

Electronically Filed  
Aug 13 2018 11:35 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**NOA**  
GARMAN TURNER GORDON, LLP  
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Fax: (702) 369-2666  
Attorneys for Plaintiffs

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

FRED NASSIRI, an individual; NASSIRI  
LIVING TRUST, a trust formed under Nevada  
law,

Plaintiffs,

vs.

STATE OF NEVADA, on relation of its  
Department of Transportation; DOE  
GOVERNMENT AGENCIES I-X, inclusive;  
DOE INDIVIDUALS I-X; and DOE ENTITIES  
1-10, inclusive,

Defendants.

CASE NO. A-12-672841-C  
DEPT. XXVI

**NOTICE OF APPEAL**

PLEASE TAKE NOTICE that Plaintiffs Fred Nassiri and the Nassiri Living Trust is seeking an appeal to the Supreme Court of Nevada from the District Court's Findings of Fact, Conclusions of Law, and Order Granting in Part: (1) the State of Nevada's Motion for Award of Attorneys' Fees, Costs, and Interest; and (2) Nassiri's Motion to Retax Memorandum of Costs;

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1 and Judgment ("FFCL"). Notice of entry of the FFCL was filed and served on July 9, 2018 by  
2 electronic means.

3 Dated this 7<sup>th</sup> day of August, 2018.

4 GARMAN TURNER GORDON, LLP

5 

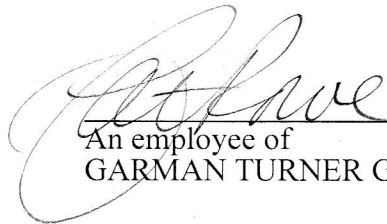
6 ERIC R. OLSEN  
7 Nevada Bar No. 3127  
8 DYLAN T. CICILIANO  
9 Nevada Bar No. 12348  
10 650 White Drive, Ste. 100  
11 Las Vegas, Nevada 89119  
12 Tel: (702) 796-5555  
13 Fax: (702) 369-2666  
14 Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

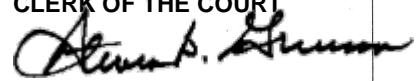
2 The undersigned, an employee of Garman Turner Gordon, LLP, hereby certifies that on  
3 the 7<sup>th</sup> day of August, 2018, she caused a copy of the foregoing Plaintiffs' **NOTICE OF**  
4 **APPEAL**, by electronic service in accordance with Administrative Order 14.2, to all interested  
5 parties, through the Court's **Odyssey E-File & Serve** system addressed to:

6  
7 KEMP, JONES & COULTHARD, LLP  
William L. Coulthard, Esq.  
8 w.coulthard@kempjones.com  
Eric M. Pepperman, Esq.  
9 e.pepperman@kempjones.com  
Mona Kaveh, Esq.  
10 m.kaveh@kempjones.com  
3800 Howard Hughes Parkway, 17th Flr.  
11 Las Vegas, Nevada 89169  
*Co-Counsel for Defendant*

OFFICE OF THE ATTORNEY GENERAL  
Amanda B. Kern  
Deputy Attorney General  
akern@ag.nv.gov  
555 E. Washington Avenue  
Suite 3900  
Las Vegas, NV 89101

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13   
14 An employee of  
GARMAN TURNER GORDON

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16 4842-0907-0959, V. 1  
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GARMAN TURNER GORDON, LLP  
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Attorneys for Plaintiffs

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

FRED NASSIRI, an individual; NASSIRI  
LIVING TRUST, a trust formed under Nevada  
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Plaintiffs,

vs.

STATE OF NEVADA, on relation of its  
Department of Transportation; DOE  
GOVERNMENT AGENCIES I-X, inclusive;  
DOE INDIVIDUALS I-X; and DOE ENTITIES  
1-10, inclusive,

Defendants.

CASE NO. A-12-672841-C  
DEPT. XXVI

**CASE APPEAL STATEMENT**

PLEASE TAKE NOTICE that Plaintiffs Fred Nassiri and the Nassiri Living Trust  
submits the following case appeal statement pursuant to Nevada Rule of Appellate Procedure  
3(f):

Name of Appellant filing this case appeal statement:

FRED NASSIRI; NASSIRI LIVING TRUST

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

THE HONORABLE JUDGE GLORIA STURMAN

3. Identify each Appellant and the name and address of counsel for each appellant:

FRED NASSIRI; NASSIRI LIVING TRUST

Represented by:

1 GARMAN TURNER GORDON  
ERIC R. OLSEN  
2 Nevada Bar No. 3127  
Email: eolsen@gtg.legal  
3 DYLAN T. CICILIANO  
Nevada Bar No. 12348  
4 Email: dciciliano@gtg.legal  
650 White Drive, Suite 100  
5 Las Vegas, Nevada 89119  
Tel: (725) 777-3000  
6 Fax: (725) 777-3112

7 4. Identify each Respondent and the name and address of appellate counsel:

8 STATE OF NEVADA, on relation of its Department of Transportation  
9 KEMP, JONES & COULTHARD, LLP  
William L. Coulthard, Esq.  
10 w.coulthard@kempjones.com  
Eric M. Pepperman, Esq.  
11 e.pepperman@kempjones.com  
Mona Kaveh, Esq.  
12 m.kaveh@kempjones.com  
3800 Howard Hughes Parkway, 17th Flr.  
13 Las Vegas, Nevada 89169

14 OFFICE OF THE ATTORNEY GENERAL  
Adam Laxalt  
15 Deputy Attorney General  
alaxalt@ag.nv.gov  
16 555 E. Washington Avenue  
Suite 3900  
17 Las Vegas, NV 89101

18 Attorneys for Respondent

19 5. Indicate whether any attorney identified above in response to question 3 or 4 is  
20 not licensed to practice law in Nevada and, if so, whether the district court granted that attorney  
21 permission to appear under SCR 42 (attach a copy of any district court order granting such  
22 permission):

23 N/A.

24 6. Indicate whether Appellant was represented by appointed or retained counsel in  
25 the district court:

26 Appellant was represented by retained counsel in the district court.

27 7. Indicate whether Respondents are represented by appointed or retained counsel on  
28 appeal:

1 Appellant is represented by retained counsel in the district court.

2 8. Indicate whether Appellant was granted leave to proceed in forma pauperis and  
3 the date of entry of the district court order granting such leave:

4 Appellant was not granted leave to proceed in *forma pauperis*.

5 9. Indicate the date the proceedings commenced in the district court:

6 November 30, 2012

7 10. Provide a brief description of the nature of the action and result in the district  
8 court, including the type of judgment or order being appealed and the relief granted by the  
9 district court:

10 The action was brought by the Appellant landowner, who had previously settled an  
11 inverse condemnation against regarding a highway-interchange project, against Respondent for  
12 *inter alia* breach of the settlement agreement, inverse condemnation, and rescission. Pursuant to  
13 the Supreme Court's Opinion in the *State of Nevada Department of Transportation v. Eighth*  
14 *Judicial District Court*, Case No. 70098 (Sept. 27, 2017), wherein the District Court was directed  
15 to enter summary judgment in favor of NDOT on each of Appellant's claim. This appeal arises  
16 from the Findings of Fact, Conclusions of Law, and Order Granting in Part: (1) The State of  
17 Nevada's Motion for Award of Attorneys' Fees, Costs, and Interest; and (2) Nassiri's Motion to  
18 Retax Memorandum of Costs; and Judgment, entered on July 9, 2018.

19 11. Indicate whether the case has previously been the subject of an appeal to or  
20 original writ proceedings in the Supreme Court and, if so, the caption and Supreme Court docket  
21 number of the prior proceeding:

22 *State of Nevada Department of Transportation v. Eighth Judicial District Court*, Case  
23 No. 70098.

24 12. Indicate whether this appeal involves child custody or visitation:

25 This appeal does not involve child custody or visitation.

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13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

This appeal involves the possibility of settlement.

Dated this 7<sup>th</sup> day of August, 2018.

GARMAN TURNER GORDON, LLP

epn

ERIC R. OLSEN  
Nevada Bar No. 3127  
DYLAN T. CICILIANO  
Nevada Bar No. 12348  
650 White Drive, Ste. 100  
Las Vegas, Nevada 89119  
Tel: (702) 796-5555  
Fax: (702) 369-2666  
Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

The undersigned, an employee of Garman Turner Gordon, LLP, hereby certifies that on the 7 day of August, 2018, she caused a copy of the foregoing Plaintiffs' **CASE APPEAL STATEMENT**, by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's **Odyssey E-File & Serve** system addressed to:

KEMP, JONES & COULTHARD, LLP  
William L. Coulthard, Esq.  
w.coulthard@kempjones.com  
Eric M. Pepperman, Esq.  
e.pepperman@kempjones.com  
Mona Kaveh, Esq.  
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*Co-Counsel for Defendant*

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Amanda B. Kern  
Deputy Attorney General  
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Suite 3900  
Las Vegas, NV 89101

  
An employee of  
GARMAN TURNER GORDON

4842-0907-0959, V. 1  
4850-7910-6159, V. 2



DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-672841-C**

**Fred Nassiri, Plaintiff(s)**  
**vs.**  
**Nevada State of, Defendant(s)**

§  
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§  
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§

Location: **Department 26**  
Judicial Officer: **Sturman, Gloria**  
Filed on: **11/30/2012**  
Case Number History:  
Cross-Reference Case Number: **A672841**

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**CASE INFORMATION**

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**Statistical Closures**  
07/06/2018      Summary Judgment

Case Type: **Breach of Contract**  
Subtype: **Other Contracts/Acc/Judgment**  
  
Case Flags: **Appealed to Supreme Court**  
**Jury Demand Filed**  
**Automatically Exempt from Arbitration**

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**DATE**

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**CASE ASSIGNMENT**

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**Current Case Assignment**

Case Number	A-12-672841-C
Court	Department 26
Date Assigned	01/21/2015
Judicial Officer	Sturman, Gloria

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**PARTY INFORMATION**

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		<i>Lead Attorneys</i>
<b>Plaintiff</b>	<b>Nassiri Living Trust</b>	<b>Olsen, Eric R.</b> <i>Retained</i> 725-777-3000(W)
	<b>Nassiri, Fred</b>	<b>Olsen, Eric R.</b> <i>Retained</i> 725-777-3000(W)
<b>Defendant</b>	<b>Nevada State of</b>	<b>Coulthard, William L</b> <i>Retained</i> 7023856000(W)
<b>Counter Claimant</b>	<b>Nevada State of</b>	<b>Coulthard, William L</b> <i>Retained</i> 7023856000(W)
<b>Counter Defendant</b>	<b>Nassiri, Fred</b>	<b>Olsen, Eric R.</b> <i>Retained</i> 725-777-3000(W)

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**DATE**




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**EVENTS & ORDERS OF THE COURT**













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**INDEX**

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11/30/2012	 <b>Complaint</b> Filed By: Counter Defendant Nassiri, Fred <i>Complaint</i>	
11/30/2012	 <b>Initial Appearance Fee Disclosure</b> Filed By: Counter Defendant Nassiri, Fred <i>Initial Appearance Fee Disclosure</i>	
11/30/2012	<b>Case Opened</b>	
03/27/2013	 <b>Amended Complaint</b>	

DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-672841-C**







	Filed By: Counter Defendant Nassiri, Fred <i>Amended Complaint</i>
03/29/2013	 Affidavit of Service Filed By: Counter Defendant Nassiri, Fred <i>Affidavit of Service</i>
04/17/2013	 Motion to Extend Party: Counter Defendant Nassiri, Fred <i>Ex Parte Motion to Extend Time for Service on Shortened Time</i>
04/22/2013	 <b>Motion</b> (11:00 AM) (Judicial Officer: Alf, Nancy) <i>Motion to Extend Time for Service on Order Shortening Time</i>
04/22/2013	 Affidavit of Service Filed By: Counter Defendant Nassiri, Fred <i>Affidavit of Service</i>
04/22/2013	 Affidavit of Service Filed By: Counter Defendant Nassiri, Fred <i>Affidavit of Service</i>
06/10/2013	 Peremptory Challenge Filed by: Counter Claimant Nevada State of <i>Peremptory Challenge of Judge</i>
06/10/2013	 Notice of Department Reassignment
06/24/2013	 Motion to Dismiss Filed By: Counter Claimant Nevada State of <i>Defendant NDOT's: (1) Motion To Dismiss Amended Complaint And/Or Quash Service Of The Summons And Amended Complaint For Insufficiency Of Service Of Process, Or Alternatively, (2) Motion To Dismiss Amended Complaint For Failure To State A Claim, And (3) Motion To Strike The Prayer For Punitive Damages</i>
07/12/2013	 Opposition to Motion to Dismiss Filed By: Counter Defendant Nassiri, Fred <i>Plaintiffs' Opposition to Defendant NDOT's (1) Motion to Dismiss Amended Complaint and/or Quash Service of the Summons and Amended Complaint for Insufficiency of Service of Process, or Alternatively, (2) Motion to Dismiss Amended Complaint for Failure to State a Claim, and (3) Motion to Strike the Prayer for Punitive Damages</i>
07/12/2013	 Certificate of Mailing Filed By: Counter Defendant Nassiri, Fred <i>Certificate of Mailing</i>
07/23/2013	 Order Granting Motion Filed By: Counter Defendant Nassiri, Fred <i>Order Granting Motion to Extend Time for Service of Amended Complaint</i>
07/24/2013	 Reply Filed by: Counter Claimant Nevada State of <i>Defendant NDOT's Reply In Support Of: (1) Motion To Dismiss Amended Complaint And/Or Quash Service Of The Summons And Amended Complaint For Insufficiency Of Service Of Process, Or Alternatively, (2) Motion To Dismiss Amended Complaint For Failure To State A</i>

DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-672841-C**

*Claim, And (3) Motion To Strike The Prayer For Punitive Damages*













07/24/2013	 Notice of Entry of Order Filed By: Counter Defendant Nassiri, Fred <i>Notice of Entry of Order Granting Motion to Extend Time for Service of Amended Complaint</i>
07/31/2013	 <b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Sturman, Gloria) <i>Defendant NDOT's: (1) Motion To Dismiss Amended Complaint And/Or Quash Service Of The Summons And Amended Complaint For Insufficiency Of Service Of Process, Or Alternatively, (2) Motion To Dismiss Amended Complaint For Failure To State A Claim, And (3) Motion To Strike The Prayer For Punitive Damages</i>
08/14/2013	 Recorders Transcript of Hearing <i>Recorder's Transcript Motion to Dismiss July 31, 2013</i>
10/16/2013	 Order Granting Motion Filed By: Counter Claimant Nevada State of <i>Order Granting in Part Defendant NDOT's Motion to Dismiss Amended Complaint for Failure to State a Claim</i>
10/16/2013	 Order Granting Motion Filed By: Counter Claimant Nevada State of <i>Order Granting Defendant NDOT'S Motion to Strike the Prayer for Punitive Damages</i>
10/16/2013	 Order Denying Filed By: Counter Claimant Nevada State of <i>Order Denying Defendant NDOT's Motion to Dismiss Amended Complaint and/or Quash Service of the Summon and Complaint for Insufficiency of Service of Process</i>
10/16/2013	<b>Order of Dismissal With Prejudice</b> (Judicial Officer: Sturman, Gloria) Debtors: Fred Nassiri (Plaintiff), Nassiri Living Trust (Plaintiff) Creditors: Nevada State of (Defendant) Judgment: 10/16/2013, Docketed: 10/23/2013 Comment: Certain Claim
10/17/2013	 Notice of Entry of Order Filed By: Counter Claimant Nevada State of <i>Notice of Entry of Order Granting Defendant NDOT's Motion to Strike the Prayer for Punitive Damages</i>
10/17/2013	 Notice of Entry of Order Filed By: Counter Claimant Nevada State of <i>Notice of Entry of Order Denying Defendant NDOT's Motion to Dismiss Amended Complaint and/or Quash Service of the Summons and Amended Complaint for Insufficiency of Service of Process</i>
10/17/2013	 Notice of Entry of Order Filed By: Counter Claimant Nevada State of <i>Notice of Entry of Order Granting in Part Defendant NDOT's Motion to Dismiss Amended Complaint for Failure to State a Claim</i>
10/31/2013	 Answer to Amended Complaint Filed By: Counter Claimant Nevada State of <i>Department of Transportation's Answer to Amended Complaint and Counterclaim</i>
11/25/2013	 Certificate of Mailing

DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-672841-C**


	Filed By: Counter Defendant Nassiri, Fred <i>Certificate of Mailing</i>
11/25/2013	 Answer to Counterclaim Filed By: Counter Defendant Nassiri, Fred <i>Nassiri's Answer to Department of Transportation's Counterclaim</i>
12/17/2013	 Notice of Early Case Conference Filed By: Counter Defendant Nassiri, Fred <i>Notice of Early Case Conference</i>
01/03/2014	 Demand for Jury Trial Filed By: Counter Defendant Nassiri, Fred <i>Plaintiffs/Counterdefendants Jury Demand</i>
01/06/2014	 Demand for Jury Trial Filed By: Counter Claimant Nevada State of <i>Department Of Transportation's Demand For Jury Trial</i>
02/03/2014	 Joint Case Conference Report Filed By: Counter Defendant Nassiri, Fred
02/04/2014	 Certificate of Mailing Filed By: Counter Defendant Nassiri, Fred <i>Certificate of Mailing</i>
02/24/2014	 Scheduling Order <i>Scheduling Order</i>
04/07/2014	 Order Setting Civil Jury Trial <i>Order Setting Civil Jury Trial</i>
10/28/2014	 Stipulation and Order Filed by: Counter Claimant Nevada State of <i>Stipulation And Order To Extend Time To Disclose Initial And Rebuttal Expert Witnesses</i>
10/29/2014	 Notice of Entry of Stipulation and Order Filed By: Counter Claimant Nevada State of <i>Notice Of Entry Of Stipulation And Order To Extend Time To Disclose Initial And Rebuttal Expert Witnesses</i>
12/12/2014	 Affidavit of Service Filed By: Counter Defendant Nassiri, Fred <i>Declaration of Service</i>
12/16/2014	 Affidavit of Service Filed By: Counter Defendant Nassiri, Fred <i>Declaration of Service</i>
12/22/2014	 Notice to Take Deposition Filed by: Counter Defendant Nassiri, Fred <i>Notice of: (1) Taking NRCP 30(b)(6) Deposition of Timothy R. Morse and Associates, (2) Intent to Serve Subpoena Duces Tecum to Custodian of Records of Timothy R. Morse and Associates, and (3) Notice of Intent to Serve Amended Subpoena Duces Tecum to Timothy R.</i>

DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-672841-C**

*Morse, MAI*

12/22/2014	 Notice of Taking Deposition Filed By: Counter Claimant Nevada State of <i>Notice of Taking Deposition of Ray Koroghli</i>
12/22/2014	 Affidavit of Service Filed By: Counter Defendant Nassiri, Fred <i>Affidavit of Service</i>
12/30/2014	 Affidavit of Service Filed By: Counter Defendant Nassiri, Fred <i>Affidavit of Service</i>
12/30/2014	 Affidavit of Service Filed By: Counter Defendant Nassiri, Fred <i>Affidavit of Service</i>
12/30/2014	 Affidavit of Service Filed By: Counter Defendant Nassiri, Fred <i>Affidavit of Service</i>
12/30/2014	 Affidavit of Service Filed By: Counter Defendant Nassiri, Fred <i>Affidavit of Service</i>
01/05/2015	Case Reassigned to Department 2 <i>District Court Case Reassignment 2015</i>
01/08/2015	 Objection Filed By: Counter Claimant Nevada State of <i>Objections to Plaintiff's December 10, 2014, Notice of Deposition of Defendant's N.R.C.P. 30 (b)(6) Designees</i>
01/14/2015	 <b>Minute Order</b> (3:07 PM) (Judicial Officer: Barker, David) <i>Minute Order: Case Reassignment</i>
01/21/2015	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>
02/19/2015	 Motion for Partial Summary Judgment Filed By: Counter Claimant Nevada State of <i>Motion for Partial Summary Judgment on Plaintiff's Claim for Inverse Condemnation</i>
02/20/2015	 Motion for Summary Judgment Filed By: Counter Claimant Nevada State of <i>Motion For Summary Judgment On Plaintiff's Claims For: (1) Breach Of Contract, (2) Breach Of Implied Covenant Of Good Faith And Fair Dealing, And (3) Tortious Breach Of The Implied Covenant Of Good Faith And Fair Dealing</i>
02/20/2015	 Appendix Filed By: Counter Claimant Nevada State of <i>Appendix To Motion For Summary Judgment On Plaintiff's Claims For: (1) Breach Of Contract, (2) Breach Of The Implied Covenant Of Good Faith And Fair Dealing, And (3) Tortious Breach Of The Implied Covenant Of Good Faith And Fair Dealing</i>

DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-672841-C**










03/04/2015	 Motion for Summary Judgment Filed By: Counter Claimant Nevada State of <i>Motion For Summary Judgment On Plaintiff's Prayer For Rescission</i>
03/09/2015	 Opposition to Motion For Summary Judgment Filed By: Counter Defendant Nassiri, Fred <i>Opposition To Motion For Summary Judgment On Plaintiff's Claims For (1) Breach Of Contract, (2) Breach Of Implied Covenant Of Good Faith And Fair Dealing, And (3) Tortious Breach Of The Implied Covenant Of Good Faith And Fair Dealing</i>
03/09/2015	 Opposition to Motion For Summary Judgment Filed By: Counter Defendant Nassiri, Fred <i>Opposition to Motion for Summary Judgment on Plaintiff's Claim for Inverse Condemnation</i>
03/09/2015	 Appendix Filed By: Counter Defendant Nassiri, Fred <i>Plaintiffs' Appendix to Exhibits to Opposition to Motion for Summary Judgment on Plaintiff's Claim for Inverse Condemnation and to Opposition to Motion for Summary Judgment on Plaintiff's Claims for: (1) Breach of Contract, (2) Breach of Implied Covenant of Good Faith and Fair Dealing, and (3) Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing</i>
03/18/2015	 Motion for Preferential Trial Setting Filed By: Counter Claimant Nevada State of <i>Motion for Preferential Trial Setting on Four-Week Stack Set to Begin on April 27, 2015, On Order Shortening Time</i>
03/19/2015	 Stipulation and Order Filed by: Counter Claimant Nevada State of <i>Stipulation And Order To Continue Hearing Date</i>
03/20/2015	 Motion in Limine Filed By: Counter Claimant Nevada State of <i>The State's Motion In Limine No. 1 To Exclude The Testimony Of Plaintiff's Expert Keith Harper, MAI</i>
03/20/2015	 Motion in Limine Filed By: Counter Claimant Nevada State of <i>The State's Motion In Limine No. 2 To Exclude Argument Or Reference That The State Previously Retained Plaintiff's Expert Witness, Keith Harper, MAI, In Unrelated Matters</i>
03/20/2015	 Motion in Limine Filed By: Counter Claimant Nevada State of <i>The State's Motion In Limine No. 3 To Exclude Improper Character Evidence</i>
03/20/2015	 Declaration Filed By: Counter Claimant Nevada State of <i>Declaration Of Mona Kaveh, Esq. In Support Of The State's Motion In Limine Nos. 1-3</i>
03/20/2015	 Motion in Limine Filed By: Counter Defendant Nassiri, Fred <i>Pltf's MIL 1 to Exclude Expert Testimony of 1) Jack Sjostrom, 2) Alan Nevin, and 3) Shelli Lowe</i>
03/20/2015	

DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-672841-C**

	 Motion in Limine Filed By: Counter Defendant Nassiri, Fred <i>Pltf's MIL 2 to 1) Preclude Argument That Tax Payers Funds Would Pay Any Judgment; 2) to Exclude Argument That Plaintiffs Have a Propensity to Litigate; 3) to Exclude Argument that Steve Oxoby's Knowledge Is Imputed to Plaintiffs; 4) to Exclude Argument That the Settlement Agreement Is Two Separate Agreements; and 5) to Preclude the Testimony of Witnesses</i>
03/23/2015	 Opposition to Motion For Summary Judgment Filed By: Counter Defendant Nassiri, Fred <i>Opposition to Motion for Summary Judgment on Plaintiff's Prayer for Rescission</i>
03/24/2015	 Notice of Entry of Stipulation and Order Filed By: Counter Claimant Nevada State of <i>Notice Of Entry Of Stipulation And Order To Continue Hearing Date</i>
03/25/2015	 Reply in Support Filed By: Counter Claimant Nevada State of <i>Reply in Support of Motion for Summary Judgment on Plaintiff's Claim for Inverse Condemnation</i>
03/25/2015	 Reply in Support Filed By: Counter Claimant Nevada State of <i>The State's Reply in Support of Motion for Summary Judgment on Plaintiff's Claims For: (1) Breach of Contract, (2) Breach of the Implied Covenant of Good Faith and Fair Dealing, and (3) Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing</i>
03/25/2015	 Opposition to Motion Filed By: Counter Defendant Nassiri, Fred <i>Opposition to Motion for Preferential Trial Setting on Four-Week Stack Set to Begin on April 27, 2015, on Order Shortening Time</i>
03/27/2015	 Pre-Trial Disclosure Party: Counter Claimant Nevada State of <i>Department of Transportation's Pretrial Disclosure Statement Pursuant to NRCP 16.1(a)(3)</i>
03/27/2015	 Reply in Support Filed By: Counter Claimant Nevada State of <i>Reply in Support of Motion for Preferential Trial Setting on Four-Week Stack Set to Begin on April 27, 2015, on Order Shortening Time</i>
03/31/2015	 Supplemental Filed by: Counter Claimant Nevada State of <i>Notice of Supplemental Authority in Support of Motion for Summary Judgment on Plaintiff's Claims for: (1) Breach of Contract, (2) Breach of the Implied Covenant of Good Faith and Fair Dealing, and (3) Tortious Breach of Contract, (2) Breach of the Implied Covenant of Good Faith and Fair Dealing</i>
04/01/2015	 Reply in Support Filed By: Counter Claimant Nevada State of <i>Reply In Support Of Motion For Summary Judgment On Plaintiff's Prayer For Rescission</i>
04/01/2015	<b>Motion for Summary Judgment (10:30 AM)</b> (Judicial Officer: Sturman, Gloria) <i>State's Motion for Partial Summary Judgment on Plaintiff's Claim for Inverse Condemnation</i>
04/01/2015	<b>Motion for Summary Judgment (10:30 AM)</b> (Judicial Officer: Sturman, Gloria) <i>State's Motion For Summary Judgment On Plaintiff's Claims For: (1) Breach Of Contract, (2) Breach Of Implied Covenant Of Good Faith And Fair Dealing, And (3) Tortious Breach Of</i>











DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-672841-C**

*The Implied Covenant Of Good Faith And Fair Dealing*

04/01/2015	<b>Motion for Preferential Trial Setting</b> (10:30 AM) (Judicial Officer: Sturman, Gloria) <i>Defendant / Counterclaimant State of Nevada's Motion for Preferential Trial Setting on Four-Week Stack Set to Begin on April 27, 2015, On Order Shortening Time</i>
04/01/2015	 <b>All Pending Motions</b> (10:30 AM) (Judicial Officer: Sturman, Gloria)
04/02/2015	 <b>Calendar Call</b> (11:00 AM) (Judicial Officer: Sturman, Gloria)
04/06/2015	 <b>Motion</b> Filed By: Counter Claimant Nevada State of <i>Motion To Confirm That The May 4, 2015 Trial On Plaintiff's Claims For The Equitable Remedy Of Rescission Will Proceed As A Bench Trial Or, In The Alternative, Motion To Bifurcate And Order Shortening Time</i>
04/06/2015	 <b>Opposition and Countermotion</b> Filed By: Counter Defendant Nassiri, Fred <i>Opposition to "Motion to Confirm that the May 4, 2015, Trial on Plaintiff's Claims for the Equitable Remedy of Rescission Will Proceed as a Bench Trial" or, in the Alternative, Motion to Bifurcate and Order Shortening Time; and Countermotion Pursuant to NRCP 39(C) for an Advisory Jury</i>
04/07/2015	<b>Motion</b> (9:00 AM) (Judicial Officer: Sturman, Gloria) <i>Motion To Confirm That The May 4, 2015 Trial On Plaintiff's Claims For The Equitable Remedy Of Rescission Will Proceed As A Bench Trial Or, In The Alternative, Motion To Bifurcate And Order Shortening Time</i>
04/07/2015	<b>Motion for Summary Judgment</b> (9:30 AM) (Judicial Officer: Sturman, Gloria) <i>Defendant's Motion For Summary Judgment On Plaintiff's Prayer For Rescission</i>
04/07/2015	<b>Opposition and Countermotion</b> (9:30 AM) (Judicial Officer: Sturman, Gloria) <i>Opposition to Motion to Confirm Bench Trial on Equitable Remedy of Rescission; Countermotion for Advisory Jury</i>
04/07/2015	 <b>All Pending Motions</b> (9:30 AM) (Judicial Officer: Sturman, Gloria)
04/10/2015	 <b>Trial Subpoena</b> <i>Trial Subpoena</i>
04/10/2015	 <b>Opposition to Motion in Limine</b> Filed By: Counter Claimant Nevada State of <i>Opposition To Plaintiff's Omnibus Motion In Limine Subtopic No. 5 "To Preclude The Testimony of Witnesses"</i>
04/15/2015	 <b>Reply in Support</b> Filed By: Counter Defendant Nassiri, Fred <i>Reply in Support of Motion in Limine to Preclude the Testimony of Witnesses</i>
04/20/2015	 <b>Recorders Transcript of Hearing</b> <i>Transcript of Proceedings, Defendant's Motion for Summary Judgment on Plaintiff's Prayer for Rescission, April 7, 2015</i>
04/21/2015	<b>Motion in Limine</b> (10:00 AM) (Judicial Officer: Sturman, Gloria) <i>Plaintiff's Motion in Limine to Exclude Expert Testimony of 1) Jack Sjostrom, 2) Alan Nevin, and 3) Shelli Lowe</i>



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**CASE SUMMARY**  
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04/21/2015	<b>Motion in Limine</b> (10:00 AM) (Judicial Officer: Sturman, Gloria) <i>Plaintiff's Motion in Limine to 1) Preclude Argument That Tax Payers Funds Would Pay Any Judgment; 2) to Exclude Argument That Plaintiffs Have a Propensity to Litigate; 3) to Exclude Argument that Steve Oxoby's Knowledge Is Imputed to Plaintiffs; 4) to Exclude Argument That the Settlement Agreement Is Two Separate Agreements; and 5) to Preclude the Testimony of Witnesses</i>
04/21/2015	 <b>All Pending Motions</b> (10:00 AM) (Judicial Officer: Sturman, Gloria)
04/24/2015	 Recorders Transcript of Hearing <i>TRANSCRIPT OF PROCEEDINGS - SEE PAGE 2 WEDNESDAY, APRIL 1, 2015</i>
04/28/2015	<b>CANCELED Motion in Limine</b> (10:00 AM) (Judicial Officer: Sturman, Gloria) <i>Vacated - per Judge</i> <i>The State's Motion In Limine No. 1 To Exclude The Testimony Of Plaintiff's Expert Keith Harper, MAI</i>
04/28/2015	<b>CANCELED Motion in Limine</b> (10:00 AM) (Judicial Officer: Sturman, Gloria) <i>Vacated - per Judge</i> <i>The State's Motion In Limine No. 2 To Exclude Argument Or Reference That The State Previously Retained Plaintiff's Expert Witness, Keith Harper, MAI, In Unrelated Matters</i>
04/28/2015	<b>CANCELED Motion in Limine</b> (10:00 AM) (Judicial Officer: Sturman, Gloria) <i>Vacated - per Judge</i> <i>The State's Motion In Limine No. 3 To Exclude Improper Character Evidence</i>
04/28/2015	<b>Pre Trial Conference</b> (10:30 AM) (Judicial Officer: Sturman, Gloria)
05/01/2015	 Brief Filed By: Counter Claimant Nevada State of <i>The State's Trial Brief</i>
05/01/2015	 Trial Memorandum Filed by: Counter Defendant Nassiri, Fred <i>Plaintiffs' Trial Memorandum</i>
05/01/2015	 Notice of Deposition Filed By: Counter Claimant Nevada State of <i>Notice of Deposition Designations</i>
05/04/2015	 <b>Bench Trial</b> (10:00 AM) (Judicial Officer: Sturman, Gloria) <b>05/04/2015-05/08/2015</b>
05/08/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Bench Trial - Opening Statements May 4, 2015</i>
05/19/2015	 Brief Filed By: Counter Claimant Nevada State of <i>Bench Brief On Excluding Plaintiff's Argument That The Maps Used During Settlement Discussions Were Used For An Additional Purpose Other Than To Show The Parcel And/Or Legal Description Of The Surplus Parcel</i>
05/19/2015	 <b>Bench Trial</b> (1:00 PM) (Judicial Officer: Sturman, Gloria)
05/19/2015	 Notice of Change of Address Filed By: Counter Defendant Nassiri, Fred

DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-672841-C**













*Notice of Change of Firm Affiliation and Address*

05/22/2015	 Certificate of Mailing Filed By: Counter Claimant Nevada State of <i>Certificate Of Mailing</i>
06/02/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Bench Trial - Closing Arguments Tuesday, May 19, 2015</i>
06/16/2015	 Supplement Filed by: Counter Defendant Nassiri, Fred <i>Plaintiffs' Supplement Trial Memorandum</i>
06/16/2015	 Supplemental Brief Filed By: Counter Claimant Nevada State of <i>The State's Supplemental Trial Brief</i>
07/16/2015	 Order Filed By: Counter Claimant Nevada State of <i>Order Granting in Part Motion for Summary Judgment on Plaintiff's Claims For: (1) Breach of Contract, (2) Breach of the Implied Covenant of Good Faith and Fair Dealing, and (3) Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing</i>
07/16/2015	 Order Granting Summary Judgment Filed By: Counter Claimant Nevada State of <i>Order Granting Motion for Summary Judgment on Plaintiff's Claim for Inverse Condemnation</i>
07/16/2015	 Order Granting Motion Filed By: Counter Claimant Nevada State of <i>Order Granting Motion for Preferential Trial Setting on Four-Week Stack Set to Begin on April 27, 2015, on Order Shortening Time</i>
07/16/2015	 Order Filed By: Counter Claimant Nevada State of <i>Order (1) Denying in Part and Granting in Part Motion to Confirm that the May 4, 2015, Trial on Plaintiff's Claims for the Equitable Remedy of Rescission Will Proceed as a Bench Trial or, in the Alternative, Motion to Bifurcate, and (2) Denying Plaintiff's Countermotion Pursuant to NRCP 39(c) for an Advisory Jury</i>
07/16/2015	 Order Denying Motion Filed By: Counter Claimant Nevada State of <i>Order Denying Motion for Summary Judgment on Plaintiff's Prayer for Rescission</i>
07/16/2015	 Order Denying Motion Filed By: Counter Claimant Nevada State of <i>Order Denying Plaintiff's Omnibus Motion in Limine Subtopic No. 5 "To Preclude the Testimony of Witnesses"</i>
07/17/2015	 Notice of Entry of Order Filed By: Counter Claimant Nevada State of <i>Notice of Entry of Order Denying Motion for Summary Judgment on Plaintiff's Prayer for Rescission</i>
07/17/2015	 Notice of Entry of Order Filed By: Counter Claimant Nevada State of

# CASE SUMMARY

## CASE NO. A-12-672841-C












*Notice of Entry of Order Granting Motion for Summary Judgment on Plaintiff's Claim for Inverse Condemnation*

07/17/2015	 Notice of Entry of Order Filed By: Counter Claimant Nevada State of <i>Notice of Entry of Order Granting in Part Motion for Summary Judgment on Plaintiff's Claims for: (1) Breach of Contract, (2) Breach of the Implied Covenant of Good Faith and Fair Dealing, and (3) Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing</i>
07/17/2015	 Notice of Entry of Order Filed By: Counter Claimant Nevada State of <i>Notice of Entry of Order Denying Plaintiff's Omnibus Motion in Limine Subtopic No. 5 "To Preclude the Testimony of Witnesses"</i>
07/17/2015	 Notice of Entry of Order Filed By: Counter Defendant Nassiri, Fred <i>Notice of Entry of Order Granting Motion for Preferential Trial setting on Four-Week Stack Set to Begin on April 27, 2015, on Order Shortening Time</i>
07/20/2015	 Notice of Entry of Order Filed By: Counter Defendant Nassiri, Fred <i>Notice of Entry of Order (1) Denying in Part and Granting in Part Motion to Confirm that the May 4, 2015, Trial on Plaintiff's Claims for the Equitable Remedy of Rescission Will Proceed As a Bench Trial or, in the Alternative, Motion to Bifurcate, and (2) Denying Plaintiff's Countermotion Pursuant to NRCP 39(c) for an Advisory Jury</i>
08/29/2015	 Findings of Fact, Conclusions of Law and Order Filed By: Counter Claimant Nevada State of <i>Findings of Fact, Conclusions of Law and Order</i>
08/31/2015	 <b>Minute Order</b> (3:00 AM) (Judicial Officer: Sturman, Gloria) <i>Order Striking Findings of Fact of 8/28/15</i>
10/08/2015	 Notice Filed By: Counter Defendant Nassiri, Fred <i>Notice of Status Check</i>
10/09/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Bench Trial -- Day 1 May 4, 2015</i>
10/09/2015	 Recorders Transcript of Hearing Party: Counter Claimant Nevada State of <i>Transcript of Proceedings Bench Trial -- Day 2 Tuesday, May 5, 2015</i>
10/09/2015	 Recorders Transcript of Hearing Party: Counter Claimant Nevada State of <i>Transcript of Proceedings Bench Trial -- Day 3 Wednesday, May 6, 2015</i>
10/09/2015	 Recorders Transcript of Hearing Party: Counter Claimant Nevada State of <i>Transcript of Proceedings Bench Trial -- Day 4 Thursday, May 7, 2015</i>
10/09/2015	 Recorders Transcript of Hearing <i>Transcript of Proceedings Bench Trial -- Day 5 Friday, May 8, 2015</i>












