IN THE SUPREME COURT OF THE STATE OF NEVADA

U.S. BANK, NATIONAL ASSOCIATION, SUCCESSOR TRUSTEE TO BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO LASALLE BANK, N.A., AS TRUSTEE, Appellant, vs. 5316 CLOVER BLOSSOM CT TRUST, and COUNTRY GARDEN OWNERS ASSOCIATION, Respondents.	Case No. 75861	Electronically Filed Dec 21 2018 02:36 p.m. Elizabeth A. Brown Clerk of Supreme Court

APPEAL
from the Eighth Judicial District Court, Department XXIV
The Honorable Jim Crockett, District Judge
District Court Case No. A-14-704412-C

RESPONDENT'S ANSWERING BRIEF

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NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(1), and must be disclosed:

Country Garden Owners' Association has no parent company and is not publicly traded. There is no publicly traded company that owns more than 10% of the stock of Country Garden Owners' Association.

The attorneys who have appeared on behalf of Respondent in this Court and in district court are:

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These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

Dated this 20th day of December, 2018.

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JURISDICTIONAL STATEMENT

This Court has jurisdiction to hear this appeal pursuant to Nevada Rules of Appellate Procedure ("NRAP") Rule 3A(b)(1) because U.S. Bank, N.A. ("Bank") appeals from a final judgment and order entered in the lower court. NRAP 4(a)(1) provides that a notice of appeal must be filed no later than 30 days after service of the written notice of entry of the judgment or order from which the appeal is made. On April 13, 2018, the district court entered its Order Granting Country Garden Owners' Association's Motion to Dismiss the Crossclaims of U.S. Bank, National Association, Findings of Fact, Conclusions of Law, and Judgment ("Order"). The motion for reconsideration filed by Appellant U.S. Bank, N.A., as Trustee was denied on May 1, 2018. U.S. Bank filed a notice of appeal on May 10, 2018.

STATEMENT OF ISSUES PRESENTED FOR REVIEW

A. Did the lower court err in granting judgement for the Association on the Bank's crossclaims for unjust enrichment, tortious interference with contractual relations, breach of NRS 116.1113, and wrongful foreclosure ?

SUMMARY STATEMENT OF THE CASE

This case arises out of 5316 Clover Blossom Ct. Trust's ("CB") acquisition of the property located at 5316 Clover Blossom Court, North Las Vegas, Nevada 89031 (the "Property") on January 16, 2013. CB purchased the Property at a non-judicial foreclosure sale pursuant to NRS Chapter 116. On April 23, 2015 CB filed an amended complaint in an attempt to quiet title to the Property.

On October 10, 2017, over two years after the initial complaint, the Bank filed an answer to CB's complaint and filed counterclaims against CB for quiet title and declaratory relief and crossclaims against the Association for unjust enrichment, tortious interference with a contract, breach of NRS 116.1113 and wrongful foreclosure.

On November 9, 2017 the Association filed a motion to dismiss the Bank's claims. On April 13, 2018 the district court dismissed the Bank's claims for wrongful foreclosure and breach of NRS 116.1113.

STANDARD OF REVIEW

This Court reviews the district court's legal conclusions under NRCP 12(b)(5) *de novo*. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008). Statutory interpretation is an issue of law that this Court reviews *de novo*. *Washoe Medical Center v. Second Judicial Dist. Court of State of Nev. ex rel. County of Washoe,* 122 Nev. 1298, 1302, 148 P.3d 790, 792-93 (2006). "When a statute is clear on its face, we will not look beyond the statute's plain language." *Id.* at 793.

SUMMARY OF ARGUMENT

The district court correctly granted dismissal of the Bank's claims for unjust enrichment, tortious interference with a contract, wrongful foreclosure and breach of NRS 116.1113. The statute of limitations for the Bank's claims began running on the date of the foreclosure sale, January 16, 2013. Because each of the Banks' claims was brought more than four years after the foreclosure sale, each is time barred. The Bank's lack of diligence in this case renders it incapable of demonstrating that it is entitled to equitable tolling under the standard.

