

Electronically Filed
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Elizabeth A. Brown
Clerk of Supreme Court

1 **NOAS**

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13 tvollbrecht@fwhtlaw.com
14 *Admitted Pro Hac Vice*

15 *Attorneys for Petitioner Spar Business Services, Inc.*

16 **EIGHTH JUDICIAL DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18 SPAR BUSINESS SERVICES, INC.

Case No.: A-17-755501-J

19 Petitioner,

Dept. No.: XXXII

20 v.

21 EMPLOYMENT SECURITY DIVISION,
22 STATE OF NEVADA and RENEE OLSON
23 in her capacity as Administrator of the
24 EMPLOYMENT SECURITY DIVISION;
25 KATIE JOHNSON, in her capacity as
26 Chairperson of the EMPLOYMENT
27 SECURITY DIVISION BOARD OF
28 REVIEW, and MICHAEL DEBOARD as
employee,

NOTICE OF APPEAL

Respondents.

29 NOTICE IS HEREBY GIVEN that Petitioner SPAR BUSINESS SERVICES, INC., by
30 and through its attorneys of record, Gina Bongiovi, Esq., of the Bongiovi Law Firm, LLC, and
31 Thomas J. Vollbrecht, Esq., of Fabyanske, Westra, Hart & Thomson, P.A., hereby appeals to the
32 Supreme Court of Nevada from:

33 \ \ \

34 \ \ \

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the BONGIOVI LAW FIRM,
3 LLC, and that I served a true and correct copy of the foregoing **CASE APPEAL STATEMENT**
4 by either electronic means (NEFCR Administrative Order 14-2), as indicated by an e-mail
5 address as set forth below, and/or by:

6

7 X	BY E-FILING SERVICE: via Odyssey eFile NV
8 X	BY MAIL: Pursuant to NRCP 5(b), I placed a true and correct copy thereof enclosed in a sealed envelope addressed to the parties as indicated below.
9	BY FACSIMILE: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document via telecopy to the facsimile number(s) indicated below.
10	
11 X	BY ELECTRONIC MAIL: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document via electronic mail to the electronic mail address(es) listed below.
12	
13	BY HAND DELIVERY

14
15 Renee Olson, Administrator
16 Employment Security Division
17 State of Nevada
18 500 E. Third St.
19 Carson City, NV 89713

Laurie Trotter, Esq.
Senior Legal Counsel
Employment Security Division
State of Nevada
1340 So. Curry Street
Carson City, NV 89703
l-trotter@nvdetr.org

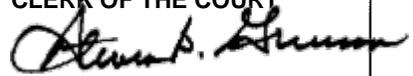
20
21 And via e-file Courtesy Copy to: Dept32LC@clarkcountycourts.us

22 Dated this 30th day of April, 2018.

23 /s/ Kristina Blair

24 An employee of Bongiovi Law Firm, LLC

EXHIBIT 1



1 **NEOJ**
LAURIE L. TROTTER, ESQ.
2 Nevada State Bar No. 8696
STATE OF NEVADA, Department
3 of Employment, Training & Rehabilitation (DETR)
Employment Security Division (ESD)
4 1340 South Curry Street
Carson City, NV 89703
5 Telephone: (775) 684-6317
Facsimile: (775) 684-6344
6 *Attorney for DETR/ESD*

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 SPAR BUSINESS SERVICES, INC.,

10 Petitioner,

11 vs.

12 RENEE OLSON, ADMINISTRATOR,
STATE OF NEVADA, DEPARTMENT OF
13 EMPLOYMENT, TRAINING AND
REHABILITATION, EMPLOYMENT
14 SECURITY DIVISION; and MICHAEL
DEBOARD,

15 Respondents.

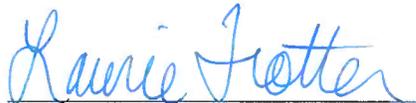
CASE NO. A-17-755501-J

DEPT. NO. XXXII

16
17 **NOTICE OF ENTRY OF ORDER**
18 **GRANTING MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW**

19 **PLEASE TAKE NOTICE** that on the 14th day of November, 2017, the Court
20 entered its Order Granting Motion to Dismiss Petition for Judicial Review in the above-entitled
21 action. A copy of said Order is attached hereto.

22 **DATED** this 15th day of November, 2017.

23 

LAURIE L. TROTTER, ESQ.

Attorney for Nevada ESD Respondents

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of the State of Nevada,
3 over the age of 18 years; and that on the date hereinbelow set forth, I served a true and correct
4 copy of the foregoing NOTICE OF ENTRY OF ORDER GRANTING MOTION TO DISMISS
5 PETITION FOR JUDICIAL REVIEW, *by either* electronic means (N.E.F.C.R. Administrative
6 Order 14-2), as indicated by an email address set forth below, *and/or* by placing the same within
7 an envelope which was thereafter sealed and deposited for postage and mailing with the State of
8 Nevada Mail at Carson City, Nevada, addressed for delivery as follows:

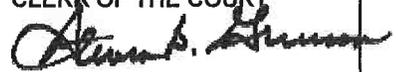
9 Gina Bongiovi, Esq.
10 *Bongiovi Law Firm, LLC*
2620 Regatta Drive, Suite 102
Las Vegas, NV 89128

11 Thomas J. Vollbrecht, Esq.
12 *Fabyanske, Westra, Hart, et al.*
333 South Seventh St., Suite 2600
13 Minneapolis, MN 55402

14 Michael DeBoard
5026 River Glen #158
15 Las Vegas, NV 89103

16 DATED this 15th day of November, 2017.

17 
18 _____
SHERI C. IHLER



1 **OGM**
2 LAURIE L. TROTTER, ESQ.
3 Nevada State Bar No. 8696
4 STATE OF NEVADA, Department of
5 Employment, Training & Rehabilitation (DETR),
6 Employment Security Division (ESD)
7 1340 South Curry Street
8 Carson City, NV 89703
9 Telephone No.: (775) 684-6317
10 Facsimile No.: (775) 684-6344
11 *Attorney for DETR/ESD*

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 SPAR BUSINESS SERVICES, INC.,

CASE NO.: A-17-755501-J

15 Petitioner,

DEPT. NO.: XXXII

16 vs.

17 RENE E OLSON, ADMINISTRATOR, STATE
18 OF NEVADA, DEPARTMENT OF
19 EMPLOYMENT, TRAINING AND
20 REHABILITATION, EMPLOYMENT
21 SECURITY DIVISION; and MICHAEL
22 DEBOARD,

23 Respondents.

24 **ORDER GRANTING MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW**

25 **THIS MATTER** came before the Court on the 10th day of October, 2017, for a
26 duly-noticed hearing on Respondent ESD's Motion to Dismiss Petition for Judicial Review.
27 Petitioner, Spar Business Services, Inc., was represented by Thomas Vollbrecht, Esq., and Gina
28 Bongiovi, Esq. The Respondents, State of Nevada, Department of Employment, Training and
29 Rehabilitation, Employment Security Division, Renee Olson, Administrator of the Employment
30 Security Division (collectively "ESD") were represented by Laurie L. Trotter, Esq. The former

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

OCT 26 2017

1 employee, Respondent Michael DeBoard, did not appear and has not otherwise participated in
2 these proceedings. After having heard oral argument from the parties, the Court took the matter
3 under advisement.

4 NOW, THEREFORE, this Court has carefully considered the Motion to Dismiss
5 Petition for Judicial Review filed by Respondent ESD on July 21, 2017; the Petitioner's
6 Opposition to the Motion to Dismiss, filed on August 1, 2017; and ESD's Reply to Opposition to
7 Motion to Dismiss Petition for Judicial Review, filed on August 4, 2017; as well as the
8 arguments of the parties; and accordingly, this Court issues its Decision this 12th day of October,
9 2017.

10 The Court ORDERS that Respondent ESD's Motion to Dismiss Petition for
11 Judicial Review is GRANTED. The Court makes the following Findings of Fact and
12 Conclusions of Law:

13 Generally, "[c]ourts have no inherent appellate jurisdiction over official acts of
14 administrative agencies except where the legislature has made some statutory provision for
15 judicial review." *Crane v. Cont'l Tel. Co. of California*, 105 Nev. 399, 401, 775 P.2d 705, 706
16 (1989). Thus, "[w]hen the legislature creates a specific procedure for review of administrative
17 agency decisions, such procedure is controlling." *Id.* In Nevada, the Legislature enacted the
18 Administrative Procedures Act (APA) to govern judicial review of many administrative
19 decisions, permitting an aggrieved party to petition the district court for judicial review of a final
20 agency decision in a contested case. *Washoe Cty. v. Otto*, 128 Nev.Adv.Op. 40, 282 P.3d 719,
21 724 (2012). Because the underlying proceeding involved a petition for judicial review of an
22 administrative decision, this matter is governed by the APA, codified in NRS Chapter 233B. *Id.*
23 "When a party seeks judicial review of an administrative decision, strict compliance with the
24 statutory requirements for such review is a precondition to jurisdiction by the court of judicial

1 review, and [n]oncompliance with the requirements is grounds for dismissal.” *Kame v.*
2 *Employment Sec. Dep’t*, 105 Nev. 22, 25, 769 P.2d 66, 68 (1989).