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**CASE SUMMARY**  
**CASE NO. A-12-672841-C**

10/12/2015	 Motion for Summary Judgment Filed By: Counter Claimant Nevada State of <i>Motion For Summary Judgment On Plaintiff's Rescission Claim Based On The Court's 8/29/15 Findings of Fact, Conclusions Of Law, And Judgment</i>
10/13/2015	 Errata Filed By: Counter Claimant Nevada State of <i>Errata to the State's Motion for Summary Judgment on Plaintiff's Rescission Claim Based on the Court's 8/29/15 Findings of Fact, Conclusions of Law, and Judgment</i>
10/13/2015	 Notice of Change of Address Filed By: Counter Claimant Nevada State of <i>Notice of Change of Address and Telephone Number</i>
10/29/2015	 Opposition to Motion For Summary Judgment Filed By: Counter Defendant Nassiri, Fred <i>Opposition to Motion for Summary Judgment on Plaintiff's Rescission Claim Based on the Court's 8/29/15 Findings of Fact, Conclusions of Law, and Judgment</i>
11/04/2015	 Motion to Exclude Filed By: Counter Claimant Nevada State of <i>Motion To Exclude Damages Evidence Related To Plaintiff's Breach Of Contract Claims And/Or Motion To Strike Plaintiff's Expert, Keith Harper, MAI</i>
11/10/2015	 Motion to Strike Filed By: Counter Defendant Nassiri, Fred <i>Motion to Strike Defendants' Motion to Exclude Damages Evidence Related to Plaintiff's Breach of Contract Claims and/or Motion to Strike Plaintiff's Expert, Keith Harper, MAI on an Order Shortening Time</i>
11/10/2015	 <b>Status Check</b> (9:00 AM) (Judicial Officer: Sturman, Gloria) <i>Status Check: Phase 2 Trial Setting</i>
11/12/2015	 Reply in Support Filed By: Counter Claimant Nevada State of <i>Reply In Support Of Motion For Summary Judgment On Plaintiff's Rescission Claim Based On The Court's 8/29/15 Findings of Fact, Conclusions of Law, and Judgment</i>
11/16/2015	 Opposition to Motion Filed By: Counter Claimant Nevada State of <i>Opposition to Nassiri's Motion to Strike on OST</i>
11/17/2015	<b>Motion for Summary Judgment</b> (9:30 AM) (Judicial Officer: Sturman, Gloria) <i>Defendant/Counterclaimant Motion for Summary Judgment on Plaintiff's Rescission Claim Based on the Court's 8/29/15 Findings of Fact Conclusions of Law and Judgment</i>
11/17/2015	<b>CANCELED Motion to Strike</b> (9:30 AM) (Judicial Officer: Sturman, Gloria) <i>Vacated - per Judge</i> <i>Plaintiff's Motion to Strike Defendant's Motion to Exclude Damages</i>
11/17/2015	<b>Motion to Strike</b> (9:30 AM) (Judicial Officer: Sturman, Gloria) <i>Plaintiff's Motion to Strike Defendants' Motion to Exclude Damages Evidence Related to Plaintiff's Breach of Contract Claims and/or Motion to Strike Plaintiff's Expert, Keith Harper, MAI on an Order Shortening Time</i>
11/17/2015	 <b>All Pending Motions</b> (9:30 AM) (Judicial Officer: Sturman, Gloria)

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**CASE SUMMARY**  
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12/07/2015	 <b>Recorders Transcript of Hearing</b> <i>Transcript of Proceedings All Pending Motions Tuesday, November 17, 2015</i>
12/07/2015	 <b>Opposition</b> Filed By: Counter Defendant Nassiri, Fred <i>Opposition to the State's Motion to exclude Damages Evidence Related to Plaintiff's Breach of Contract Claims and/or Motion to Strike Plaintiff's Expert, Keith Harper, MAI</i>
12/07/2015	 <b>Appendix</b> Filed By: Counter Defendant Nassiri, Fred <i>Appendix of Exhibits to Opposition to the State's Motion to Exclude Damages evidence Related to Plaintiff's Breach of Contract Claims and/or Motion to Strike Plaintiff's Expert, Keith Harper, MAI</i>
12/14/2015	 <b>Order Setting Civil Jury Trial</b> <i>Phase 2: Order Setting Civil Jury Trial</i>
12/18/2015	 <b>Motion in Limine</b> Filed By: Counter Defendant Nassiri, Fred <i>Motion in Limine to Exclude the Expert Testimony of: 1) Jack Sjostrom, 2) Alan Nevin, and 3) Shelli Lowe</i>
12/29/2015	 <b>Reply to Opposition</b> Filed by: Counter Claimant Nevada State of <i>Reply to Nassiri's Opposition to Motion to Exclude Damages Evidence Related to Plaintiff's Breach of Contract Claims and/or Motion to Strike Plaintiff's Expert, Keith Harper, MAI</i>
01/05/2016	 <b>Motion to Exclude (10:30 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Defendant's Motion To Exclude Damages Evidence Related To Plaintiff's Breach Of Contract Claims And/Or Motion To Strike Plaintiff's Expert, Keith Harper, MAI</i>
01/07/2016	 <b>Opposition to Motion in Limine</b> Filed By: Counter Claimant Nevada State of <i>The State's Opposition to Nassiri's Motion in Limine to Exclude the Expert Testimony of: 1) Jack Sjostrom, 2) Alan Nevin, and 3) Shelli Lowe</i>
01/14/2016	 <b>Reply to Opposition</b> Filed by: Counter Defendant Nassiri, Fred <i>Reply to the State's Motion to Nassiri's Motion in Limine to exclude the Expert Testimony of: 1) Jack Sjostrom, 2) Alan Nevin, and Shelli Lowe</i>
01/19/2016	<b>Motion in Limine (10:00 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Plaintiffs' Motion in Limine to Exclude the Expert Testimony of: 1) Jack Sjostrom, 2) Alan Nevin, and 3) Shelli Lowe</i>
01/19/2016	<b>Decision (10:00 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Chambers Decision on Motion to Exclude Damages</i>
01/19/2016	 <b>All Pending Motions (10:00 AM)</b> (Judicial Officer: Sturman, Gloria)
02/05/2016	 <b>Recorders Transcript of Hearing</b> <i>Transcript of Proceedings Defendant's Motion to Exclude Damages Evidence Related to Plaintiffs' Breach of Contract Claims and/or Motion to Strike Plaintiffs' Expert, Keith Harper, MAI Tuesday, January 5, 2016</i>














DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-672841-C**

02/05/2016	 <b>Recorders Transcript of Hearing</b> <i>Transcript of Proceedings Plaintiffs' Motion in Limine to Exclude the Expert Testimony of: 1) Jack Sjostrom, 2) Alan Nevin, and 3) Shelli Lowe; Chambers Decision on Motion to Exclude Damages Tuesday, January 19, 2016</i>
03/14/2016	 <b>Order Denying Motion</b> Filed By: Counter Claimant Nevada State of <i>Order Denying Defendants' Motion to Exclude Damages Evidence Related to Plaintiff's Breach of Contract Claims and/or Motion to Strike Plaintiff's Expert, Keith Harper, MAI</i>
03/14/2016	 <b>Order Denying Motion</b> Filed By: Counter Claimant Nevada State of <i>Order Denying Defendants' Motion for Summary Judgment on Plaintiffs' Rescission Claim Based on the Courts 08/29/15 Findings of Fact, Conclusions of Law and Judgment</i>
04/05/2016	 <b>Notice of Entry of Order</b> Filed By: Counter Claimant Nevada State of <i>Notice of Entry of Order Denying Defendants' Motion to Exclude Damages Evidence Related to Plaintiff's Breach of Contract Claims and/or Motion to Strike Plaintiff's Expert, Keith Harper, MAI</i>
04/05/2016	 <b>Notice of Entry of Order</b> Filed By: Counter Claimant Nevada State of <i>Notice of Entry of Order Denying Defendants' Motion for Summary Judgment on Plaintiffs' Rescission Claim Based on the Courts' 08/29/15 Findings of Fact, Conclusions of Law and Judgment</i>
04/14/2016	 <b>Stipulation and Order</b> Filed by: Counter Claimant Nevada State of <i>Stipulation and Order to Stay Proceedings and Trial Pending the Outcome of the State's Petition for Writ of Mandamus</i>
04/15/2016	 <b>Notice of Entry of Stipulation and Order</b> Filed By: Counter Claimant Nevada State of <i>Notice of Entry of Stipulation and Order to Stay Proceedings and Trial Pending the Outcome of the State's Petition for Writ of Mandamus</i>
05/05/2016	<b>CANCELED Calendar Call (9:00 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Vacated - per Stipulation and Order</i>
05/16/2016	 <b>Transcript of Proceedings</b> <i>Transcripts of Proceedings April 1, 2015</i>
05/16/2016	 <b>Transcript of Proceedings</b> <i>Transcript of Proceedings for Bench Trial Closing Arguments May 19, 2015</i>
05/31/2016	<b>CANCELED Jury Trial (9:00 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Vacated - per Stipulation and Order</i>
07/26/2016	 <b>Status Check (9:00 AM)</b> (Judicial Officer: Sturman, Gloria) <b>07/26/2016, 11/22/2016, 05/23/2017, 09/19/2017, 02/13/2018</b> <i>Status Check Re: Petition for Writ of Mandamus</i>
10/31/2017	 <b>Status Report</b> <i>Joint Status Report Regarding The November 14, 2017 Hearing</i>

DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-672841-C**

12/08/2017	 Notice Filed By: Counter Claimant Nevada State of <i>Notice of Submission</i>
01/02/2018	<b>Summary Judgment</b> (Judicial Officer: Sturman, Gloria) Debtors: Fred Nassiri (Plaintiff), Nassiri Living Trust (Plaintiff) Creditors: Nevada State of (Defendant) Judgment: 01/02/2018, Docketed: 01/02/2018
01/02/2018	 Findings of Fact, Conclusions of Law and Order Filed By: Counter Claimant Nevada State of <i>Findings of Fact, Conclusions of Law, and Order Granting Summary Judgment in Favor of Defendant on Each of Plaintiffs' Claims</i>
01/02/2018	 Order Vacating Filed By: Counter Claimant Nevada State of <i>Order Vacating Previous Orders Denying Defendant's Motions for Summary Judgment</i>
01/02/2018	 Notice of Entry of Order Filed By: Counter Claimant Nevada State of <i>Notice of Entry of Order</i>
01/02/2018	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Counter Claimant Nevada State of <i>Notice of Entry of Findings of Fact</i>
01/09/2018	 Memorandum of Costs and Disbursements Filed By: Counter Claimant Nevada State of <i>The State of Nevada's Verified Memorandum of Costs and Disbursements Pursuant to NRS 18.005 and 18.110</i>
01/09/2018	 Appendix Filed By: Counter Claimant Nevada State of <i>Appendix of Exhibits in Support of the State of Nevada's Verified Memorandum of Costs and Disbursements Pursuant to NRS 18.005 and 18.110</i>
01/09/2018	 Appendix Filed By: Counter Claimant Nevada State of <i>Appendix of Exhibits in Support of the State of Nevada's Verified Memorandum of Costs and Disbursements Pursuant to NRS 18.005 and 18.110</i>
01/09/2018	 Appendix Filed By: Counter Claimant Nevada State of <i>Appendix of Exhibits in Support of the State of Nevada's Verified Memorandum of Costs and Disbursements Pursuant to NRS 18.005 and 18.110 (Volume 1 of 6)</i>
01/09/2018	 Appendix Filed By: Counter Claimant Nevada State of <i>Appendix of Exhibits in Support of the State of Nevada's Verified Memorandum of Costs and Disbursements Pursuant to NRS 18.005 and 18.110</i>
01/09/2018	 Appendix Filed By: Counter Claimant Nevada State of <i>Appendix of Exhibits in Support of the State of Nevada's Verified Memorandum of Costs and Disbursements Pursuant to NRS 18.005 and 18.110 (Volume 6 of 6)</i>

DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-672841-C**

01/09/2018	 Appendix Filed By: Counter Claimant Nevada State of <i>Appendix Volume V</i>
01/16/2018	 Motion to Retax Filed By: Counter Defendant Nassiri, Fred <i>Motion to Retax Memorandum of Costs</i>
01/22/2018	 Motion for Attorney Fees and Costs Filed By: Counter Claimant Nevada State of <i>Motion for Attorneys' Fees, Costs, and Interest</i>
01/22/2018	 Exhibits Filed By: Counter Claimant Nevada State of <i>Exhibit</i>
01/22/2018	 Exhibits Filed By: Counter Claimant Nevada State of <i>Exhibit</i>
01/25/2018	 Errata Filed By: Counter Claimant Nevada State of <i>Errata to Motion for Fees and Costs</i>
02/08/2018	 Opposition to Motion Filed By: Counter Claimant Nevada State of <i>The State of Nevada's Opposition to Motion to Retax Memorandum of Costs</i>
02/08/2018	 Appendix <i>Appendix of Exhibits in Support of the State of Nevada's Opposition to Motion to Retax Memorandum of Costs (Volume 1 of 3)</i>
02/08/2018	 Appendix Filed By: Counter Claimant Nevada State of <i>Appendix of Exhibits in Support of the State of Nevada's Opposition to Motion to Retax Memorandum of Costs (Volume 2 of 3)</i>
02/08/2018	 Appendix Filed By: Counter Claimant Nevada State of <i>Appendix of Exhibits in Support of the State of Nevada's Opposition to Motion to Retax Memorandum of Costs (Volume 3 of 3)</i>
02/08/2018	 Opposition to Motion Filed By: Counter Defendant Nassiri, Fred; Plaintiff Nassiri Living Trust <i>Opposition to the State's Motion for Attorney Fees</i>
02/12/2018	 Notice of Hearing <i>Notice of Rescheduled Hearing</i>
02/20/2018	 Reply to Opposition Filed by: Counter Defendant Nassiri, Fred <i>Reply to the State of Nevada's Opposition to Motion to Retax Memorandum of Costs</i>



DEPARTMENT 26  
**CASE SUMMARY**  
**CASE NO. A-12-672841-C**

02/20/2018	 Reply in Support Filed By: Counter Claimant Nevada State of <i>The State of Nevada's Reply in Support of Motion for Attorneys' Fees, Costs, and Interest</i>
02/27/2018	<b>Motion to Retax</b> (9:00 AM) (Judicial Officer: Sturman, Gloria) <b>02/27/2018, 05/24/2018</b> <i>Motion to Retax Memorandum of Costs</i>
02/27/2018	<b>Motion for Attorney Fees and Costs</b> (9:00 AM) (Judicial Officer: Sturman, Gloria) <b>02/27/2018, 05/24/2018</b> <i>Motion for Attorneys' Fees, Costs, and Interest</i>
02/27/2018	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Sturman, Gloria)
03/16/2018	 Supplemental Brief Filed By: Counter Claimant Nevada State of <i>Supplemental Brief in Support of the State of Nevada's Motion for Award of Attorneys' Fees, Costs, and Interest</i>
03/16/2018	 Appendix Filed By: Counter Claimant Nevada State of <i>Appendix of Exhibits in Support of Supplemental Brief in Support of the State of Nevada's Motion for Award of Attorneys' Fees, Costs, and Interest</i>
04/03/2018	 Opposition Filed By: Counter Defendant Nassiri, Fred; Plaintiff Nassiri Living Trust <i>Supplemental Opposition to the State's Motion for Attorney Fees</i>
04/03/2018	 Appendix Filed By: Counter Defendant Nassiri, Fred; Plaintiff Nassiri Living Trust <i>Appendix to Exhibits to Supplemental Opposition to the State's Motion for Attorney Fees</i>
04/23/2018	 Reply to Opposition Filed by: Counter Claimant Nevada State of <i>The State of Nevada's Supplemental Reply to Nassiri's Supplemental Opposition to the State's Motion for Attorney's Fees</i>
04/30/2018	 Notice of Rescheduling <i>Notice of Rescheduling Hearing Date</i>
05/03/2018	 Notice of Rescheduling of Hearing <i>Notice of Rescheduling Hearing</i>
05/24/2018	 <b>All Pending Motions</b> (10:30 AM) (Judicial Officer: Sturman, Gloria)
07/06/2018	<b>Judgment Plus Interest</b> (Judicial Officer: Sturman, Gloria) Debtors: Fred Nassiri (Plaintiff), Nassiri Living Trust (Plaintiff) Creditors: Nevada State of (Defendant) Judgment: 07/06/2018, Docketed: 07/09/2018 Total Judgment: 1,056,575.82
07/06/2018	 Findings of Fact, Conclusions of Law and Order Filed By: Counter Claimant Nevada State of <i>Findings of Fact and Conclusions of Law</i>

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**CASE SUMMARY**  
**CASE NO. A-12-672841-C**

07/09/2018



Notice of Entry of Findings of Fact, Conclusions of Law  
Filed By: Counter Claimant Nevada State of  
*Notice of Entry*

08/07/2018



Notice of Appeal  
Filed By: Counter Defendant Nassiri, Fred; Plaintiff Nassiri Living Trust  
*Notice of Appeal*

08/07/2018



Case Appeal Statement  
Filed By: Counter Defendant Nassiri, Fred; Plaintiff Nassiri Living Trust  
*Case Appeal Statement*

## CIVIL COVER SHEET

XXVI I

Clark County, Nevada  
Case No. \_\_\_\_\_  
(Assigned by Clerk's Office)

**I. Party Information**

Plaintiff(s) (name/address/phone):  
**Fred Nassir and the Nassiri Living Trust**

Defendant(s) (name/address/phone):  
**State of Nevada**

Attorney (name/address/phone):  
**Dylan T. Ciciliano**  
Gordon Silver  
3960 Howard Hughes Pkwy., 9<sup>th</sup> Floor  
Las Vegas, NV 89169  
(702) 796-5555

Attorney (name/address/phone):

**II Nature of Controversy** (Please check applicable bold category and applicable subcategory, if appropriate)

☐ **Arbitration Requested**

**Civil Cases**

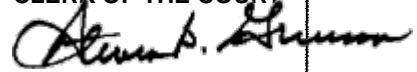
Real Property	Negligence	Torts
<input type="checkbox"/> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> <b>Title to Property</b> <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input checked="" type="checkbox"/> <b>Condemnation/Eminent Domain</b> <input type="checkbox"/> <b>Other Real Property</b> <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> <b>Negligence – Auto</b> <input type="checkbox"/> <b>Negligence – Medical/Dental</b> <input type="checkbox"/> <b>Negligence – Premises Liability</b> (Slip/Fall) <input type="checkbox"/> <b>Negligence - Other</b>	<input type="checkbox"/> <b>Product Liability</b> <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> <b>Intentional Misconduct</b> <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> <b>Employment Torts</b> (Wrongful termination) <input type="checkbox"/> <b>Other Torts</b> <input type="checkbox"/> Anti Trust <input checked="" type="checkbox"/> <b>Fraud/Misrepresentation</b> <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
<input type="checkbox"/> <b>Summary Administration</b> <input type="checkbox"/> <b>General Administration</b> <input type="checkbox"/> <b>Special Administration</b> <input type="checkbox"/> <b>Set Aside Estates</b> <input type="checkbox"/> <b>Trust/Conservatorships</b> <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> <b>Other Probate</b>	<input type="checkbox"/> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input checked="" type="checkbox"/> <b>Breach of Contract</b> <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input checked="" type="checkbox"/> <b>Other Contracts/Acct/Judgment</b> <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> <b>Civil Petition for Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	
	<input type="checkbox"/> <b>Appeal from Lower Court</b> (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> <b>Civil Writ</b> <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters	

**III. Business Court Requested** (Please check applicable category; for Clark or Washoe Counties only.)

<input type="checkbox"/> NRS Chapters 78-88	<input type="checkbox"/> Investments (NRS 104 Art. 8)	<input type="checkbox"/> Enhanced Case Mgmt/Business
<input type="checkbox"/> Commodities (NRS 90)	<input type="checkbox"/> Deceptive Trade Practices (NRS 598)	<input type="checkbox"/> Other Business Court Matters
<input type="checkbox"/> Securities (NRS 90)	<input type="checkbox"/> Trademarks (NRS 600A)	

11/30/12  
Date

Signature of initiating party or representative



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14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 FRED NASSIRI, individually and as trustee  
17 of the NASSIRI LIVING TRUST, a trust  
formed under Nevada law,

18 Plaintiffs,

19 vs.

20 STATE OF NEVADA, on relation of its  
21 Department of Transportation; DOE  
22 GOVERNMENT AGENCIES I-X, inclusive;  
DOE INDIVIDUALS I-X; and DOE  
23 ENTITIES 1-10, inclusive,

24 Defendants.

Case No.: A-12-672841-C  
Dept. No.: XXVI

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND ORDER GRANTING IN  
PART: (1) THE STATE OF NEVADA'S  
MOTION FOR AWARD OF  
ATTORNEYS' FEES, COSTS, AND  
INTEREST; AND (2) NASSIRI'S  
MOTION TO RETAX MEMORANDUM  
OF COSTS; AND JUDGMENT**

Hearing Date: February 27, 2018  
May 24, 2018  
Hearing Time: 9:00 a.m. / 10:30 a.m.

25  
26 THIS MATTER came on for hearing pursuant to: (1) The State of Nevada, on relation of  
27 its Department of Transportation's (the "State") Motion for Award of Attorneys' Fees, Costs,  
28 and Interest; and (2) Fred Nassiri, individually, and as trustee of the Nassiri Living Trust's

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

(collectively, "Nassiri") Motion to Retax Memorandum of Costs, on the 27th day of February, 2018, at 9:00 a.m., and on the 24th day of May 2018, at 10:30 a.m., with Nassiri being represented by Eric R. Olsen, Esq. and Dylan T. Ciciliano, Esq. of the law firm Garman Turner Gordon LLP, and the State being represented by William L. Coulthard, Esq. and Mona Kaveh, Esq. of the law firm Kemp, Jones & Coulthard, LLP. The Court having reviewed the pleadings and papers on file herein and having heard the arguments of counsel made at the hearing; and with good cause appearing and there being no just reason for delay, the Court hereby makes the following findings of fact, conclusions of law, and order:

**I.**

**FINDINGS OF FACT**

1. On September 27, 2017, the Nevada Supreme Court issued an Opinion and Writ of Mandamus directing summary judgment in favor of the State on all of Nassiri's claims for relief.

2. On January 2, 2018, this Court entered both its Findings of Fact, Conclusions of Law, and Order Granting Summary Judgment in Favor of the State on Each of Plaintiffs' Claims; and Vacating Previous Orders Denying the State's Motions for Summary Judgment.

3. On January 9, 2018, the State filed its Verified Memorandum of Costs and Disbursements Pursuant to NRS 18.005 and 18.110 asserting costs in the amount of \$119,727.99.

4. On January 16, 2018, Nassiri filed his Motion to Retax Memorandum of Costs, followed by the State's Opposition on February 8, 2018, and Nassiri's Reply on February 20, 2018.

5. The State filed its Motion for Award of Attorneys' Fees, Costs, and Interest on January 22, 2018, followed by the State's Errata on January 25, 2018, Nassiri's Opposition on February 8, 2018, and the State's Reply on February 20, 2018. The State requested fees in the amount of \$1,271,703.92, which encompassed fees in the amount of \$1,092,756.02 paid to Kemp, Jones & Coulthard, LLP ("KJC") by the State, and fees in the amount of \$178,947.90 for time spent by the Office of the Attorney General on this matter. The State sought attorneys'

1 fees based upon § 2.18 of the parties' Settlement Agreement and Release of All Claims, dated  
2 April 29, 2005 (the "2005 Settlement Agreement"), which provides:

3  
4 2.18 Attorney's Fees. If any action is commenced to enforce the  
5 terms of this Agreement, the prevailing party shall be entitled to  
6 recover all of its expenses related to such action, including but not  
7 limited to, its reasonable attorney's fees and costs.

8 6. The Court heard oral argument on the Motion to Retax Memorandum of Costs  
9 and the Motion for Award of Attorneys' Fees, Costs, and Interest on February 27, 2018. After  
10 the Court heard oral argument from both parties on both motions, it took the Motion to Retax  
11 Memorandum of Costs under advisement and requested that the State supplement its Motion for  
12 Award of Attorneys' Fees, Costs, and Interest with additional billing records by March 16,  
13 2018. The Court provided Nassiri with an opportunity to file a supplemental opposition and for  
14 the State to file a supplemental reply.