Additionally, the Bank's claims were subject to dismissal as the Bank failed to comply with the requirement of NRS 38.310 *et. seq*. prior to filing its answer and crossclaims.

Finally, the Bank failed to demonstrate that the district court erred in dismissing its claim for breach of NRS 116.1113 because the record demonstrates that the Association did not violate any of the duties the Bank identifies.

ARGUMENTS

A. The District Court Should be Affirmed as the Bank's Claims Against the Association Were Time Barred.

The Bank argues that the district court erred in determining that the Bank's claims against the Association were time barred for multiple reasons. First, the Bank argues that the district court misunderstood the accrual date. *See* Opening Brief at 26. Next the Bank argues that the district court ignored equitable tolling. *Id*. Finally, the Bank argues that the district court applied the wrong statute of limitations. *Id*. As set forth in more detail below, each of the Bank's arguments is incorrect or otherwise fails to demonstrate that the district court erred. As such, this Court should affirm the district court's order granting judgment to the Association.

1. The Bank's claims accrued at the time of the foreclosure sale.

In its Opening Brief, the Bank acknowledges that statutes of limitations begin to run "on the day the cause of action accrues" and that "a cause of action accrues when a suit may be maintained thereon." *See* Opening Brief at 27. However, the Bank then argues a contrary position, namely, that the statute of limitations does not begin to run until the court rules that the Bank's deed was extinguished. *Id.* at 27-28. The Bank's argument fails for the reasons set forth below.

First, *Clark v. Robison*, 113 Nev. 949, 951, 944 P.2d 788, 789 (1997) is controlling on this issue. There, this Court found that a cause of action accrues when a suit may be maintained thereon. *Id*. In this case, "a suit may have been maintain" as early as the foreclosure sale. In *Bank of Am., N.A. v. Country Garden Owners Ass'n*, No. 217CV01850APGCWH, 2018 WL 1336721, (D. Nev. Mar. 14, 2018) the Court described exactly why the Bank's claims accrue at the time of the foreclosure sale. It found:

> Because Bank of America's interest in the property was called into question at the time of the foreclosure sale due to the HOA's superpriority lien, Bank of America knew as of the foreclosure sale that either its deed of trust was not extinguished so it was not damaged, or its deed of trust was extinguished so it was damaged. No later than when the trustee's deed upon sale was recorded, Bank of America knew the content of the HOA's notices, knew that Country Garden had rejected its tender, and knew the property had been sold at a foreclosure sale for $6,737.80.3 Thus, based on the complaint's allegations, Bank of America had the facts supporting its contention that the HOA foreclosure sale was improperly conducted as of the date of the foreclosure sale.

Id.

In the context of claims challenging an HOA foreclosure sale, numerous courts have found that the cause of action accrues on the date of the foreclosure sale. *See e.g. Bank of New York Mellon v. Cascade Homeowners Ass'n, Inc.*, 2017 WL 3260598, at *4 (D. Nev. 2017) ("The foreclosure sale took place on August 14, 2012. BNYM brought this lawsuit more than three years later, on June 14,

2016."); *see also Amber Hills II Homeowners Ass'n*, 2016 WL 1298108, at *5; *see also U.S. Bank Nat'l Ass'n*, 2017 WL 2990852, at *3; *JPMorgan Chase Bank, N.A. v. SFR Investments Pool 1, LLC*, 2017 WL 3317813, at *2 (D. Nev. 2017); *JP Morgan Chase Bank, N.A. v. Williston Inv. Grp., LLC*, 2017 WL 3299041, at *2 (D. Nev. 2017), judgment entered sub nom. *JPMorgan Chase Bank, N.A. v. Williston Inv. Grp., LLC*, 2017 WL 4683478 (D. Nev. 2017); *Bank of Am., N.A. v. Desert Canyon Homeowners Ass'n*, 2017 WL 4932912, at *2 (D. Nev. 2017); *Bank of New York Mellon v. S. Terrace Homeowners Ass'n*, 2017 WL 3013254, at *2 (D. Nev. 2017).