3 NRS 233B codifies the APA which governs administrative adjudications of all
4 agencies of the Executive Departments of the State Government and for judicial review of both
5 functions. NRS 233B.020. NRS 233B.039 governs the applicability of this NRS Chapter. NRS
6 233B.039(3) which Petitioner relies upon for this argument, provides that the special provisions
7 of (a) Chapter 612 of NRS for the distribution of regulations by, and the judicial review of,
8 decisions of the Employment Security Division of the Department of Employment, Training and
9 Rehabilitation prevail over the general provisions of this chapter. NRS 233B.130 provides for
10 the service requirements of petitions for judicial review. NRS 233B.130(2) provides that
11 petitions for judicial review must be served upon the person serving in the office of
12 administrative head of the named agency.¹ NRS 233B.130(5) provides that the “petition for
13 judicial review and any cross-petitions for judicial review must be served upon the agency and
14 every party within 45 days after the filing of the petition, unless, upon a showing of good cause,
15 the district court extends the time for such service.”

16 Given that the provisions of NRS Chapter 612 are silent as to a service deadline,
17 the service provision within NRS 233B.130(5) controls. There is no service deadline provision
18 within NRS Chapter 612 to prevail over the general provisions of NRS Chapter 233B. As such,
19 the 45-day requirement for service of a Petition for Judicial Review applies in this case.

20 Petitioner contends that NRCP 4(i) prevails over NRS 233B.130(5) and that a
21 120-day deadline applies to service of a petition for judicial review. Petitioner’s reliance upon
22 NRCP 4(i) is misplaced. NRCP 81(a) explains that the Nevada Rules of Civil Procedure “do not
23 govern procedure and practice in a special statutory proceeding insofar as they are inconsistent or

24 ¹ NRS 612.530(2) provides that the petition for judicial review must be served upon the ESD
Administrator.

1 in conflict with the procedure and practice provided by applicable statute.” Furthermore, NRCP
2 82 provides that “these rules shall not be construed to extend or limit jurisdiction of the district
3 courts.” Because NRCP 4(i) clearly conflicts with NRS 233B.130(5) regarding the deadline for
4 service of a petition for judicial review, NRS 233B.130(5) prevails over NRCP 4(i) as to the 45-
5 day deadline for service of a petition for judicial review.

6 Here, the Petition was filed on May 15, 2017. There was no request or motion to
7 extend the time for service prior to the expiration of the 45 days. As such, the deadline for
8 service of the Petition would have been June 29, 2017. It is undisputed that service of the
9 Petition was not effectuated until July 14, 2017. Thus, the Petition was not timely served upon
10 the Respondent as required by NRS 233B.130(5). Petitioner failed to make a showing of good
11 cause for effectuating service of the Petition for Judicial Review after the statutory deadline in
12 this case.

13 Based upon the above findings and GOOD CAUSE APPEARING THEREFOR,
14 **IT IS HEREBY ORDERED** that the Motion to Dismiss Petition for Judicial
15 Review be, and the same hereby is, GRANTED and the Petition for Judicial Review is
16 DISMISSED.

17 **DATED** this 6 day of Nov, 2017.



HONORABLE ROB BARE
DISTRICT JUDGE

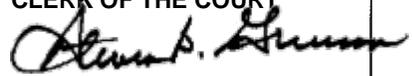
ROB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

22 Prepared and Submitted by:



24 LAURIE L. TROTTER, ESQ.
Attorney for ESD Respondents

EXHIBIT 2



1 **NEOJ**
2 LAURIE L. TROTTER, ESQ.
3 Nevada State Bar No. 8696
4 STATE OF NEVADA, Department
5 of Employment, Training & Rehabilitation (DETR)
6 Employment Security Division (ESD)
7 500 East Third Street
8 Carson City, NV 89713
9 Telephone: (775) 684-3996
10 Facsimile: (775) 684-3992
11 *Attorney for DETR/ESD*

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 SPAR BUSINESS SERVICES, INC.,

10 Petitioner,

11 vs.

12 RENEE OLSON, ADMINISTRATOR,
13 STATE OF NEVADA, DEPARTMENT OF
14 EMPLOYMENT, TRAINING AND
15 REHABILITATION, EMPLOYMENT
16 SECURITY DIVISION; and MICHAEL
17 DEBOARD,

18 Respondents.

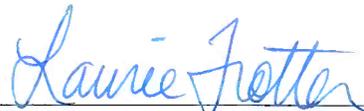
CASE NO. A-17-755501-J

DEPT. NO. XXXII

17 **NOTICE OF ENTRY OF ORDER DENYING MOTION TO RECONSIDER**

18 **PLEASE TAKE NOTICE** that on the 10th day of April, 2018, the Court entered
19 its Order Denying Motion to Reconsider in the above-entitled action. A copy of said Order is
20 attached hereto.

21 **DATED** this 11th day of April, 2018.



22 LAURIE L. TROTTER, ESQ.

23 *Attorney for Nevada ESD Respondents*

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of the State of Nevada,
3 over the age of 18 years; and that on the date hereinbelow set forth, I served a true and correct
4 copy of the foregoing NOTICE OF ENTRY OF ORDER DENYING MOTION TO
5 RECONSIDER, *by either* electronic means (N.E.F.C.R. Administrative Order 14-2), as indicated
6 by an email address set forth below, *and/or* by placing the same within an envelope which was
7 thereafter sealed and deposited for postage and mailing with the State of Nevada Mail at Carson
8 City, Nevada, addressed for delivery as follows:

9 Gina Bongiovi, Esq.
10 *Bongiovi Law Firm, LLC*
11 2620 Regatta Drive, Suite 102
12 Las Vegas, NV 89128

13 Thomas J. Vollbrecht, Esq.
14 *Fabyanske, Westra, Hart, et al.*
15 333 South Seventh St., Suite 2600
16 Minneapolis, MN 55402

17 Michael DeBoard
18 5026 River Glen #158
19 Las Vegas, NV 89103

20 DATED this 11th day of April, 2018.

21 
22 _____
23 SHERI C. IHLER



1 **ODM**
2 LAURIE L. TROTTER, ESQ.
3 Nevada State Bar No. 8696
4 STATE OF NEVADA, Department of
5 Employment, Training & Rehabilitation (DETR),
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7 500 E. Third Street
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9 Telephone No.: (775) 684-3996
10 Facsimile No.: (775) 684-3992
11 *Attorney for DETR/ESD*

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

10 SPAR BUSINESS SERVICES, INC.,

11 Petitioner,

12 vs.

13 RENEE OLSON, ADMINISTRATOR, STATE
14 OF NEVADA, DEPARTMENT OF
15 EMPLOYMENT, TRAINING AND
16 REHABILITATION, EMPLOYMENT
17 SECURITY DIVISION; and MICHAEL
18 DEBOARD,

19 Respondents.

CASE NO.: A-17-755501-J

DEPT. NO.: XXXII

18 **ORDER DENYING MOTION TO RECONSIDER**

19 **THIS MATTER** came before the Court on the 14th day of February, 2018, for a
20 decision In Chambers on Petitioner's Motion for Reconsideration. The parties were not present.
21 Petitioner, Spar Business Services, Inc., is represented by Thomas Vollbrecht, Esq., and Gina
22 Bongiovi, Esq. The Respondents, State of Nevada, Department of Employment, Training and
23 Rehabilitation, Employment Security Division, Renee Olson, Administrator of the Employment

MAR 26 2018

1 Security Division (collectively "ESD") are represented by Laurie L. Trotter, Esq. The former
2 employee, Respondent Michael DeBoard, has not participated in these proceedings.

3 NOW, THEREFORE, this Court has carefully considered the submitted
4 pleadings: *Petitioner's Motion to Reconsider Pursuant to NRCP 50(e) And NRCP 60(b)*, *ESD's*
5 *Opposition to Petitioner's Motion to Reconsider Pursuant to NRCP 59(e) And NRCP 60(b)*, and
6 *Petitioner's Reply in Support of Motion to Reconsider Pursuant to NRCP 59(e) and NRCP(b)*;
7 and the applicable standard of law. The COURT ORDERED, Petitioner's Motion to Reconsider
8 is DENIED, and the Status Check: Decision set for February 14, 2018 is VACATED.

9 The Court makes the following Findings of Fact and Conclusions of Law:

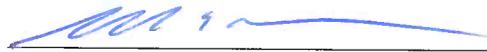
10 EDCR 2.24(a) states, "[n]o motions once heard and disposed of may be renewed
11 in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the
12 court granted upon motion therefor, after notice of such motion to the adverse parties." A district
13 court may reconsider a previously decided issue if substantially different evidence is
14 subsequently introduced or the decision is clearly erroneous. *Masonry & Tile Contractors Ass'n*
15 *of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 941 P.2d 486 (1997). Only in rare
16 instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling
17 already reached should a motion for rehearing be granted. *Moore v. City of Las Vegas*, 92 Nev.
18 402, 405, 551 P.2d 244, 246 (1976). "[P]oints or contentions not raised, or passed over in
19 silence on the original hearing, cannot be maintained or considered on petition rehearing."
20 *Balanger v. Leonard*, 68 Nev. 258, 262, 229 P.2d 153, 155 (1951). "Our established practice
21 does not allow a litigant to raise new legal points for the first time on rehearing." *Cannon v.*
22 *Taylor*, 88 Nev. 89, 92, 493 P.2d 1313, 1314 (1972).