15 7. The State filed its Supplement Brief in Support of its Motion for Award of  
16 Attorneys' Fees, Costs, and Interest on March 16, 2018, and attached additional billing records.  
17 Nassiri filed his Supplemental Opposition on April 3, 2018, and the State filed its Supplemental  
18 Reply on April 23, 2018.

19 8. The Court heard oral argument on the supplemental pleadings on May 24, 2018,  
20 at 10:30 a.m.

## 21 II.

### 22 CONCLUSIONS OF LAW

#### 23 Attorneys' Fees

24 9. The State is the prevailing party in this action. Thus, the Court finds that the  
25 State is entitled to an award of attorneys' fees pursuant to § 2.18 of the 2005 Settlement  
26 Agreement.

27 10. "In general, a district court may not award 'attorney fees... unless authorized to  
28 do so by a statute, rule or contract.'" *Davis v. Beling*, 278 P.3d 501, 515 (Nev. 2012), quoting  
*U.S. Design & Constr. v. I.B.E.W. Local 357*, 50 P.3d 170, 173 (Nev. 2002). With respect to  
the Court's contractual authority to award attorneys' fees, it is well-settled that "[p]arties are

1 free to provide for attorneys' fees by express contractual provisions." *Davis*, 278 P.3d at 515  
2 (citations omitted). Whenever the language of a contractual attorneys' fees provision is clear  
3 and unambiguous, it must be enforced as written. *Id.*

4 11. "When determining the amount of fees to award, the district court has great  
5 discretion, to be 'tempered only by reason and fairness.'" *Albios v. Horizon Communities, Inc.*,  
6 132 P.3d 1022, 1034 (Nev. 2006), quoting *Shuette*, 124 P.3d at 548-49. "The district court is  
7 not limited in its approach for determining the amount of attorneys' fees to award, but it must  
8 conduct its analysis in light of the *Brunzell v. Golden Gate National Bank* factors." *Albios*, 132  
9 P.3d at 1034 (citations omitted). These factors include:

10 (i) The qualities of the advocate: his ability, training, education,  
11 experience, professional standing and skills; (ii) the character of the  
12 work to be done: its difficulty, intricacy, importance, time and skill  
13 required, the responsibility imposed and the prominence and  
14 character of the parties where they affect the importance of the  
litigation; (iii) the work actually performed by the lawyer: the skill,  
time and attention given to the work; and (iv) the result: whether the  
attorney was successful and what benefits were derived. *Brunzell v.*  
*Golden Gate National Bank*, 455 P.2d 31, 33 (Nev. 1969).

15 The Court's order awarding attorneys' fees must reference its findings with respect to each of  
16 these factors. *Albios*, 132 P.3d at 1034 (citations omitted).

17 12. Under Nevada law, when an award of fees is not authorized on every single  
18 claim, the decision whether to apportion the fees between such claims is within the trial court's  
19 discretion. *See Mayfield v. Koroghli*, 184 P.3d 362, 369 (Nev. 2008). In exercising its  
20 discretion, the court should consider "whether apportionment is rendered impracticable by the  
21 interrelationship of the claims [asserted]." *Id.* (adopting the reasoning set forth in *Abdallah v.*  
22 *United Sav. Bank*, 51 Cal.Rptr.2d 286 (Cal.App.Ct. 1996)). Whenever the claims are "so  
23 'inextricably intertwined' as to make it 'impracticable, if not impossible, to separate the  
24 multitude of conjoined activities into compensable or noncompensable time units,'" the Court  
25 should not apportion any award of fees. *Mayfield*, 184 P.3d at 369, quoting *Abdallah*, 51  
26 Cal.Rptr.2d at 293. "The district court must, however, attempt to apportion the [fees] before  
27 determining that apportionment is impracticable." *Id.* Under *Mayfield*, when it elects not to  
28 apportion attorneys' fees, "the district court must make specific findings, either on the record

1 during oral proceedings or in its order, with regard to the circumstances of the case before it that  
2 render apportionment impracticable.” 184 P.3d at 369.

3 13. After reviewing the briefings and hearing oral argument from the parties, the  
4 State’s requested attorneys’ fees award for amounts paid to its outside counsel, KJC, is  
5 reasonable, subject to certain reductions, under the factors enumerated in *Brunzell*. Each of the  
6 factors are analyzed below and each analysis includes but is not limited to the following:

7 a. The qualities of the advocate (his ability, training, education, experience,  
8 professional standing and skills): This Court is familiar with the qualities of the State’s counsel  
9 over the several years that this litigation has been pending, as well as the countless other times  
10 that these attorneys have appeared before this Court. KJC is an AV rated firm under Martindale  
11 Hubbell’s peer review process and has a lengthy history of practice before the Eighth Judicial  
12 District Court. The professional standing of KJC is beyond reproach. The State’s lead trial  
13 counsel, William L. Coulthard, Esq., is well regarded in the legal community for his legal skill,  
14 ability, experience, and professional standing. Moreover, the involved associate attorneys are  
15 likewise skilled, experienced, and professionally competent. The qualities of the advocates  
16 weigh in favor of the State’s attorneys’ fees award for KJC.

17 b. The character of the work to be done (its difficulty, intricacy, importance,  
18 time and skill required, the responsibility imposed and the prominence and character of the  
19 parties where they affect the importance of the litigation): The character of the work done in this  
20 case justifies an award of fees. The State argued that this case involved serious questions about  
21 the State’s ability to engage in efficient, long-term highway improvement projects, including,  
22 but not limited, its authority to exchange surplus property as part of eminent domain  
23 settlements, its responsibility to preserve the view and visibility of exchanged property going  
24 forward, its compliance with federal and state public disclosure requirements, and its ability to  
25 negotiate and enter into arm’s-length contracts with members of the public. This is buttressed  
26 by the fact that the Nevada Supreme Court entertained a writ of mandamus to address “an  
27 important issue of law and an important policy question.” 133 Nev., Ad. Opinion 70, pg. 5  
28 (Sep. 27, 2017).



Moreover, eminent domain, and more particularly inverse condemnation, is an extraordinarily complex and important area of law. Eminent domain is rooted in the Constitution and implicates the delicate balance between the constitutional right to own property and the government's right to take private property for a public benefit. The character of legal work performed during the preparation, discovery, pretrial, trial, and appellate phases of this litigation all support the State's requested attorneys' fees award for its outside counsel, KJC.

c. The work actually performed by the lawyer (the skill, time and attention given to the work): This case proceeded through a year of discovery. The State's attorneys oversaw the review of thousands of documents and the production of nearly 20,000 pages worth of documents; they prepared for, conducted, and defended numerous depositions (some of which occurred outside Las Vegas); they prepared and defended multiple motions, including motions to dismiss and document-intensive motions for summary judgment; they prepared for and conducted a complex, six-day limited bench trial as to the State's statute of limitations defenses, where they marshalled the State's witnesses and evidence and drafted several bench briefs; they prepared this case for trial; they drafted, opposed, and argued several pretrial motions; and they prepared a comprehensive petition for writ of mandamus to the Nevada Supreme Court and participated in lengthy appellate proceedings, including *en banc* oral argument, which ultimately resulted in published precedent and the dismissal of Nassiri's remaining claims for relief.

This was a hard-fought case, against very skilled, polished opposing attorneys, that presented numerous hurdles and complicated legal issues. The State's attorneys vigorously defended this case over a substantial period of time and at the risk of a significantly adverse decision. Accordingly, the quality of work performed by KJC supports the State's requested award of attorneys' fees for its outside counsel, KJC.

d. The result (whether the attorney was successful and what benefits were derived): Although the road was long, the State ultimately succeeded in achieving a full and complete dismissal of Nassiri's claims. While Nassiri characterizes points of his case quite

1 differently, the State contends that it successfully defended against tens of millions of dollars in  
2 potential liability, and successfully protected the State's ability to continue to engage in  
3 efficient, long-term highway improvement projects. The State believes the latter was especially  
4 significant in this case, as Nassiri challenged the State's policies and procedures for accepting  
5 design-build project proposals, for publicly disclosing proposed highway improvement plans,  
6 for exchanging surplus property as part of eminent domain settlements, and for entering into  
7 arm's-length contracts. To the State's further benefit, its attorneys' successful efforts are  
8 memorialized in a published opinion of the *en banc* Nevada Supreme Court.

9 14. After reviewing the State's billing records, reviewing the parties' briefings, and  
10 hearing oral argument, the Court concludes it is impracticable to apportion the State's attorneys'  
11 fees between Nassiri's claims and/or between Nassiri, individually, and as trustee under the  
12 Nassiri Living Trust:

13 a. Nassiri's claims: Nassiri asserted that the State should be constitutionally  
14 prohibited from recovering fees under Section 22(7) of the Nevada Constitution and that the  
15 entire case arises from the prior eminent domain action or alternatively on Nassiri's present  
16 claims related to inverse condemnation. The Court finds that the action in part arises from the  
17 Settlement Agreement, which contains a prevailing party attorneys' fees provision. Moreover,  
18 to the extent that Nassiri brought claims arising from alleged inverse condemnation, the Court  
19 finds that the inverse condemnation claims and contract-based claims are so intertwined that it  
20 is impracticable to apportion the State's attorneys' fees between the two. The following  
21 circumstances support this finding: (i) these claims were based on the same factual assertion  
22 that Nassiri was harmed by the State's 2010 construction of the flyover; (ii) these claims sought  
23 identical damages; (iii) these claims involved the same discovery; and (iv) the Court is unable to  
24 separate the time spent on defending individual claims.

25 b. Nassiri, individually, and as trustee under the Nassiri Living Trust:  
26 Apportioning the State's attorneys' fees between Nassiri, individually, and as trustee under the  
27 Nassiri Living Trust is impracticable because Nassiri and the Nassiri Living Trust, both  
28 Plaintiffs in this action, sued the State for breach of the 2005 Settlement Agreement. Paragraph

one of the Amended Complaint defines the Trust, and Paragraph two defines Fred Nassiri individually; thereafter, they are referenced collectively as "Plaintiffs." 3/27/13 Amended Complaint. While Nassiri asserts that the Nassiri Living Trust is not a party to the 2005 Settlement Agreement, the 2005 Settlement Agreement states:

2.25. Successors and Assigns. This Agreement shall be binding and shall inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, personal representatives, successors, or assigns, as the case may be.

Based upon the above reasons, the Court finds that the Nassiri Living Trust is also liable for attorneys' fees.

15. The State is entitled to an award of reasonable attorneys' fees for the amounts incurred and paid to KJC. NRCP 54(d)(3)(A)-(B). An award of attorneys' fees must be supported by substantial evidence. *Logan v. Abe*, 131 Nev. \_\_\_, \_\_\_, 350 P.3d 1139, 1143 (2015).

16. Upon reviewing the invoices from KJC, the Court notes that KJC's invoices are block billed. "If a district court encounters difficulty considering the character of the work done or the work actually performed because of block billing, then the district court may order additional briefing or discount the relevant block-billed time entry or entries by an appropriate amount." *In re Margaret Mary Adams 2006 Trust*, 2015 WL 1423378, \*2 (Nev. Mar. 26, 2015). Under KJC's block billing, the Court could not determine the reasonableness of various entries that pertained to certain tasks, such as inter-office communications, and elects to discount the total fees incurred and paid to KJC by 10%.

17. Based on this 10% discount, the State is entitled to an attorneys' fees award of \$983,480.42 for fees incurred and paid to KJC.

18. Further, the State seeks fees related to time expended by the Office of the Attorney General. The Attorney General is a division of the State. Moreover, the State did not pay fees directly to the Attorney General. The Attorney General, however, did record the time its attorneys spent on the matter and estimated the approximate hourly cost of the Attorney General based on the annual Attorney General cost allocation to the Department of

1 Transportation.

2 19. After review of the invoices submitted by the Attorney General, the Court  
3 determines that the time expended by the Attorney General is best classified as overhead and  
4 therefore not recoverable as attorneys' fees.

5 **Costs**

6 20. NRS 18.020 states that "[c]osts must be allowed of course to the prevailing party  
7 against any adverse party against whom judgment is rendered . . . in an action for the recovery  
8 of money or damages, where the plaintiff seeks to recover more than \$2,500." Although the  
9 court has discretion to determine allowable costs, statutes permitting the recovery of costs are to  
10 be strictly construed because they are in derogation of common law. *Berosini v. People for the*  
11 *Ethical Treatment of Animals*, 971 P.2d 383, 385 (Nev. 1998) (citing *Gibellini v. Klindt*, 885  
12 P.2d 540, 543 (Nev. 1994)).