Here, any purported claims the Bank may have had against the Association accrued either at the time of the foreclosure sale, January 16, 2013, or on November 21, 2012 when the Bank allegedly sent a letter to Alessi & Koenig, LLC ("A&K") in which the Bank recognizes that its interest may be extinguished by the Association's foreclosure sale. *See* AA 309. Accordingly, the district court did not err and dismissal of these time barred claims was required.

The Bank's interest in the Property was called into question and was foreseeable at the time of the foreclosure sale due to NRS 116.3116(2). The U.S. District Court discussed the foreseeability of the Nevada Supreme Court's decision in *SFR* and found that "in its ruling, the Nevada Supreme Court relied on the plain language of the statute and the official comments to the UCIOA, upon which NRS

116.3116 was based. While lower courts were divided on the proper interpretation of the statute, the Nevada Supreme Court ultimately interpreted it to give effect to its plain language, a result that was clearly foreseeable." *JPMorgan Chase Bank, N.A. v. SFR Investments Pool 1, LLC*, 2016 WL 4084036, at *17 (D. Nev. July 28, 2016).

The Bank is a sophisticated financial institution involved in hundreds of these lawsuits in both state and federal district court. As such, the Bank knew or should have known of its alleged injury at the time of the Association's foreclosure in 2012 or in 2013 when it acknowledged that its interest may be extinguished by the Association's foreclosure sale. *U.S. Bank Nat'l Ass'n v. Woodland Vill.*, 2016 WL 7116016, at *3 (D. Nev. Dec. 6, 2016). Therefore, the Court should find that that the statutes of limitations applicable to the Bank's claims against the Association began to run, at the latest, on the date of recordation of the foreclosure deed January 24, 2013. As such, the Bank's claims are time barred and must be dismissed.

The Bank's position that the statute of limitations does not accrue until a court extinguishes its interest is belied by its own actions in this case. Here, the Bank brought its claims prior to any decision by the district court extinguishing the Bank's interest. This very point was discussed in *Bank of Am., N.A. v. Country Garden Owners Ass'n*, No. 217CV01850APGCWH, 2018 WL 1336721, at *3 (D.

Nev. Mar. 14, 2018) ("Bank of America contends that its damages claims are not ripe because no court has declared its deed of trust extinguished so it has not yet suffered any damages. This argument is belied by the fact that Bank of America brings those damages claims now even though its deed of trust has not been declared extinguished.")

There is no authority for the proposition that a cause of actions accrues upon a finding of damages. Even the case cited by the Bank for this proposition, *City of Pomona v. SQM N. Am. Corp*., 750 F.3d 1036, 1051 (9th Cir. 2014), holds that it is the occurrence of harm, not the finding of damages that begins the statute. *Id*. As set forth above, if the Bank's deed was extinguished on the date of the foreclosure sale, then it was harmed on the date of the foreclosure sale, not the date a court declares that the Bank was damaged.

The Bank's request to treat its damages claims like attorney-malpractice claims should be rejected. Attorney malpractice claims have their own statute of limitations, different from the statues applicable to the Bank's claims in this case. As acknowledged by the Bank in its Brief, in an attorney malpractice claim, "it is not even certain when the malpractice occurs." *See* Opening Brief at 30. However, as set forth above, it is clear that the Bank was damaged on the date of the foreclosure sale by operation of Nevada law. This means that unlike attorney malpractice claims, the damages are not too "speculative and remote" to allow the

statute of limitations to run prior to a finding of damages. The Bank should not be allowed to sidestep the appropriate statute of limitations simply by arguing that it is asserting its claims in the alternative. Alternative pleading was never contemplated as a means to avoid the proper application of statutes of limitations.