23 Petitioner's basis for this Motion to Reconsider is case law which was not raised
24 in the original briefing or hearing: *Fitzpatrick v. State ex rel., Dep't of Commerce, Ins. Div.*, 107

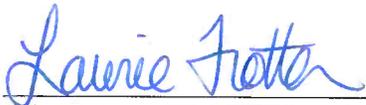
1 Nev. 486, 487, 813 P.2d 1004, 1004 (1991). It is the Petitioner's argument that under that case,
2 if a Petition for Judicial Review is timely filed, then the Court has jurisdiction to consider other
3 matters so long as good cause is established, and this Court erred in dismissing the Petition for
4 Judicial Review, which was not timely served. This Court finds that the Petitioner has failed to
5 establish that this Court's decision was clearly erroneous. The *Fitzpatrick* decision is not
6 directly on point. Instead, it primarily addresses the requisite deadline for the points and
7 authorities pursuant to NRS 233B.133. Although *Fitzpatrick* does provide guidance to district
8 courts in this area of law, this case does not mandate reconsideration of this distinct issue, service
9 of the Petition per NRS 612.530(2) and NRS 233B.130(5). Furthermore, this Court finds that
10 any such case law which could have been utilized at the prior hearing should have been raised
11 that that time. Therefore, the Motion for Reconsideration is DENIED.

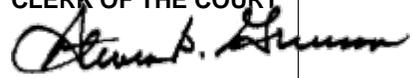
12 Based upon the above findings and GOOD CAUSE APPEARING THEREFOR,
13 **IT IS HEREBY ORDERED** that the Motion to Dismiss Petition for Judicial
14 Review be, and the same hereby is, GRANTED and the Petition for Judicial Review is
15 DISMISSED.

16 DATED this 3 day of April, 2018.

17
18 
HONORABLE ROB BARE
DISTRICT JUDGE

19 ROB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

20 Prepared and Submitted by:
21 
22 LAURIE L. TROTTER, ESQ.
Attorney for ESD Respondents



NOAS

1 GINA BONGIOVI (10667)
2 Bongiovi Law Firm, LLC
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8 THOMAS J. VOLLBRECHT (MN Bar No. 17886X)
9 Fabyanske, Westra, Hart & Thomson, P.A.
10 333 South Seventh Street, Suite 2600
11 Minneapolis, MN 55402
12 tvollbrecht@fwhtlaw.com
13 *Admitted Pro Hac Vice*

14 *Attorneys for Petitioner Spar Business Services, Inc.*

15 **EIGHTH JUDICIAL DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 SPAR BUSINESS SERVICES, INC.

Case No.: A-17-755501-J

18 Petitioner,

Dept. No.: XXXII

19 v.

20 EMPLOYMENT SECURITY DIVISION,
21 STATE OF NEVADA and RENEE OLSON
22 in her capacity as Administrator of the
23 EMPLOYMENT SECURITY DIVISION;
24 KATIE JOHNSON, in her capacity as
25 Chairperson of the EMPLOYMENT
26 SECURITY DIVISION BOARD OF
27 REVIEW, and MICHAEL DEBOARD as
28 employee,

CASE APPEAL STATEMENT

Respondents.

1. **Name of appellant filing this case appeal statement:**

Petitioner SPAR BUSINESS SERVICES, INC.

2. **Identify the judge issuing the decision, judgment, or order appealed from:**

Eighth Judicial District Court, Dept. XXXII, Judge Rob Bare

3. **Identify all parties to the proceedings in the district court:**

Petitioner: SPAR BUSINESS SERVICES, INC.; and

1 Respondents: EMPLOYMENT SECURITY DIVISION, STATE OF
2 NEVADA and RENEE OLSON in her capacity as Administrator of the
3 EMPLOYMENT SECURITY DIVISION; KATIE JOHNSON, in her
4 capacity as Chairperson of the EMPLOYMENT SECURITY DIVISION
5 BOARD OF REVIEW, and MICHAEL DEBOARD as employee

4 **4. Identify all parties involved in this appeal:**

5 Petitioner SPAR BUSINESS SERVICES, INC.; and

6 Respondents STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT,
7 TRAINING AND REHABILITATION, EMPLOYMENT SECURITY
8 DIVISION, and RENEE OLSON, ADMINISTRATOR OF THE
9 EMPLOYMENT SECURITY DIVISION

10 **5. Set forth the name, law firm, address, and telephone number of all counsel on**
11 **appeal and identify the party or parties whom they represent:**

12
13 GINA BONGIOVI (10667)

14 Bongiovi Law Firm, LLC

15 2620 Regatta Drive, Suite 102

16 Las Vegas, NV 89128

17 Telephone: (702) 485-1200

18 Fax: (702) 485-1202

19 gina@bongiovilaw.com

20 -AND

21 THOMAS J. VOLLBRECHT (MN Bar No. 17886X)

22 Fabyanske, Westra, Hart & Thomson, P.A.

23 333 South Seventh Street, Suite 2600

24 Minneapolis, MN 55402

25 tvollbrecht@fwhtlaw.com

26 Admitted Pro Hac Vice

27 *Attorneys for Appellant Spar Business Services, Inc.*
28

1 LAURIE TROTTER, ESQ.

2 Senior Legal Counsel

3 Employment Security Division

4 State of Nevada

5 1340 So. Curry Street

6 Carson City, NV 89703

7 *Attorneys for Respondents State of Nevada, Department of Employment,*
8 *Training and Rehabilitation, Employment Security Division, and Renee Olson,*
9 *Administrator of the Employment Security Division*

10 **6. Indicate whether Respondent's Counsel is not licensed to practice in Nevada:**

11 Respondents' counsel is licensed to practice in Nevada.

12 **7. Indicate whether appellant is represented by appointed or retained counsel on**
13 **appeal:**

14 Retained.

15 **8. Indicate whether appellant was granted leave to proceed in forma pauperis,**
16 **and the date of entry of the District Court order granting such leave:**

17 Not applicable.

18 **9. Indicate the date the proceedings commenced in the District Court (e.g., date**
19 **complaint, indictment, information, or petition was filed):**

20 A Petition from Board of Review Decision was filed and commenced in the Eighth
21 Judicial District Court, Clark County, Nevada, on May 15, 2017.

22 **10. Provide a brief description of the nature of the action and result in the district**
23 **court, including the type of judgment or order being appealed and the relief granted by**
24 **the district court.**

25 This is a petition and appeal from the decision by the Board of Review of the State
26 of Nevada, Department of Employment, Training and Rehabilitation, Employment Security
27 Division that became final on May 5, 2017, in the Matter of Spar Business Services, Inc. and
28 Michael DeBoard, Docket Number V-17-B-00243 (V-17-A-00727). Respondents filed a motion

1 to dismiss the petition under the basis that the petition was not timely served upon the
2 Respondent as required by NRS 233B.130(5).

3 On October 10, 2017, the Court heard oral argument on the motion to dismiss and
4 subsequently took the matter under advisement. Thereafter, the Court issued its Order Granting
5 Respondents' Motion to Dismiss Petition for Judicial Review.

6 Petitioner subsequently filed a motion for reconsideration which came before the Court
7 for a decision In Chambers on February 14, 2018. The Court found that Petitioner failed to
8 establish that the Court's decision was clearly erroneous and that any new case law introduced
9 in the motion for reconsideration should have been in the original briefing. The Court denied
10 the Motion for Reconsideration and further ordered that the Motion to Dismiss Petition for
11 Judicial Review is granted and the Petition for Judicial Review is dismissed.