13 21. Pursuant to NRS 18.005, costs must be reasonable. "Reasonable costs" must be  
14 actual and reasonable, "rather than a reasonable estimate or calculation of such costs. . ."  
15 *Berosini*, 971 P.2d at 385-86 (quoting *Gibellini*, 885 P.2d at 543); see also *Village Builders 96,*  
16 *L.P. v. U.S. Laboratories, Inc.*, 112 P.3d 1082, 1093 (Nev. 2005) (recognizing that costs must  
17 be actually incurred by the prevailing party). The district court retains sound discretion in  
18 determining the reasonableness of the amounts and the items of costs to be awarded. *Schwartz*  
19 *v. Estate of Greenspun*, 881 P.2d 638, 643 (Nev. 1994); see also *Berosini*, 971 P.2d at 385.

20 22. The State is the prevailing party in this action and is entitled to an award of costs  
21 under both NRS 18.020 and § 2.18 of the 2005 Settlement Agreement. The State requested  
22 costs incurred in the total amount of \$119,727.99.

23 23. The State paid KJC for legal research costs (Westlaw) in the amount of  
24 \$25,304.68. After reviewing the evidence provided by the State, the Court finds that the  
25 information provided does not sufficiently document the actual legal research costs incurred by  
26 KJC. Accordingly, the State's claimed legal research costs reflect an estimation of KJC's  
27 overhead and are denied in their entirety.

28 24. The State incurred expert witness costs in the amount of \$45,967.23. These costs

1 are reduced to \$24,639.32 as follows:

2 a. The State retained Alan Nevin and incurred costs in the amount of  
3 \$18,827.91 for his expert witness services. Because Mr. Nevin did not testify at either trial or in  
4 deposition, the Court does not find that his expert report and testimony was of such necessity to  
5 require a larger fee under NRS 18.005. Accordingly, these costs are reduced to \$1,500.00.

6 b. The State retained Jack Sjostrom and incurred costs in the amount of  
7 \$2,812.50 for his expert witness services. Mr. Sjostrom did testify at deposition and the  
8 circumstances surrounding his expert report and testimony were of such necessity to require a  
9 larger fee under NRS 18.005. These incurred costs will not be reduced.

10 c. The State retained Shelli Lowe and incurred costs in the amount of  
11 \$12,050.00 for her expert witness services. Ms. Lowe did testify at deposition and the  
12 circumstances surrounding her expert report and testimony were of such necessity to require a  
13 larger fee under NRS 18.005. The State is entitled to \$1,500.00 in costs for Ms. Lowe's time  
14 preparing for her report, and \$10,550.00 related to preparing for her testimony.

15 d. The State retained Ken Ackeret and incurred costs in the amount of  
16 \$12,276.82 for his expert witness services. Mr. Ackeret did testify at deposition and the  
17 circumstances surrounding his expert report and testimony were of such necessity to require a  
18 larger fee under NRS 18.005. The State is entitled to \$1,500 in costs for Mr. Ackeret's time  
19 preparing for his report, and \$6,776.82 related to preparing for his testimony.

20 25. The State is entitled to its costs incurred for clerk's fees (\$77.00), reporters' fees  
21 for depositions (\$15,940.85), witness fees (\$124.00), process server fees (\$1,229.50), telecopies  
22 (\$19.02), photocopies (\$15,588.05), long distance phone calls (\$141.86), postage (\$274.16),  
23 travel/lodging (\$2,364.09), and other reasonable and necessary expenses incurred in connection  
24 with this action for run service (\$1,460.00), trial support (\$6,828.79), and reporters' fees for  
25 transcripts of court proceedings (\$4,408.76). These costs total \$48,456.08.

26 26. The State is therefore entitled to costs in the amount of \$73,095.40 as these costs  
27 are reasonable, necessary, and actually incurred, and are also properly documented and  
28 consistent with Nevada law.

**Post-Judgment Interest**

27. NRS 17.130(2) provides that interest on a judgment will continue to accrue until it has been satisfied. Under this provision, post-judgment interest should accrue on the total amount of fees and costs awarded to the State until these fees and costs have been satisfied. This order and judgment shall continue to accrue post-judgment interest from the date this order and judgment has been entered, calculated at the prime rate plus two percent (2%), until such time as this order and judgment is completely satisfied.

**III.**

**ORDER AND JUDGMENT**

ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the State of Nevada, on relation of its Department of Transportation's Motion for Award of Attorneys' Fees, Costs, and Interest is GRANTED in part.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Fred Nassiri, individually, and as trustee of the Nassiri Living Trust's Motion to Retax Memorandum of Costs is GRANTED in part.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the State of Nevada, on relation of its Department of Transportation is awarded attorneys' fees in the amount of \$983,480.42 against Fred Nassiri, individually, and as trustee of the Nassiri Living Trust.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the State of Nevada, on relation of its Department of Transportation is awarded costs in the amount of \$73,095.40 against Fred Nassiri, individually, and as trustee of the Nassiri Living Trust.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the State of Nevada, on relation of its Department of Transportation is awarded post-judgment interest on the total amount of fees and costs awarded to the State (\$1,056,575.82) until these fees and costs have been satisfied against Fred Nassiri, individually, and as trustee of the Nassiri Living Trust. This Order and Judgment shall continue to accrue post-judgment interest from the date this Order and Judgment has been entered, calculated at the prime rate plus two percent (2%), until such time as this Order and Judgment is completely satisfied.

1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that each of the Court's  
2 findings of fact is to be construed as a conclusion of law, and each of the Court's conclusion of  
3 law are to be construed as a finding of fact, as may be necessary or appropriate to carry out this  
4 Order and Judgment.


5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to *Campos-*  
6 *Garcia v. Johnson*, 331 P.3d 890, 891 (Nev. 2014), this Order is also considered a Judgment in  
7 favor of the State of Nevada, on relation of its Department of Transportation, and may be  
8 executed upon.

9 DATED this 5<sup>th</sup> of July, 2018.

11   
DISTRICT COURT JUDGE

13 Respectfully submitted by:

14 DATED this 2<sup>nd</sup> day of July 2018.

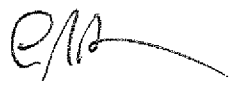
15   
16 William L. Coulthard, Esq. (#3927)  
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20 -and-

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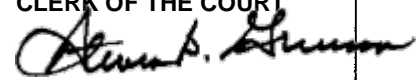
Approved as to form and content:

14 DATED this 2<sup>nd</sup> day of June 2018.

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14  
15 DISTRICT COURT

16 CLARK COUNTY, NEVADA

17 FRED NASSIRI, individually and as trustee  
of the NASSIRI LIVING TRUST, a trust  
18 formed under Nevada law,

19 Plaintiffs,

20 vs.

21 STATE OF NEVADA, on relation of its  
22 Department of Transportation; DOE  
GOVERNMENT AGENCIES I-X,  
23 inclusive; DOE INDIVIDUALS I-X; and  
DOE ENTITIES 1-10, inclusive,

24 Defendants.  
25  
26

Case No.: A-12-672841-C

Dept. No.: XXVI

**NOTICE OF ENTRY OF FINDINGS OF  
FACT, CONCLUSIONS OF LAW, AND  
ORDER GRANTING IN PART: (1) THE  
STATE OF NEVADA'S MOTION FOR  
AWARD OF ATTORNEYS' FEES,  
COSTS, AND INTEREST; AND (2)  
NASSIRI'S MOTION TO RETAX  
MEMORANDUM OF COSTS; AND  
JUDGMENT**

Hearing Date: February 27, 2018

May 24, 2018

Hearing Time: 9:00 a.m. / 10:30 a.m.

27 ///  
28



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1 PLEASE TAKE NOTICE that the FINDINGS OF FACT, CONCLUSIONS OF LAW,  
2 AND ORDER GRANTING IN PART: (1) THE STATE OF NEVADA'S MOTION FOR  
3 AWARD OF ATTORNEYS' FEES, COSTS, AND INTEREST; AND (2) NASSIRI'S  
4 MOTION TO RETAX MEMORANDUM OF COSTS; AND JUDGMENT was entered in this  
5 matter on July 6, 2018, a copy of which is attached hereto.

6 Dated this 9th day of July, 2018.

7 Respectfully submitted by:

8   
9

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 9th day July, 2018, I served a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART: (1) THE STATE OF NEVADA'S MOTION FOR AWARD OF ATTORNEYS' FEES, COSTS, AND INTEREST; AND (2) NASSIRI'S MOTION TO RETAX MEMORANDUM OF COSTS; AND JUDGMENT** to all parties, via the Court's e-filing service.

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DISTRICT COURT

CLARK COUNTY, NEVADA

14  
15  
16 FRED NASSIRI, individually and as trustee  
17 of the NASSIRI LIVING TRUST, a trust  
formed under Nevada law,

18 Plaintiffs,

19 vs.

20 STATE OF NEVADA, on relation of its  
21 Department of Transportation; DOE  
GOVERNMENT AGENCIES I-X, inclusive;  
22 DOE INDIVIDUALS I-X; and DOE  
ENTITIES 1-10, inclusive,

23 Defendants.

Case No.: A-12-672841-C  
Dept. No.: XXVI

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND ORDER GRANTING IN  
PART: (1) THE STATE OF NEVADA'S  
MOTION FOR AWARD OF  
ATTORNEYS' FEES, COSTS, AND  
INTEREST; AND (2) NASSIRI'S  
MOTION TO RETAX MEMORANDUM  
OF COSTS; AND JUDGMENT**

Hearing Date: February 27, 2018  
May 24, 2018  
Hearing Time: 9:00 a.m. / 10:30 a.m.

24  
25  
26 THIS MATTER came on for hearing pursuant to: (1) The State of Nevada, on relation of  
27 its Department of Transportation's (the "State") Motion for Award of Attorneys' Fees, Costs,  
28 and Interest; and (2) Fred Nassiri, individually, and as trustee of the Nassiri Living Trust's

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

(collectively, "Nassiri") Motion to Retax Memorandum of Costs, on the 27th day of February, 2018, at 9:00 a.m., and on the 24th day of May 2018, at 10:30 a.m., with Nassiri being represented by Eric R. Olsen, Esq. and Dylan T. Ciciliano, Esq. of the law firm Garman Turner Gordon LLP, and the State being represented by William L. Coulthard, Esq. and Mona Kaveh, Esq. of the law firm Kemp, Jones & Coulthard, LLP. The Court having reviewed the pleadings and papers on file herein and having heard the arguments of counsel made at the hearing; and with good cause appearing and there being no just reason for delay, the Court hereby makes the following findings of fact, conclusions of law, and order:

**I.**

**FINDINGS OF FACT**

1. On September 27, 2017, the Nevada Supreme Court issued an Opinion and Writ of Mandamus directing summary judgment in favor of the State on all of Nassiri's claims for relief.

2. On January 2, 2018, this Court entered both its Findings of Fact, Conclusions of Law, and Order Granting Summary Judgment in Favor of the State on Each of Plaintiffs' Claims; and Vacating Previous Orders Denying the State's Motions for Summary Judgment.

3. On January 9, 2018, the State filed its Verified Memorandum of Costs and Disbursements Pursuant to NRS 18.005 and 18.110 asserting costs in the amount of \$119,727.99.

4. On January 16, 2018, Nassiri filed his Motion to Retax Memorandum of Costs, followed by the State's Opposition on February 8, 2018, and Nassiri's Reply on February 20, 2018.

5. The State filed its Motion for Award of Attorneys' Fees, Costs, and Interest on January 22, 2018, followed by the State's Errata on January 25, 2018, Nassiri's Opposition on February 8, 2018, and the State's Reply on February 20, 2018. The State requested fees in the amount of \$1,271,703.92, which encompassed fees in the amount of \$1,092,756.02 paid to Kemp, Jones & Coulthard, LLP ("KJC") by the State, and fees in the amount of \$178,947.90 for time spent by the Office of the Attorney General on this matter. The State sought attorneys'

1 fees based upon § 2.18 of the parties' Settlement Agreement and Release of All Claims, dated  
2 April 29, 2005 (the "2005 Settlement Agreement"), which provides:

3  
4 2.18 Attorney's Fees. If any action is commenced to enforce the  
5 terms of this Agreement, the prevailing party shall be entitled to  
6 recover all of its expenses related to such action, including but not  
7 limited to, its reasonable attorney's fees and costs.

8 6. The Court heard oral argument on the Motion to Retax Memorandum of Costs  
9 and the Motion for Award of Attorneys' Fees, Costs, and Interest on February 27, 2018. After  
10 the Court heard oral argument from both parties on both motions, it took the Motion to Retax  
11 Memorandum of Costs under advisement and requested that the State supplement its Motion for  
12 Award of Attorneys' Fees, Costs, and Interest with additional billing records by March 16,  
13 2018. The Court provided Nassiri with an opportunity to file a supplemental opposition and for  
14 the State to file a supplemental reply.