2. Equitable Tolling is Inapplicable.

The Bank argues its claims against the Association should be equitably tolled. *See* Opening Brief at 31-35. Simply stated, the Bank failed to meet its burden. "Equitable tolling 'focuses on whether there was an excusable delay by the plaintiff.'" *City of North Las Vegas v. State Local Government Employee-Management Relations Bd.*, 127 Nev. 631, 640, 261 P.3d 1071, 1077 (2011) (citing *Lukovsky v. City and County of San Francisco*, 535, F.3d 1033, 1051 (9th Cir. 2008)); *see also Lehman v. United States*, 154 F.3d 1010, 1016 (9th Cir. 1998). Well established equitable-tolling principles dictate that "a litigant seeking equitable tolling bears the burden of establishing two elements: (1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstances stood in his way." *Kwai Fun Wong v. Beebe*, 732 F.3d 1030, 1052 (2013) (citing *Credit Suisse Sec. (USA) LLC v. Simmonds*, 132 S.Ct. 1414, 1419, 182 L.Ed.2d 336 (2012) (quoting *Pace v. DiGuglielmo*, 544 U.S. 408, 418, 125 S.Ct. 1807, 161 L.Ed.2d 669 (2005))). The Supreme Court has been explicit in its characterization of equitable tolling's components as two distinct elements and "not merely factors

of indeterminate or commensurable weight." *Menominee Indian Tribe of Wisconsin v. United States*, 136 S.Ct. 750, 756 (2016). Accordingly, to assert a successful claim for equitable tolling, both elements must be satisfied. *Id.*; *see also Mazariegos-Diaz v. United States*, 2017 WL 6513343, at *3 (D. Nev. 2017).

The Bank's lack of diligence in this nonjudicial foreclosure case renders it incapable of demonstrating that it is entitled to equitable tolling under the standard. The Bank was on constructive notice of the impending nonjudicial foreclosure sale of the Property as early April 20, 2012, when the Notice of Default and Election to Sell was recorded with the Clark County Recorder's office against the Property. *See* 2AA 301. Additionally, the Bank acknowledges it had notice of the sale in its November 21, 2012 letter. *See* 2AA 309-310. Notwithstanding notice of the foreclosure sale the Bank did not seek a temporary restraining order and preliminary injunction against the Association prior to the foreclosure sale.

Rather than protect its interest at the foreclosure sale of which it admits it had notice, the Bank waited more than 4 years to file the present lawsuit. In light of the foregoing, there is simply no way for the Bank to establish the due diligence required for equitable tolling to apply. This Bank is involved in hundreds, if not thousands, of these cases. The failure to file a timely pleading was exclusively within the Bank's control. The untimely filing was a direct result of the Bank's passive involvement and the Bank cannot assert or prove that it was "without any

fault," which it is required to do under the law. *Fed. Election Comm'n v. Williams*, 104 F.3d 237, 240 (9th Cir. 1996). Moreover, the untimely filing of the Bank was not due to a delay caused by the Association. Accordingly, the Bank cannot satisfy its burden to invoke equitable tolling.

Furthermore, the Bank failed to show or cite to any evidence within its opposition that the untimely filing was due to extraordinary, external circumstances beyond its direct control. *Menominee Indian Tribe of Wisconsin v. United States*, 136 S.Ct. 750, 756 (2016). Instead, the Bank argues that the Association's "misrepresentations" in its CC&Rs justify tolling. *See* Opening Brief at 32. Specifically, the Bank argues that the Association "falsely assured" the Bank that the foreclosure sale would have no effect upon the Bank's interest. However, the Bank's argument is belied by section 4.12 the CC&Rs, which follow NRS 116.3116 verbatim and put the Bank on notice that its deed of trust could be affected. Section 4.12 is entitled "Super Priority" and reads:

> The lien is also prior to all Security Interests described in Sub-section 4.11(c) to the extent of the assessments for Common Expenses and Association Property based on the periodic budget adopted by the Association pursuant to NRS § 116.3115 would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien.

See 2AA 431.

Section 4.13 which is entitled "Subordination of the Lien to First Security

Interest" specifically carves out section 4.12 from any promise that the interest of a first security interest holder would not be affected by an NRS Chapter 116 sale. *See* 2AA 431-432. To the extent the Bank even reviewed the CC&Rs in this case such that they could attempt to rely upon those CC&Rs, the evidence here demonstrates that the Bank was not given false assurances, but notified exactly what the law stated under NRS 116.3116. Therefore, the Bank has categorially failed to carry its burden and the claims being asserted against the Association should not be equitably tolled.