12 The granting of a motion to dismiss is directly appealable.

13 **11. Indicate whether the case has previously been the subject of an appeal to or**
14 **original proceeding in the Supreme Court and, if so, the caption and Supreme Court docket**
15 **number of the proceeding.**

16 This appeal has not previously been the subject of an appeal or original proceeding.

17 **12. Indicate whether the appeal involves child custody or visitation.**

18 This appeal does not involve child custody or visitation.

19 **13. In civil cases, indicate whether the appeal involves the possibility of**
20 **settlement.**

21 Settlement is possible.

22 DATED this 30th day of April, 2018.

23 Respectfully submitted by:

24 /s/ Gina Bongiovi

25 Gina Bongiovi, Esq., Nevada Counsel of Record

26 Nevada Bar No. 10667

27 2620 Regatta Drive, Suite 102

28 Las Vegas, NV 89128

Telephone: (702) 485-1200

Fax: (702) 485-1202

E-mail: gina@bongiovilaw.com

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the BONGIOVI LAW FIRM,
3 LLC, and that I served a true and correct copy of the foregoing **CASE APPEAL STATEMENT**
4 by either electronic means (NEFCR Administrative Order 14-2), as indicated by an e-mail
5 address as set forth below, and/or by:

6	X	BY E-FILING SERVICE: via Odyssey eFile NV
7	X	BY MAIL: Pursuant to NRCP 5(b), I placed a true and correct copy thereof enclosed in a sealed envelope addressed to the parties as indicated below.
8		BY FACSIMILE: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document via telecopy to the facsimile number(s) indicated below.
9	X	BY ELECTRONIC MAIL: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document via electronic mail to the electronic mail address(es) listed below.
10		BY HAND DELIVERY
11		
12		
13		

14
15 Renee Olson, Administrator
16 Employment Security Division
17 State of Nevada
18 500 E. Third St.
19 Carson City, NV 89713

Laurie Trotter, Esq.
Senior Legal Counsel
Employment Security Division
State of Nevada
1340 So. Curry Street
Carson City, NV 89703
l-trotter@nvdetr.org

20
21 And via e-file Courtesy Copy to: Dept32LC@clarkcountycourts.us

22 Dated this 30th day of April, 2018.

23 /s/ Kristina Blair

24 An employee of Bongiovi Law Firm, LLC

DEPARTMENT 32
CASE SUMMARY
CASE NO. A-17-755501-J

Spar Business Services Inc, Petitioner(s)
 vs.
Nevada Employment Security Appeals Division,
Respondent(s)

§
§
§
§
§

Location: **Department 32**
 Judicial Officer: **Bare, Rob**
 Filed on: **05/15/2017**
 Cross-Reference Case Number: **A755501**

CASE INFORMATION

Statistical Closures
 11/14/2017 Stipulated Judgment

Case Type: **Other Nevada State Agency Appeal**

Case Flags: **Appealed to Supreme Court**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-17-755501-J
Court	Department 32
Date Assigned	05/15/2017
Judicial Officer	Bare, Rob

PARTY INFORMATION

Petitioner Spar Business Services Inc

Lead Attorneys

Bongiovi, Gina
Retained
 7024851200(W)

Respondent Deboard, Michael
 Removed: 11/14/2017
 Dismissed

Johnson, Katie
 Removed: 11/14/2017
 Dismissed

Nevada Employment Security Appeals Division

Trotter, Laurie L.
Retained
 775-684-3996(W)

Olson, Renee
 Removed: 11/14/2017
 Dismissed

DATE

EVENTS & ORDERS OF THE COURT

INDEX

05/15/2017  Petition for Judicial Review
 Filed by: Petitioner Spar Business Services Inc
Petition for Judicial Review

05/15/2017  Summons Electronically Issued - Service Pending
Summons

05/15/2017  Initial Appearance Fee Disclosure
 Filed By: Petitioner Spar Business Services Inc
Initial Appearance Fee Disclosure

05/31/2017  Motion to Associate Counsel
 Filed By: Petitioner Spar Business Services Inc
Motion to Associate Counsel

DEPARTMENT 32
CASE SUMMARY
CASE NO. A-17-755501-J

07/11/2017  **Minute Order** (11:12 AM) (Judicial Officer: Bare, Rob)
Minute Order Re: Motion to Associate Counsel, Thomas Vollbrecht, Esq.

07/18/2017 **CANCELED Motion to Associate Counsel** (9:30 AM) (Judicial Officer: Bare, Rob)
Vacated - per Law Clerk

07/21/2017  **Motion to Dismiss**
Filed By: Respondent Nevada Employment Security Appeals Division
Motion to Dismiss Petition for Judicial Review

07/24/2017  **Affidavit of Service**
Filed By: Petitioner Spar Business Services Inc
Affidavit of Service

07/25/2017  **Notice of Hearing**
Filed By: Respondent Nevada Employment Security Appeals Division; Respondent Olson, Renee; Respondent Johnson, Katie
Notice of Motion and Hearing

07/28/2017  **Certificate of Service**
Filed by: Respondent Nevada Employment Security Appeals Division; Respondent Olson, Renee; Respondent Johnson, Katie
Certificate of Service (Notice of Motion and Hearing)

08/01/2017  **Opposition to Motion to Dismiss**
Filed By: Petitioner Spar Business Services Inc
Petitioner's Opposition to Motion to Dismiss

08/04/2017  **Reply to Opposition**
Filed by: Respondent Nevada Employment Security Appeals Division; Respondent Olson, Renee; Respondent Johnson, Katie
ESD's Reply to Opposition to Motion to Dismiss Petition for Judicial Review

08/21/2017  **Order Admitting to Practice**
Filed By: Petitioner Spar Business Services Inc
Order Admitting to Practice

08/22/2017  **Order**
Order Rescheduling Hearing

08/30/2017  **Order**
Order Rescheduling Hearing

10/10/2017  **Motion to Dismiss** (9:30 AM) (Judicial Officer: Bare, Rob)
Respondent's Notice of Motion and Hearing Re: Motion to Dismiss

10/12/2017  **Minute Order** (8:00 AM) (Judicial Officer: Bare, Rob)

11/14/2017 **Order of Dismissal** (Judicial Officer: Bare, Rob)
Debtors: Spar Business Services Inc (Petitioner)
Creditors: Nevada Employment Security Appeals Division (Respondent), Renee Olson (Respondent), Katie Johnson (Respondent), Michael Deboard (Respondent)
Judgment: 11/14/2017, Docketed: 11/14/2017

DEPARTMENT 32
CASE SUMMARY
CASE NO. A-17-75501-J

11/14/2017  Order Granting Motion
Filed By: Respondent Nevada Employment Security Appeals Division; Respondent Olson, Renee; Respondent Johnson, Katie
Order Granting Motion to Dismiss Petition for Judicial Review

11/15/2017  Notice of Entry of Order
Filed By: Respondent Nevada Employment Security Appeals Division
Notice of Entry of Order Granting Motion to Dismiss Petition for Judicial Review

11/15/2017  Motion to Reconsider
Filed By: Petitioner Spar Business Services Inc
(11/20/17 Withdrawn) Petitioner's Motion to Reconsider

11/20/2017  Notice of Withdrawal of Motion
Filed By: Petitioner Spar Business Services Inc
Notice of Withdrawal of Petitioner's Motion to Reconsider

11/21/2017  Motion to Reconsider
Filed By: Petitioner Spar Business Services Inc
Petitioner's Motion to Reconsider Pursuant to NRCP 59(e) and NRCP 60(b)

12/04/2017  Opposition
Filed By: Respondent Nevada Employment Security Appeals Division
ESD's Opposition to Petitioner's Motion to Reconsider Pursuant to NRCP 59(e) and NRCP 60(b)

12/20/2017 **CANCELED Status Check (3:00 AM)** (Judicial Officer: Bare, Rob)
Vacated - per Stipulation and Order
Status Check: Order

01/16/2018 **CANCELED Motion to Reconsider (9:30 AM)** (Judicial Officer: Bare, Rob)
Vacated - per Secretary
Petitioner's Motion to Reconsider

01/18/2018  Reply to Opposition
Filed by: Petitioner Spar Business Services Inc
Petitioner's Reply in Support of Motion to Reconsider Pursuant to NRCP 59(e) and NRCP 60(b)

01/23/2018  **Minute Order (8:00 AM)** (Judicial Officer: Bare, Rob)

01/25/2018 **CANCELED Motion (9:30 AM)** (Judicial Officer: Bare, Rob)
Vacated
Petitioner's Motion to Reconsider Pursuant to NRCP 59(e) and NRCP 60(b)

02/14/2018  **Status Check (3:00 AM)** (Judicial Officer: Bare, Rob)
STATUS CHECK: DECISION

04/10/2018 **Order Granting Judicial Review** (Judicial Officer: Bare, Rob)
Debtors: Spar Business Services Inc (Petitioner)
Creditors: Nevada Employment Security Appeals Division (Respondent)
Judgment: 04/10/2018, Docketed: 04/11/2018

04/10/2018  Order
Filed By: Respondent Nevada Employment Security Appeals Division
Order Denying Motion to Reconsider

DEPARTMENT 32
CASE SUMMARY
CASE NO. A-17-755501-J

04/11/2018	 Notice of Change of Address Filed By: Respondent Nevada Employment Security Appeals Division <i>Notice of Change of Address and Telephone Numbers</i>
04/11/2018	 Notice of Entry of Order Filed By: Respondent Nevada Employment Security Appeals Division <i>Notice of Entry of Order Denying Motion to Reconsider</i>
04/30/2018	 Notice of Appeal <i>Notice of Appeal</i>
04/30/2018	 Case Appeal Statement Filed By: Petitioner Spar Business Services Inc <i>Case Appeal Statement</i>

DATE	FINANCIAL INFORMATION	
	Petitioner Spar Business Services Inc	
	Total Charges	294.00
	Total Payments and Credits	294.00
	Balance Due as of 5/2/2018	0.00

DISTRICT COURT CIVIL COVER SHEET

Clark

County, Nevada

Case No. _____

Department 32

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): 	Defendant(s) (name/address/phone):
Attorney (name/address/phone): 	Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types

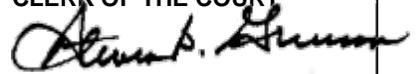
<p style="text-align: center;">Real Property</p> <p>Landlord/Tenant</p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p>Title to Property</p> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <p>Other Real Property</p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<p style="text-align: center;">Negligence</p> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <p style="text-align: center;">Malpractice</p> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<p style="text-align: center;">Torts</p> <p>Other Torts</p> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<p style="text-align: center;">Probate</p> <p>Probate (select case type and estate value)</p> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <p>Estate Value</p> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<p style="text-align: center;">Construction Defect & Contract</p> <p>Construction Defect</p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p>Contract Case</p> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<p style="text-align: center;">Judicial Review/Appeal</p> <p>Judicial Review</p> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <p>Nevada State Agency Appeal</p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p>Appeal Other</p> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<p style="text-align: center;">Civil Writ</p> <p>Civil Writ</p> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrantum		<p style="text-align: center;">Other Civil Filing</p> <p>Other Civil Filing</p> <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ <p>Other Civil Filing</p> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

_____ Date

Signature of initiating party or representative

See other side for family-related case filings.



