS originally filed a motion for partial summary judgment on its first and
26 second claims asserted in its First Amended Complaint. On April 23, 2014, the
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1 District Court conducted oral argument on that motion. Then, during the pendency
2 of the District Court's consideration of that motion, WTS filed its Second
3 Amended Complaint on June 27, 2014. While the first and second claims were
4 identical in both the First and Second Amended Complaints, the District Court's
5 order granting declaratory relief, when entered on July 28, 2014, only addressed
6 the claims as asserted in the First Amended Complaint—and not as pled in the
7 Second Amended Complaint.
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10 To address this situation, WTS then sought to have the District Court
11 reaffirm its prior decision rendered on July 28, 2014 (based upon the claims as
12 alleged in the First Amended Complaint), as also applying to the subsequently filed
13 Second Amended Complaint. Because WTS pursued this approach, the District
14 Court then entered its October 1, 2015 Partial Summary Judgment Order
15 reaffirming that its original grant of declaratory relief as applying to the claims
16 asserted in the First Amended Complaint also applied and resolved the identical
17 claims as asserted in the Second Amended Complaint.
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20 In the October 1, 2015 Partial Summary Judgment Order, the District Court
21 reaffirmed that it's decision intended to and did resolve the "first and second
22 claims in the second amended complaint." *Id.*, p. 1:26-27. Thereafter, the District
23 Court again reaffirmed its resolution of the declaratory relief claim in its December
24 29, 2017, Judgment that it was rendering "judgment" on WTS's first and second
25 claims for relief and granting "declaratory judgment" on the terms and conditions
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1 detailed in the judgment. Accordingly, from Appellant's perspective, the District
2 Court has rendered final judgment on WTS's first and second claims for relief.

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4 With regard to WTS's third claim for relief of slander of title, attached
5 hereto as Exhibit 1 is a true and correct copy of the Amended Judgment entered in
6 the underlying matter on March 22, 2018. The Amended Judgment clarifies that
7 WTS's slander of title claim was voluntarily withdrawn by WTS. In addition, the
8 Amended Judgment clarifies that Karen Gonzales was dismissed as a Defendant in
9 the underlying proceedings.
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11

12 Should this Court need further clarification and/or need further action to
13 clarify the record for this Court, Appellant stands ready to assist in as required.
14

15 **AFFIRMATION:** This document does not contain the social security
16 number of any person.

17
18 DATED this 23rd day of March, 2018.

19 SIMONS LAW
20 A Professional Corporation
21 6490 S. McCarran Blvd., #20
22 Reno, Nevada, 89509

23 

24 MARK G. SIMONS
25 Attorney for Appellant
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify pursuant to NRAP 25(c), that on the 23rd day of March,
3
4 2018, I caused service of a true and correct copy of the above and foregoing
5 **APPELLANT'S RESPONSE TO ORDER TO SHOW CAUSE** on all parties
6 to this action by the method(s) indicated below:

7
8 X by using the Supreme Court Electronic Filing System:

9 C. Nicholas Pereos, Esq.
10 *Attorneys for Respondent*

11 _____ by personal delivery/hand delivery addressed to:

12
13 C. Nicholas Pereos, Esq.
14 1610 Meadow Wood Lane, Ste. 202
15 Reno, NV 89502

16 DATED this 23rd day of March, 2018.


17
18 
19 _____
20 An employee of Simons Law, PC
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EXHIBIT LIST

NO.

DESCRIPTION

PAGES

1

Amended Judgment

2

EXHIBIT 1

EXHIBIT 1

1 **1090**

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9 *Attorneys for Waste Management of
10 Nevada, Inc. and Karen Gonzalez*

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

13 WEST TAYLOR STREET, LLC, a limited
14 liability company,

CASE NO.: CV12-02995

15 Plaintiff,

DEPT. NO.: 4

16 v.

AMENDED JUDGMENT

17 WASTE MANAGEMENT OF NEVADA,
18 INC., KAREN GONZALEZ, and DOES 1
19 THROUGH 10,

20 Defendants.

21 On December 29, 2017, the Court entered Judgment granting declaratory relief
22 in favor of Plaintiff. However, the Judgment did not fully articulate the status of the case
23 and whether the Court's Judgment was intended to be a final and appealable judgment.
24 Accordingly, the Court hereby enters this Amended Judgment as follows:

- 25 1. Pursuant to this Court's Order on Defendants' Motion for Summary
26 Judgment dated March 28, 2017, Karen Gonzalez was dismissed as a defendant in this
27 action;
- 28 2. On or about November 10, 2017, Plaintiff voluntarily withdrew its claim for
slander of title;
3. Judgment is entered in favor of West Taylor Street consistent with this

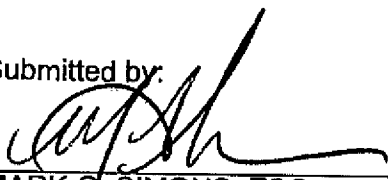
1 Court's Judgment entered December 29, 2017;

2 4. With the foregoing clarifications, the Court finds and concludes that its
3 Judgment entered on December 29, 2017 was intended to be and was treated by the
4 Court as a final appealable Judgment.
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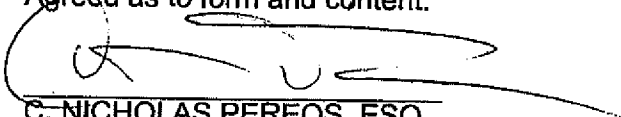
6 **IT IS SO ORDERED** this 22 day of March, 2018

7
8 
9 DISTRICT COURT JUDGE

10 Submitted by:

11 
12 MARK G. SIMONS, ESQ.
13 SIMONS LAW, PC
14 6490 S. McCarran Blvd., #20
15 Reno, NV 89509
Attorneys for Waste Management
of Nevada, Inc.

16 Agreed as to form and content:

17 
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