3. The Bank's claim for Wrongful Foreclosure is time barred[1].

Finally, the Bank argues its claim for wrongful foreclosure should not have been dismissed because it is subject to a six year statute of limitations. *See* Opening Brief at 35-36. The Bank cites to *Nationstar Mortgage, LLC v. Falls at Hidden Canyon Homeowners Ass'n*, 2017 WL 2587926 (D. Nev. June 14, 2017) to support its interpretation. However, as set forth in more detail below, the Court's reasoning in *Nationstar* is not applicable in the present case while other applicable authority has found that the statute of limitations for a wrongful foreclosure claim is 3 years.

The Court in *Nationstar* found that a wrongful foreclosure claim could be

[1] Arguably, the statute of limitations for the Bank's wrongful foreclosure claim could be even shorter. NRS 107.080(5) and (6) provides the Bank had up to sixty (60) days to bring an action to challenge the propriety of the notice and sale.

subject to a longer statute of limitations "to the extent it implicat[ed] the association's CC&Rs." Here, the Bank's Amended Complaint makes it clear that its wrongful foreclosure claim is not based on the CC&Rs but instead, on the Association's alleged rejection of the Bank's pre-sale tender. *See* 2AA 26-257.

This case is more analogous to *Nationstar Mortg. LLC v. Amber Hills II Homeowners Ass'n*, No. 215CV01433APGCWH, 2016 WL 1298108, at *1 (D. Nev. Mar. 31, 2016) where Judge Gordon dismissed a claim for wrongful foreclosure holding, "[a] tortious wrongful foreclosure claim 'challenges the authority behind the foreclosure, not the foreclosure act itself.' *McKnight Family, L.L.P. v. Adept Mgmt.*, 310 P.3d 555, 559 (Nev. 2013) (*en banc*). Because Amber Hills' authority to foreclose in the manner it did arises from Chapter 116, Nationstar's claim essentially is for damages based on liability created by a statute. This claim is therefore time-barred under § 11.190(3)(a) because it was not brought within three years." *Nationstar Mortg. LLC*, 2016 WL 1298108, at *5 (citing NRS 11.190(3)(a)).

B. NRS 38.310 Applies to the Bank. The Bank failed to Follow the Statute in Asserting Its Claims.

The Bank argues that beneficiaries of deeds of trust are not required to mediate claims against HOAs prior to filing a lawsuit. *See* Opening Brief at 36-38. It is clear from the plain reading of the statute that NRS 38.310 applies to any "civil action," not only those actions involving homeowners in disputes with their

homeowners' associations. When interpreting a statute, legislative intent "is the controlling factor." *Robert E. v. Justice Court,* 99 Nev. 443, 445, 664 P.2d 957, 959 (1983). The starting point for determining legislative intent is the statute's plain meaning; when a statute "is clear on its face, a court cannot go beyond the statute in determining legislative intent." *Id.; see also Catanio,* 120 Nev. at 1033, 102 P.3d at 590 ("We must attribute the plain meaning to a statute that is not ambiguous."). When a statute is clear and unambiguous, this court gives effect to the plain and ordinary meaning of the words and does not resort to the rules of construction. *Seput v. Lacayo,* 122 Nev. 499, 502, 134 P.3d 733, 735 (2006), *abrogated on other grounds by Buzz Stew, LLC v. City of N. Las Vegas,* 124 Nev. 224, 228 n. 6, 181 P.3d 670, 672 n. 6 (2008).

Here, NRS 38.310 is clear on its face: "**No civil action** based upon a claim relating to… the interpretation, application or enforcement of any [CC&R]…may be commenced in any court of this state unless the action has been submitted to mediation or arbitration pursuant to the provisions of NRS 38.300 to 38.360." The statute further reads: "a court shall dismiss **any civil action** which is commenced in violation of the provisions of subsection 1." *Id.* at subsection 2. Notably missing from the clear language of NRS 38.310, as well as the Opening Brief, is any limitation of its mandate that "any claim" be dismissed if it relates to the interpretation, application or enforcement of an Association's CC&Rs. If the

legislature had intended to limit the applicability of NRS 38.310 to only claims brought by a homeowner, then it could have easily done so. It did not, therefore, the Bank's claim that NRS 38.310 does not apply should be rejected by this Court.