1 **OGM**
2 LAURIE L. TROTTER, ESQ.
3 Nevada State Bar No. 8696
4 STATE OF NEVADA, Department of
5 Employment, Training & Rehabilitation (DETR),
6 Employment Security Division (ESD)
7 1340 South Curry Street
8 Carson City, NV 89703
9 Telephone No.: (775) 684-6317
10 Facsimile No.: (775) 684-6344
11 *Attorney for DETR/ESD*

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 SPAR BUSINESS SERVICES, INC.,

15 Petitioner,

16 vs.

17 RENEE OLSON, ADMINISTRATOR, STATE
18 OF NEVADA, DEPARTMENT OF
19 EMPLOYMENT, TRAINING AND
20 REHABILITATION, EMPLOYMENT
21 SECURITY DIVISION; and MICHAEL
22 DEBOARD,

23 Respondents.

CASE NO.: A-17-755501-J

DEPT. NO.: XXXII

24 **ORDER GRANTING MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW**

THIS MATTER came before the Court on the 10th day of October, 2017, for a
duly-noticed hearing on Respondent ESD's Motion to Dismiss Petition for Judicial Review.
Petitioner, Spar Business Services, Inc., was represented by Thomas Vollbrecht, Esq., and Gina
Bongiovi, Esq. The Respondents, State of Nevada, Department of Employment, Training and
Rehabilitation, Employment Security Division, Renee Olson, Administrator of the Employment
Security Division (collectively "ESD") were represented by Laurie L. Trotter, Esq. The former

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

OCT 26 2017

1 employee, Respondent Michael DeBoard, did not appear and has not otherwise participated in
2 these proceedings. After having heard oral argument from the parties, the Court took the matter
3 under advisement.

4 NOW, THEREFORE, this Court has carefully considered the Motion to Dismiss
5 Petition for Judicial Review filed by Respondent ESD on July 21, 2017; the Petitioner's
6 Opposition to the Motion to Dismiss, filed on August 1, 2017; and ESD's Reply to Opposition to
7 Motion to Dismiss Petition for Judicial Review, filed on August 4, 2017; as well as the
8 arguments of the parties; and accordingly, this Court issues its Decision this 12th day of October,
9 2017.

10 The Court ORDERS that Respondent ESD's Motion to Dismiss Petition for
11 Judicial Review is GRANTED. The Court makes the following Findings of Fact and
12 Conclusions of Law:

13 Generally, "[c]ourts have no inherent appellate jurisdiction over official acts of
14 administrative agencies except where the legislature has made some statutory provision for
15 judicial review." *Crane v. Cont'l Tel. Co. of California*, 105 Nev. 399, 401, 775 P.2d 705, 706
16 (1989). Thus, "[w]hen the legislature creates a specific procedure for review of administrative
17 agency decisions, such procedure is controlling." *Id.* In Nevada, the Legislature enacted the
18 Administrative Procedures Act (APA) to govern judicial review of many administrative
19 decisions, permitting an aggrieved party to petition the district court for judicial review of a final
20 agency decision in a contested case. *Washoe Cty. v. Otto*, 128 Nev. Adv. Op. 40, 282 P.3d 719,
21 724 (2012). Because the underlying proceeding involved a petition for judicial review of an
22 administrative decision, this matter is governed by the APA, codified in NRS Chapter 233B. *Id.*
23 "When a party seeks judicial review of an administrative decision, strict compliance with the
24 statutory requirements for such review is a precondition to jurisdiction by the court of judicial

1 review, and [n]oncompliance with the requirements is grounds for dismissal.” *Kame v.*
2 *Employment Sec. Dep’t*, 105 Nev. 22, 25, 769 P.2d 66, 68 (1989).

3 NRS 233B codifies the APA which governs administrative adjudications of all
4 agencies of the Executive Departments of the State Government and for judicial review of both
5 functions. NRS 233B.020. NRS 233B.039 governs the applicability of this NRS Chapter. NRS
6 233B.039(3) which Petitioner relies upon for this argument, provides that the special provisions
7 of (a) Chapter 612 of NRS for the distribution of regulations by, and the judicial review of,
8 decisions of the Employment Security Division of the Department of Employment, Training and
9 Rehabilitation prevail over the general provisions of this chapter. NRS 233B.130 provides for
10 the service requirements of petitions for judicial review. NRS 233B.130(2) provides that
11 petitions for judicial review must be served upon the person serving in the office of
12 administrative head of the named agency.¹ NRS 233B.130(5) provides that the “petition for
13 judicial review and any cross-petitions for judicial review must be served upon the agency and
14 every party within 45 days after the filing of the petition, unless, upon a showing of good cause,
15 the district court extends the time for such service.”

16 Given that the provisions of NRS Chapter 612 are silent as to a service deadline,
17 the service provision within NRS 233B.130(5) controls. There is no service deadline provision
18 within NRS Chapter 612 to prevail over the general provisions of NRS Chapter 233B. As such,
19 the 45-day requirement for service of a Petition for Judicial Review applies in this case.

20 Petitioner contends that NRCP 4(i) prevails over NRS 233B.130(5) and that a
21 120-day deadline applies to service of a petition for judicial review. Petitioner’s reliance upon
22 NRCP 4(i) is misplaced. NRCP 81(a) explains that the Nevada Rules of Civil Procedure “do not
23 govern procedure and practice in a special statutory proceeding insofar as they are inconsistent or

24 ¹ NRS 612.530(2) provides that the petition for judicial review must be served upon the ESD
Administrator.

1 in conflict with the procedure and practice provided by applicable statute.” Furthermore, NRCP
2 82 provides that “these rules shall not be construed to extend or limit jurisdiction of the district
3 courts.” Because NRCP 4(i) clearly conflicts with NRS 233B.130(5) regarding the deadline for
4 service of a petition for judicial review, NRS 233B.130(5) prevails over NRCP 4(i) as to the 45-
5 day deadline for service of a petition for judicial review.

6 Here, the Petition was filed on May 15, 2017. There was no request or motion to
7 extend the time for service prior to the expiration of the 45 days. As such, the deadline for
8 service of the Petition would have been June 29, 2017. It is undisputed that service of the
9 Petition was not effectuated until July 14, 2017. Thus, the Petition was not timely served upon
10 the Respondent as required by NRS 233B.130(5). Petitioner failed to make a showing of good
11 cause for effectuating service of the Petition for Judicial Review after the statutory deadline in
12 this case.

13 Based upon the above findings and GOOD CAUSE APPEARING THEREFOR,
14 **IT IS HEREBY ORDERED** that the Motion to Dismiss Petition for Judicial
15 Review be, and the same hereby is, GRANTED and the Petition for Judicial Review is
16 DISMISSED.

17 **DATED** this 6 day of Nov, 2017.



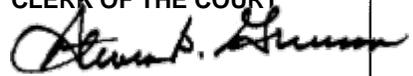
HONORABLE ROB BARE
DISTRICT JUDGE

ROB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

22 Prepared and Submitted by:

23 

24 LAURIE L. TROTTER, ESQ.
Attorney for ESD Respondents



1 **NEOJ**
LAURIE L. TROTTER, ESQ.
2 Nevada State Bar No. 8696
STATE OF NEVADA, Department
3 of Employment, Training & Rehabilitation (DETR)
Employment Security Division (ESD)
4 1340 South Curry Street
Carson City, NV 89703
5 Telephone: (775) 684-6317
Facsimile: (775) 684-6344
6 *Attorney for DETR/ESD*

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 SPAR BUSINESS SERVICES, INC.,

10 Petitioner,

11 vs.

12 RENEE OLSON, ADMINISTRATOR,
STATE OF NEVADA, DEPARTMENT OF
13 EMPLOYMENT, TRAINING AND
REHABILITATION, EMPLOYMENT
14 SECURITY DIVISION; and MICHAEL
DEBOARD,

15 Respondents.

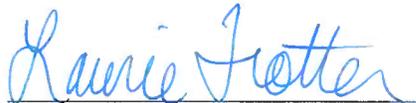
CASE NO. A-17-755501-J

DEPT. NO. XXXII

16
17 **NOTICE OF ENTRY OF ORDER**
18 **GRANTING MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW**

19 **PLEASE TAKE NOTICE** that on the 14th day of November, 2017, the Court
20 entered its Order Granting Motion to Dismiss Petition for Judicial Review in the above-entitled
21 action. A copy of said Order is attached hereto.

22 **DATED** this 15th day of November, 2017.

23 

24 LAURIE L. TROTTER, ESQ.

Attorney for Nevada ESD Respondents

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of the State of Nevada,
3 over the age of 18 years; and that on the date hereinbelow set forth, I served a true and correct
4 copy of the foregoing NOTICE OF ENTRY OF ORDER GRANTING MOTION TO DISMISS
5 PETITION FOR JUDICIAL REVIEW, *by either* electronic means (N.E.F.C.R. Administrative
6 Order 14-2), as indicated by an email address set forth below, *and/or* by placing the same within
7 an envelope which was thereafter sealed and deposited for postage and mailing with the State of
8 Nevada Mail at Carson City, Nevada, addressed for delivery as follows:

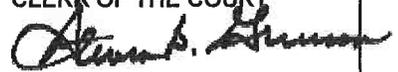
9 Gina Bongiovi, Esq.
10 *Bongiovi Law Firm, LLC*
11 2620 Regatta Drive, Suite 102
12 Las Vegas, NV 89128

13 Thomas J. Vollbrecht, Esq.
14 *Fabyanske, Westra, Hart, et al.*
15 333 South Seventh St., Suite 2600
16 Minneapolis, MN 55402

17 Michael DeBoard
18 5026 River Glen #158
19 Las Vegas, NV 89103

20 DATED this 15th day of November, 2017.

21 
22 _____
23 SHERI C. IHLER
24



1 **OGM**
2 LAURIE L. TROTTER, ESQ.
3 Nevada State Bar No. 8696
4 STATE OF NEVADA, Department of
5 Employment, Training & Rehabilitation (DETR),
6 Employment Security Division (ESD)
7 1340 South Curry Street
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12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 SPAR BUSINESS SERVICES, INC.,

CASE NO.: A-17-755501-J

15 Petitioner,

DEPT. NO.: XXXII

16 vs.

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18 OF NEVADA, DEPARTMENT OF
19 EMPLOYMENT, TRAINING AND
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<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
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OCT 26 2017

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9 Petition was not effectuated until July 14, 2017. Thus, the Petition was not timely served upon
10 the Respondent as required by NRS 233B.130(5). Petitioner failed to make a showing of good
11 cause for effectuating service of the Petition for Judicial Review after the statutory deadline in
12 this case.

13 Based upon the above findings and GOOD CAUSE APPEARING THEREFOR,
14 **IT IS HEREBY ORDERED** that the Motion to Dismiss Petition for Judicial
15 Review be, and the same hereby is, GRANTED and the Petition for Judicial Review is
16 DISMISSED.

17 DATED this 6 day of Nov, 2017.



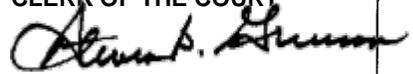
HONORABLE ROB BARE
DISTRICT JUDGE

ROB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

22 Prepared and Submitted by:



24 LAURIE L. TROTTER, ESQ.
Attorney for ESD Respondents



1 **ODM**
LAURIE L. TROTTER, ESQ.
2 Nevada State Bar No. 8696
STATE OF NEVADA, Department of
3 Employment, Training & Rehabilitation (DETR),
Employment Security Division (ESD)
4 500 E. Third Street
Carson City, NV 89713
5 Telephone No.: (775) 684-3996
Facsimile No.: (775) 684-3992
6 *Attorney for DETR/ESD*

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9
10 SPAR BUSINESS SERVICES, INC.,

11 Petitioner,

12 vs.

13 RENEE OLSON, ADMINISTRATOR, STATE
OF NEVADA, DEPARTMENT OF
14 EMPLOYMENT, TRAINING AND
REHABILITATION, EMPLOYMENT
15 SECURITY DIVISION; and MICHAEL
DEBOARD,

16 Respondents.

CASE NO.: A-17-755501-J

DEPT. NO.: XXXII

17
18 **ORDER DENYING MOTION TO RECONSIDER**

19 **THIS MATTER** came before the Court on the 14th day of February, 2018, for a
20 decision In Chambers on Petitioner's Motion for Reconsideration. The parties were not present.
21 Petitioner, Spar Business Services, Inc., is represented by Thomas Vollbrecht, Esq., and Gina
22 Bongiovi, Esq. The Respondents, State of Nevada, Department of Employment, Training and
23 Rehabilitation, Employment Security Division, Renee Olson, Administrator of the Employment

MAR 26 2018

1 Security Division (collectively "ESD") are represented by Laurie L. Trotter, Esq. The former
2 employee, Respondent Michael DeBoard, has not participated in these proceedings.

3 NOW, THEREFORE, this Court has carefully considered the submitted
4 pleadings: *Petitioner's Motion to Reconsider Pursuant to NRCP 50(e) And NRCP 60(b)*, *ESD's*
5 *Opposition to Petitioner's Motion to Reconsider Pursuant to NRCP 59(e) And NRCP 60(b)*, and
6 *Petitioner's Reply in Support of Motion to Reconsider Pursuant to NRCP 59(e) and NRCP(b)*;
7 and the applicable standard of law. The COURT ORDERED, Petitioner's Motion to Reconsider
8 is DENIED, and the Status Check: Decision set for February 14, 2018 is VACATED.

9 The Court makes the following Findings of Fact and Conclusions of Law:

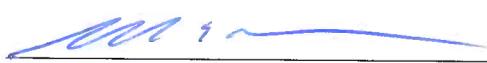
10 EDCR 2.24(a) states, "[n]o motions once heard and disposed of may be renewed
11 in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the
12 court granted upon motion therefor, after notice of such motion to the adverse parties." A district
13 court may reconsider a previously decided issue if substantially different evidence is
14 subsequently introduced or the decision is clearly erroneous. *Masonry & Tile Contractors Ass'n*
15 *of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 941 P.2d 486 (1997). Only in rare
16 instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling
17 already reached should a motion for rehearing be granted. *Moore v. City of Las Vegas*, 92 Nev.
18 402, 405, 551 P.2d 244, 246 (1976). "[P]oints or contentions not raised, or passed over in
19 silence on the original hearing, cannot be maintained or considered on petition rehearing."
20 *Balanger v. Leonard*, 68 Nev. 258, 262, 229 P.2d 153, 155 (1951). "Our established practice
21 does not allow a litigant to raise new legal points for the first time on rehearing." *Cannon v.*
22 *Taylor*, 88 Nev. 89, 92, 493 P.2d 1313, 1314 (1972).

23 Petitioner's basis for this Motion to Reconsider is case law which was not raised
24 in the original briefing or hearing: *Fitzpatrick v. State ex rel., Dep't of Commerce, Ins. Div.*, 107

1 Nev. 486, 487, 813 P.2d 1004, 1004 (1991). It is the Petitioner's argument that under that case,
2 if a Petition for Judicial Review is timely filed, then the Court has jurisdiction to consider other
3 matters so long as good cause is established, and this Court erred in dismissing the Petition for
4 Judicial Review, which was not timely served. This Court finds that the Petitioner has failed to
5 establish that this Court's decision was clearly erroneous. The *Fitzpatrick* decision is not
6 directly on point. Instead, it primarily addresses the requisite deadline for the points and
7 authorities pursuant to NRS 233B.133. Although *Fitzpatrick* does provide guidance to district
8 courts in this area of law, this case does not mandate reconsideration of this distinct issue, service
9 of the Petition per NRS 612.530(2) and NRS 233B.130(5). Furthermore, this Court finds that
10 any such case law which could have been utilized at the prior hearing should have been raised
11 that that time. Therefore, the Motion for Reconsideration is DENIED.

12 Based upon the above findings and GOOD CAUSE APPEARING THEREFOR,
13 **IT IS HEREBY ORDERED** that the Motion to Dismiss Petition for Judicial
14 Review be, and the same hereby is, GRANTED and the Petition for Judicial Review is
15 DISMISSED.

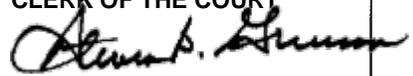
16 DATED this 3 day of April, 2018.

17
18 
HONORABLE ROB BARE
DISTRICT JUDGE

19 RCB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

20 Prepared and Submitted by:
21 
22 LAURIE L. TROTTER, ESQ.
Attorney for ESD Respondents

24



1 **NEOJ**
2 LAURIE L. TROTTER, ESQ.
3 Nevada State Bar No. 8696
4 STATE OF NEVADA, Department
5 of Employment, Training & Rehabilitation (DETR)
6 Employment Security Division (ESD)
7 500 East Third Street
8 Carson City, NV 89713
9 Telephone: (775) 684-3996
10 Facsimile: (775) 684-3992
11 *Attorney for DETR/ESD*

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 SPAR BUSINESS SERVICES, INC.,

10 Petitioner,

11 vs.