The Bank asserts that this Court should consider the legislative history in determining whether NRS 38.310 applies to banks. *See* Opening Brief at 38. However, NRS 38.310 is clear and unambiguous making any reliance on the legislative history inappropriate. *See Nationstar Mortgage, LLC v. Sundance Homeowners' Association*, 2:15-cv-01310-APG-GWF, ECF No. 34 (2016)(court reconsidering its prior order finding that NRS 38.310 did not apply to mortgagee's because of the legislative history finding that "[b]y the statute's **plain language**, '[n]o civil action' based on a claim relating to the interpretation, application, or enforcement of the covenants, conditions, or restrictions applicable to residential property may be commenced without first resorting to ADR. And the court must dismiss 'any civil action' that is commenced without prior resort to ADR.")

Next the Bank argues that it constructively exhausted the requirements of NRS 38.310 by submitting claims to NRED mediation. *See* Opening Brief at 39. However, the Bank failed to file with the district court a compliant pleading with sworn statement as required under the law. Pursuant to NRS 38.330, to the extent that the "parties participate in mediation and an agreement is not obtained, any party may commence a civil action in the proper court concerning the claim that

was submitted to mediation. Any complaint filed in such an action must "contain a sworn statement indicating that the issues addressed in the complaint have been mediated pursuant to the provisions of NRS 38.300 to 38.360, inclusive, but an agreement was not obtained." *See* NRS 38.330(1). Here, the Bank failed to file with the district court an operative pleading with sworn statement as required under the law. Therefore, it was not clear error for the court to grant the Association judgment pursuant to NRS 38.310.

C. The District Court Did Not Err In Granting the Association Judgment on the Bank's NRS 116.1113 Claim.

The Bank argues that the district court erred in granting the Association judgment on the Bank's breach of 116.1113 claim because "the chapter has many provisions that impose obligations on HOAs to protect deed of trust beneficiaries." *See* Opening Brief at 42. To support its position, the Bank argues that NRS 116 (1) requires the Bank to be provided with notice of the foreclosure sale; (2) forbids associations from foreclosing on a lien when a deed of trust beneficiary begins foreclosure proceedings but has not filed a mediation certificate; and (3) requires the association to potentially distribute funds to beneficiaries of first deeds of trusts. *Id.* at 42-43. However, the Bank's arguments fail as the record demonstrates that none of the "obligations" the Bank argues allow it to maintain a breach of 116.1113 claim are even alleged to have been violated in this case.

For example, the Bank did not even allege in its breach of NRS 116.1113 claim that the Bank was not provided with notice. Instead, the Bank's breach of NRS 116.1113 claim is based on allegations that the Association should have accepted the Bank's tender of the super priority portion of its lien. *See* 2AA 256. Even if the Bank had alleged a lack of notice in support of its breach of NRS 116.1113 claim, the evidence in this case demonstrates that that the Bank was provided with notice when it allegedly tendered payment of the super priority portion of the Association's lien prior to the sale. *See* 2AA 249. Likewise, there was no allegation supporting the Bank's breach of 116.1113 claim that the Association should not have proceeded forward with a foreclosure sale because the Bank had previously proceeded with its own foreclosure proceedings but had not yet filed a mediation certificate as required by NRS 107.086. *Id*. Finally, there were no allegations supporting the Bank's breach of NRS 116.1113 claim that the Association failed to distribute funds in accordance with NRS 116.31164. *Id.*

In sum, the Bank failed to provide any basis on which to reverse and remand the district court's decision to grant the Association judgment on the Bank's breach of NRS 116.1113 claim.

CONCLUSION

Based on the foregoing, the Association requests that this Court affirm the findings of the district court.

DATED this 20th day of December, 2018.

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ATTORNEY CERTIFICATE

I certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using 14 point, double-spaced Times New Roman font.

I further certify that this brief complies with the page-or type-volume limitations of NRAP 32(a)(7) because, excluding the pages of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more and contains 3,532 words.

I hereby certify that I have read this answering brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found.

I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 20th day of December, 2018.

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DECLARATION OF SERVICE

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