12 RENEE OLSON, ADMINISTRATOR,
13 STATE OF NEVADA, DEPARTMENT OF
14 EMPLOYMENT, TRAINING AND
15 REHABILITATION, EMPLOYMENT
16 SECURITY DIVISION; and MICHAEL
17 DEBOARD,

18 Respondents.

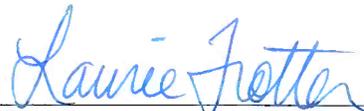
CASE NO. A-17-755501-J

DEPT. NO. XXXII

17 **NOTICE OF ENTRY OF ORDER DENYING MOTION TO RECONSIDER**

18 **PLEASE TAKE NOTICE** that on the 10th day of April, 2018, the Court entered
19 its Order Denying Motion to Reconsider in the above-entitled action. A copy of said Order is
20 attached hereto.

21 **DATED** this 11th day of April, 2018.

22 

23 LAURIE L. TROTTER, ESQ.

Attorney for Nevada ESD Respondents

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of the State of Nevada,
3 over the age of 18 years; and that on the date hereinbelow set forth, I served a true and correct
4 copy of the foregoing NOTICE OF ENTRY OF ORDER DENYING MOTION TO
5 RECONSIDER, *by either* electronic means (N.E.F.C.R. Administrative Order 14-2), as indicated
6 by an email address set forth below, *and/or* by placing the same within an envelope which was
7 thereafter sealed and deposited for postage and mailing with the State of Nevada Mail at Carson
8 City, Nevada, addressed for delivery as follows:

9 Gina Bongiovi, Esq.
10 *Bongiovi Law Firm, LLC*
11 2620 Regatta Drive, Suite 102
12 Las Vegas, NV 89128

13 Thomas J. Vollbrecht, Esq.
14 *Fabyanske, Westra, Hart, et al.*
15 333 South Seventh St., Suite 2600
16 Minneapolis, MN 55402

17 Michael DeBoard
18 5026 River Glen #158
19 Las Vegas, NV 89103

20 DATED this 11th day of April, 2018.

21 
22 _____
23 SHERI C. IHLER



1 **ODM**
2 LAURIE L. TROTTER, ESQ.
3 Nevada State Bar No. 8696
4 STATE OF NEVADA, Department of
5 Employment, Training & Rehabilitation (DETR),
6 Employment Security Division (ESD)
7 500 E. Third Street
8 Carson City, NV 89713
9 Telephone No.: (775) 684-3996
10 Facsimile No.: (775) 684-3992
11 *Attorney for DETR/ESD*

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

10 SPAR BUSINESS SERVICES, INC.,

11 Petitioner,

12 vs.

13 RENEE OLSON, ADMINISTRATOR, STATE
14 OF NEVADA, DEPARTMENT OF
15 EMPLOYMENT, TRAINING AND
16 REHABILITATION, EMPLOYMENT
17 SECURITY DIVISION; and MICHAEL
18 DEBOARD,

19 Respondents.

CASE NO.: A-17-755501-J

DEPT. NO.: XXXII

18 **ORDER DENYING MOTION TO RECONSIDER**

19 **THIS MATTER** came before the Court on the 14th day of February, 2018, for a
20 decision In Chambers on Petitioner's Motion for Reconsideration. The parties were not present.
21 Petitioner, Spar Business Services, Inc., is represented by Thomas Vollbrecht, Esq., and Gina
22 Bongiovi, Esq. The Respondents, State of Nevada, Department of Employment, Training and
23 Rehabilitation, Employment Security Division, Renee Olson, Administrator of the Employment

MAR 26 2018

1 Security Division (collectively "ESD") are represented by Laurie L. Trotter, Esq. The former
2 employee, Respondent Michael DeBoard, has not participated in these proceedings.

3 NOW, THEREFORE, this Court has carefully considered the submitted
4 pleadings: *Petitioner's Motion to Reconsider Pursuant to NRCP 50(e) And NRCP 60(b)*, *ESD's*
5 *Opposition to Petitioner's Motion to Reconsider Pursuant to NRCP 59(e) And NRCP 60(b)*, and
6 *Petitioner's Reply in Support of Motion to Reconsider Pursuant to NRCP 59(e) and NRCP(b)*;
7 and the applicable standard of law. The COURT ORDERED, Petitioner's Motion to Reconsider
8 is DENIED, and the Status Check: Decision set for February 14, 2018 is VACATED.

9 The Court makes the following Findings of Fact and Conclusions of Law:

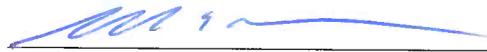
10 EDCR 2.24(a) states, "[n]o motions once heard and disposed of may be renewed
11 in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the
12 court granted upon motion therefor, after notice of such motion to the adverse parties." A district
13 court may reconsider a previously decided issue if substantially different evidence is
14 subsequently introduced or the decision is clearly erroneous. *Masonry & Tile Contractors Ass'n*
15 *of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 941 P.2d 486 (1997). Only in rare
16 instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling
17 already reached should a motion for rehearing be granted. *Moore v. City of Las Vegas*, 92 Nev.
18 402, 405, 551 P.2d 244, 246 (1976). "[P]oints or contentions not raised, or passed over in
19 silence on the original hearing, cannot be maintained or considered on petition rehearing."
20 *Balanger v. Leonard*, 68 Nev. 258, 262, 229 P.2d 153, 155 (1951). "Our established practice
21 does not allow a litigant to raise new legal points for the first time on rehearing." *Cannon v.*
22 *Taylor*, 88 Nev. 89, 92, 493 P.2d 1313, 1314 (1972).

23 Petitioner's basis for this Motion to Reconsider is case law which was not raised
24 in the original briefing or hearing: *Fitzpatrick v. State ex rel., Dep't of Commerce, Ins. Div.*, 107

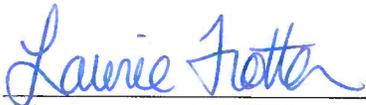
1 Nev. 486, 487, 813 P.2d 1004, 1004 (1991). It is the Petitioner's argument that under that case,
2 if a Petition for Judicial Review is timely filed, then the Court has jurisdiction to consider other
3 matters so long as good cause is established, and this Court erred in dismissing the Petition for
4 Judicial Review, which was not timely served. This Court finds that the Petitioner has failed to
5 establish that this Court's decision was clearly erroneous. The *Fitzpatrick* decision is not
6 directly on point. Instead, it primarily addresses the requisite deadline for the points and
7 authorities pursuant to NRS 233B.133. Although *Fitzpatrick* does provide guidance to district
8 courts in this area of law, this case does not mandate reconsideration of this distinct issue, service
9 of the Petition per NRS 612.530(2) and NRS 233B.130(5). Furthermore, this Court finds that
10 any such case law which could have been utilized at the prior hearing should have been raised
11 that that time. Therefore, the Motion for Reconsideration is DENIED.

12 Based upon the above findings and GOOD CAUSE APPEARING THEREFOR,
13 **IT IS HEREBY ORDERED** that the Motion to Dismiss Petition for Judicial
14 Review be, and the same hereby is, GRANTED and the Petition for Judicial Review is
15 DISMISSED.

16 DATED this 3 day of April, 2018.

17
18 
HONORABLE ROB BARE
DISTRICT JUDGE

19 ROB BARE
JUDGE, DISTRICT COURT, DEPARTMENT 32

20 Prepared and Submitted by:
21 
22 LAURIE L. TROTTER, ESQ.
Attorney for ESD Respondents

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Other Nevada State Agency
Appeal**

COURT MINUTES

July 11, 2017

A-17-755501-J Spar Business Services Inc, Petitioner(s)
vs.
Nevada Employment Security Appeals Division, Respondent(s)

**July 11, 2017 11:12 AM Minute Order Minute Order Re:
Motion to Associate
Counsel, Thomas
Vollbrecht, Esq.**

HEARD BY: Bare, Rob

COURTROOM: Chambers

COURT CLERK: April Watkins

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Having examined the Motion to Associate Counsel for Thomas Vollbrecht Esq., noting no Opposition filed, and good cause appearing pursuant to Supreme Court Rule 42, the Motion to Associate Counsel is GRANTED. Pursuant to EDCR 2.23, the hearing on this matter set for July 18, 2017, is advanced and VACATED. Moving party to prepare and submit proposed order to chambers within 10 days.

CLERK'S NOTE: The above minute order has been distributed to: Gina Bongiovi, Esq., (gina@bongiovilaw.com), Renee Olson, Administrator, Employment Security Division, State of Nevada, 500 E. Third Street, Carson City, NV 89713 and Michael DeBoard, 5026 River Glenn #158, Las Vegas, NV 89103. aw

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Other Nevada State Agency
Appeal**

COURT MINUTES

October 10, 2017

A-17-755501-J Spar Business Services Inc, Petitioner(s)
vs.
Nevada Employment Security Appeals Division, Respondent(s)

**October 10, 2017 9:30 AM Motion to Dismiss Respondent's Notice
of Motion and
Hearing Re: Motion
to Dismiss**

HEARD BY: Bare, Rob

COURTROOM: RJC Courtroom 03C

COURT CLERK: Denise Duron

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT: Bongiovi, Gina Attorney
Trotter, Laurie L. Attorney
Vollbrecht, Thomas J. Attorney

JOURNAL ENTRIES

- Court gave preliminary thoughts on the matter. Argument by Ms. Trotter in support of the motion, noting there was no good cause in the delay in service. Argument by Mr. Vollbrecht in opposition. COURT ORDERED, matter UNDER ADVISEMENT.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Other Nevada State Agency
Appeal**

COURT MINUTES

October 12, 2017

A-17-755501-J Spar Business Services Inc, Petitioner(s)
vs.
Nevada Employment Security Appeals Division, Respondent(s)

October 12, 2017 8:00 AM Minute Order

HEARD BY: Bare, Rob

COURTROOM: Chambers

COURT CLERK: Denise Duron

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- This matter came before the Court on October 10, 2017 for Respondent s Motion to Dismiss, and Court took the matter under advisement. After carefully considering the evidence submitted and hearing arguments, Court issued its Decision this 12th day of October, 2017. COURT ORDERED, Respondent s Motion to Dismiss is GRANTED.

Generally, [c]ourts have no inherent appellate jurisdiction over official acts of administrative agencies except where the legislature has made some statutory provision for judicial review. Crane v. Cont'l Tel. Co. of California, 105 Nev. 399, 401, 775 P.2d 705, 706 (1989). Thus, [w]hen the legislature creates a specific procedure for review of administrative agency decisions, such procedure is controlling. Id. In Nevada, the Legislature enacted the APA to govern judicial review of many administrative decisions, permitting an aggrieved party to petition the district court for judicial review of a final agency decision in a contested case. Washoe Cty. v. Otto, 128 Nev. Adv. Op. 40, 282 P.3d 719, 724 (2012). Because the underlying proceeding involved a petition for judicial review of an administrative decision, this matter is governed by the APA, codified in NRS Chapter 233B. Id. When a party seeks judicial review of an administrative decision, strict compliance with the statutory requirements for such review is a precondition to jurisdiction by the court of judicial review, and [n]oncompliance with the requirements is grounds for dismissal. Kame v. Employment Sec. Dep't,

105 Nev. 22, 25, 769 P.2d 66, 68 (1989).

NRS 233B codifies the NV Administrative Procedure Act which governs administrative adjudications of all agencies of the Executive Departments of the State Government and for judicial review of both functions. NRS 233B.020. NRS 233B.039 governs the applicability of this NRS Chapter. NRS 233B.039(3), which Petitioner relies upon for this argument provides that the special provisions of (a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation prevail over the general provisions of this chapter.

NRS 233B.130 provides for the service requirements of Petition for Judicial Review. NRS 233B.130(2) provides that Petitions for judicial review must be served upon the person serving in the office of administrative head of the named agency. NRS 233B.130(5) provides that The petition for judicial review and any cross-petitions for judicial review must be served upon the agency and every party within 45 days after the filing of the petition, unless, upon a showing of good cause, the district court extends the time for such service.

Given that the provisions of NRS Chapter 612 are silent as to a service deadline, the service provision of NRS 233B.130(5) controls. There is no service deadline provision within NRS Chapter 612 to prevail over the general provisions of Chapter NRS 233B. As such, the 45 day requirement for service of a Petition for Judicial Review applies in this case.

Here, the Petition was filed on May 15, 2017. There was no request or motion to extend the time for service prior to the expiration of the 45 days. As such, the deadline for service of the Petition would have been June 29, 2017. It is undisputed that service of the Petition was not effectuated until July 14, 2017. Thus, the Petition was not timely served upon the Respondent as required by NRS 233B.130(5). Accordingly, the Motion to Dismiss is granted.

Counsel for Respondent is directed to submit a proposed Order regarding this motion, consistent with this Minute Order, the submitted briefing, and oral argument. Counsel may add language to or further supplement the proposed Order in accordance with the Court's findings and any submitted arguments. A Status Check: Order is set for December 20, 2017 in chambers. Parties need not appear.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Gina Bongiovi, Esq. / (dd-10/17/17)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Other Nevada State Agency
Appeal**

COURT MINUTES

January 23, 2018

A-17-755501-J Spar Business Services Inc, Petitioner(s)
vs.
Nevada Employment Security Appeals Division, Respondent(s)

January 23, 2018 8:00 AM Minute Order

HEARD BY: Bare, Rob

COURTROOM: Chambers

COURT CLERK: Denise Duron

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Pursuant to EDCR 2.24(a), the Motion for Reconsideration currently scheduled for January 25, 2018, is VACATED. Parties need not appear. The Court is to decide the matter in chambers and issue a decision. Status Check: Decision set for February 14, 2018 in chambers.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Denise Duron, to all registered parties for Odyssey File & Serve. (dd-1/23/18)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Other Nevada State Agency
Appeal**

COURT MINUTES

February 14, 2018

A-17-755501-J Spar Business Services Inc, Petitioner(s)
vs.
Nevada Employment Security Appeals Division, Respondent(s)

February 14, 2018 3:00 AM Status Check

HEARD BY: Bare, Rob

COURTROOM:

COURT CLERK: Michaela Tapia

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- This matter came before the Court for Petitioner s Motion to Reconsider. After considering the submitted pleadings and the applicable standard of law, COURT ORDERED, Petitioner s Motion to Reconsider is DENIED and the Status Check: Decision set for February 14, 2018 is VACATED.

EDCR 2.24 (a) states, No motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties. A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous. *Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 941 P.2d 486 (1997). Only in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for rehearing be granted. *Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976). [P]oints or contentions not raised, or passed over in silence on the original hearing, cannot be maintained or considered on petition rehearing. *Belanger v. Leonard*, 68 Nev. 258, 262, 229 P.2d 153, 155 (1951). [O]ur established practice does not allow a litigant to raise new legal points for the first time on rehearing. *Cannon v. Taylor*, 88 Nev. 89, 92, 493 P.2d 1313, 1314 (1972).

Petitioner's basis for this Motion to Reconsider is case law which was not raised in the original briefing or hearing: *Fitzpatrick v. State ex rel., Dep't of Commerce, Ins. Div.*, 107 Nev. 486, 487, 813 P.2d 1004, 1004 (1991). It is the Petitioner's argument that under that case, if a Petition for Judicial Review is timely filed, then the Court has jurisdiction to consider other matters so long as good cause is established, and this Court erred in dismissing the Petition for Judicial Review, which was not timely served. This Court finds that the Petitioner has failed to establish that this Court's decision was clearly erroneous. The *Fitzpatrick* decision is not directly on point. Instead, it primarily addresses the requisite deadline for the points and authorities pursuant to NRS 233B.133. Although *Fitzpatrick* does provide guidance to district courts in this area of the law, this case law does not mandate reconsideration of this distinct issue, service of the Petition per NRS 612.530(2) and NRS 233B.130(5). Furthermore, this Court finds that any such case law which could have been utilized at the prior hearing should have been raised at that time. Therefore, the Motion to Reconsider is DENIED.

Counsel for Respondent is directed to submit a proposed Order consistent with this Minute Order, the submitted briefing, and oral argument. Counsel may add language to or further supplement the proposed Order in accordance with the Court's findings and any submitted arguments. Counsel is directed to have the proposed Order submitted to chambers within 10 days.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Gina Bongiovi, Esq., and Laurie Trotter, Esq.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

GINA BONGIOVI, ESQ.
2620 REGATTA DR., STE 102
LAS VEGAS, NV 89128

DATE: May 2, 2018
CASE: A-17-755501-J

RE CASE: SPAR BUSINESS SERVICES, INC. vs. EMPLOYMENT SECURITY DIVISION
STATE OF NEVADA; RENEE OLSON ADMINISTRATOR OF THE EMPLOYMENT SECURITY
DIVISION; KATIE JOHNSON CHAIRPERSON OF THE EMPLOYMENT SECURITY DIVISION
BOARD OD REVIEW; MICHAEL DEBOARD

NOTICE OF APPEAL FILED: April 30, 2018

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- Order
- Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.**

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW; NOTICE OF ENTRY OF ORDER GRANTING MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW; ORDER DENYING MOTION TO RECONSIDER; NOTICE OF ENTRY OF ORDER DENYING MOTION TO RECONSIDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

SPAR BUSINESS SERVICES, INC.,

Petitioner(s),

vs.

EMPLOYMENT SECURITY DIVISION
STATE OF NEVADA; RENEE OLSON
ADMINISTRATOR OF THE EMPLOYMENT
SECURITY DIVISION; KATIE JOHNSON
CHAIRPERSON OF THE EMPLOYMENT
SECURITY DIVISION BOARD OD REVIEW;
MICHAEL DEBOARD,

Respondent(s),

Case No: A-17-755501-J

Dept No: XXXII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 2 day of May 2018.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