15 7. The State filed its Supplement Brief in Support of its Motion for Award of  
16 Attorneys' Fees, Costs, and Interest on March 16, 2018, and attached additional billing records.  
17 Nassiri filed his Supplemental Opposition on April 3, 2018, and the State filed its Supplemental  
18 Reply on April 23, 2018.

19 8. The Court heard oral argument on the supplemental pleadings on May 24, 2018,  
20 at 10:30 a.m.

## 21 II.

### 22 CONCLUSIONS OF LAW

#### 23 Attorneys' Fees

24 9. The State is the prevailing party in this action. Thus, the Court finds that the  
25 State is entitled to an award of attorneys' fees pursuant to § 2.18 of the 2005 Settlement  
26 Agreement.

27 10. "In general, a district court may not award 'attorney fees... unless authorized to  
28 do so by a statute, rule or contract.'" *Davis v. Beling*, 278 P.3d 501, 515 (Nev. 2012), quoting  
*U.S. Design & Constr. v. I.B.E.W. Local 357*, 50 P.3d 170, 173 (Nev. 2002). With respect to  
the Court's contractual authority to award attorneys' fees, it is well-settled that "[p]arties are

1 free to provide for attorneys' fees by express contractual provisions." *Davis*, 278 P.3d at 515  
2 (citations omitted). Whenever the language of a contractual attorneys' fees provision is clear  
3 and unambiguous, it must be enforced as written. *Id.*

4 11. "When determining the amount of fees to award, the district court has great  
5 discretion, to be 'tempered only by reason and fairness.'" *Albios v. Horizon Communities, Inc.*,  
6 132 P.3d 1022, 1034 (Nev. 2006), quoting *Shuette*, 124 P.3d at 548-49. "The district court is  
7 not limited in its approach for determining the amount of attorneys' fees to award, but it must  
8 conduct its analysis in light of the *Brunzell v. Golden Gate National Bank* factors." *Albios*, 132  
9 P.3d at 1034 (citations omitted). These factors include:

10 (i) The qualities of the advocate: his ability, training, education,  
11 experience, professional standing and skills; (ii) the character of the  
12 work to be done: its difficulty, intricacy, importance, time and skill  
13 required, the responsibility imposed and the prominence and  
14 character of the parties where they affect the importance of the  
litigation; (iii) the work actually performed by the lawyer: the skill,  
time and attention given to the work; and (iv) the result: whether the  
attorney was successful and what benefits were derived. *Brunzell v.*  
*Golden Gate National Bank*, 455 P.2d 31, 33 (Nev. 1969).

15 The Court's order awarding attorneys' fees must reference its findings with respect to each of  
16 these factors. *Albios*, 132 P.3d at 1034 (citations omitted).

17 12. Under Nevada law, when an award of fees is not authorized on every single  
18 claim, the decision whether to apportion the fees between such claims is within the trial court's  
19 discretion. *See Mayfield v. Koroghli*, 184 P.3d 362, 369 (Nev. 2008). In exercising its  
20 discretion, the court should consider "whether apportionment is rendered impracticable by the  
21 interrelationship of the claims [asserted]." *Id.* (adopting the reasoning set forth in *Abdallah v.*  
22 *United Sav. Bank*, 51 Cal.Rptr.2d 286 (Cal.App.Ct. 1996)). Whenever the claims are "so  
23 'inextricably intertwined' as to make it 'impracticable, if not impossible, to separate the  
24 multitude of conjoined activities into compensable or noncompensable time units,'" the Court  
25 should not apportion any award of fees. *Mayfield*, 184 P.3d at 369, quoting *Abdallah*, 51  
26 Cal.Rptr.2d at 293. "The district court must, however, attempt to apportion the [fees] before  
27 determining that apportionment is impracticable." *Id.* Under *Mayfield*, when it elects not to  
28 apportion attorneys' fees, "the district court must make specific findings, either on the record

1 during oral proceedings or in its order, with regard to the circumstances of the case before it that  
2 render apportionment impracticable.” 184 P.3d at 369.

3 13. After reviewing the briefings and hearing oral argument from the parties, the  
4 State’s requested attorneys’ fees award for amounts paid to its outside counsel, KJC, is  
5 reasonable, subject to certain reductions, under the factors enumerated in *Brunzell*. Each of the  
6 factors are analyzed below and each analysis includes but is not limited to the following:

7 a. The qualities of the advocate (his ability, training, education, experience,  
8 professional standing and skills): This Court is familiar with the qualities of the State’s counsel  
9 over the several years that this litigation has been pending, as well as the countless other times  
10 that these attorneys have appeared before this Court. KJC is an AV rated firm under Martindale  
11 Hubbell’s peer review process and has a lengthy history of practice before the Eighth Judicial  
12 District Court. The professional standing of KJC is beyond reproach. The State’s lead trial  
13 counsel, William L. Coulthard, Esq., is well regarded in the legal community for his legal skill,  
14 ability, experience, and professional standing. Moreover, the involved associate attorneys are  
15 likewise skilled, experienced, and professionally competent. The qualities of the advocates  
16 weigh in favor of the State’s attorneys’ fees award for KJC.

17 b. The character of the work to be done (its difficulty, intricacy, importance,  
18 time and skill required, the responsibility imposed and the prominence and character of the  
19 parties where they affect the importance of the litigation): The character of the work done in this  
20 case justifies an award of fees. The State argued that this case involved serious questions about  
21 the State’s ability to engage in efficient, long-term highway improvement projects, including,  
22 but not limited, its authority to exchange surplus property as part of eminent domain  
23 settlements, its responsibility to preserve the view and visibility of exchanged property going  
24 forward, its compliance with federal and state public disclosure requirements, and its ability to  
25 negotiate and enter into arm’s-length contracts with members of the public. This is buttressed  
26 by the fact that the Nevada Supreme Court entertained a writ of mandamus to address “an  
27 important issue of law and an important policy question.” 133 Nev., Ad. Opinion 70, pg. 5  
28 (Sep. 27, 2017).

Moreover, eminent domain, and more particularly inverse condemnation, is an extraordinarily complex and important area of law. Eminent domain is rooted in the Constitution and implicates the delicate balance between the constitutional right to own property and the government's right to take private property for a public benefit. The character of legal work performed during the preparation, discovery, pretrial, trial, and appellate phases of this litigation all support the State's requested attorneys' fees award for its outside counsel, KJC.

c. The work actually performed by the lawyer (the skill, time and attention given to the work): This case proceeded through a year of discovery. The State's attorneys oversaw the review of thousands of documents and the production of nearly 20,000 pages worth of documents; they prepared for, conducted, and defended numerous depositions (some of which occurred outside Las Vegas); they prepared and defended multiple motions, including motions to dismiss and document-intensive motions for summary judgment; they prepared for and conducted a complex, six-day limited bench trial as to the State's statute of limitations defenses, where they marshalled the State's witnesses and evidence and drafted several bench briefs; they prepared this case for trial; they drafted, opposed, and argued several pretrial motions; and they prepared a comprehensive petition for writ of mandamus to the Nevada Supreme Court and participated in lengthy appellate proceedings, including *en banc* oral argument, which ultimately resulted in published precedent and the dismissal of Nassiri's remaining claims for relief.

This was a hard-fought case, against very skilled, polished opposing attorneys, that presented numerous hurdles and complicated legal issues. The State's attorneys vigorously defended this case over a substantial period of time and at the risk of a significantly adverse decision. Accordingly, the quality of work performed by KJC supports the State's requested award of attorneys' fees for its outside counsel, KJC.

d. The result (whether the attorney was successful and what benefits were derived): Although the road was long, the State ultimately succeeded in achieving a full and complete dismissal of Nassiri's claims. While Nassiri characterizes points of his case quite



1 differently, the State contends that it successfully defended against tens of millions of dollars in  
2 potential liability, and successfully protected the State's ability to continue to engage in  
3 efficient, long-term highway improvement projects. The State believes the latter was especially  
4 significant in this case, as Nassiri challenged the State's policies and procedures for accepting  
5 design-build project proposals, for publicly disclosing proposed highway improvement plans,  
6 for exchanging surplus property as part of eminent domain settlements, and for entering into  
7 arm's-length contracts. To the State's further benefit, its attorneys' successful efforts are  
8 memorialized in a published opinion of the *en banc* Nevada Supreme Court.

9 14. After reviewing the State's billing records, reviewing the parties' briefings, and  
10 hearing oral argument, the Court concludes it is impracticable to apportion the State's attorneys'  
11 fees between Nassiri's claims and/or between Nassiri, individually, and as trustee under the  
12 Nassiri Living Trust:

13 a. Nassiri's claims: Nassiri asserted that the State should be constitutionally  
14 prohibited from recovering fees under Section 22(7) of the Nevada Constitution and that the  
15 entire case arises from the prior eminent domain action or alternatively on Nassiri's present  
16 claims related to inverse condemnation. The Court finds that the action in part arises from the  
17 Settlement Agreement, which contains a prevailing party attorneys' fees provision. Moreover,  
18 to the extent that Nassiri brought claims arising from alleged inverse condemnation, the Court  
19 finds that the inverse condemnation claims and contract-based claims are so intertwined that it  
20 is impracticable to apportion the State's attorneys' fees between the two. The following  
21 circumstances support this finding: (i) these claims were based on the same factual assertion  
22 that Nassiri was harmed by the State's 2010 construction of the flyover; (ii) these claims sought  
23 identical damages; (iii) these claims involved the same discovery; and (iv) the Court is unable to  
24 separate the time spent on defending individual claims.

25 b. Nassiri, individually, and as trustee under the Nassiri Living Trust:  
26 Apportioning the State's attorneys' fees between Nassiri, individually, and as trustee under the  
27 Nassiri Living Trust is impracticable because Nassiri and the Nassiri Living Trust, both  
28 Plaintiffs in this action, sued the State for breach of the 2005 Settlement Agreement. Paragraph

one of the Amended Complaint defines the Trust, and Paragraph two defines Fred Nassiri individually; thereafter, they are referenced collectively as "Plaintiffs." 3/27/13 Amended Complaint. While Nassiri asserts that the Nassiri Living Trust is not a party to the 2005 Settlement Agreement, the 2005 Settlement Agreement states:

2.25. Successors and Assigns. This Agreement shall be binding and shall inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, personal representatives, successors, or assigns, as the case may be.

Based upon the above reasons, the Court finds that the Nassiri Living Trust is also liable for attorneys' fees.

15. The State is entitled to an award of reasonable attorneys' fees for the amounts incurred and paid to KJC. NRCP 54(d)(3)(A)-(B). An award of attorneys' fees must be supported by substantial evidence. *Logan v. Abe*, 131 Nev. \_\_\_, \_\_\_, 350 P.3d 1139, 1143 (2015).

16. Upon reviewing the invoices from KJC, the Court notes that KJC's invoices are block billed. "If a district court encounters difficulty considering the character of the work done or the work actually performed because of block billing, then the district court may order additional briefing or discount the relevant block-billed time entry or entries by an appropriate amount." *In re Margaret Mary Adams 2006 Trust*, 2015 WL 1423378, \*2 (Nev. Mar. 26, 2015). Under KJC's block billing, the Court could not determine the reasonableness of various entries that pertained to certain tasks, such as inter-office communications, and elects to discount the total fees incurred and paid to KJC by 10%.

17. Based on this 10% discount, the State is entitled to an attorneys' fees award of \$983,480.42 for fees incurred and paid to KJC.

18. Further, the State seeks fees related to time expended by the Office of the Attorney General. The Attorney General is a division of the State. Moreover, the State did not pay fees directly to the Attorney General. The Attorney General, however, did record the time its attorneys spent on the matter and estimated the approximate hourly cost of the Attorney General based on the annual Attorney General cost allocation to the Department of

1 Transportation.

2 19. After review of the invoices submitted by the Attorney General, the Court  
3 determines that the time expended by the Attorney General is best classified as overhead and  
4 therefore not recoverable as attorneys' fees.

5 **Costs**

6 20. NRS 18.020 states that "[c]osts must be allowed of course to the prevailing party  
7 against any adverse party against whom judgment is rendered . . . in an action for the recovery  
8 of money or damages, where the plaintiff seeks to recover more than \$2,500." Although the  
9 court has discretion to determine allowable costs, statutes permitting the recovery of costs are to  
10 be strictly construed because they are in derogation of common law. *Berosini v. People for the*  
11 *Ethical Treatment of Animals*, 971 P.2d 383, 385 (Nev. 1998) (citing *Gibellini v. Klindt*, 885  
12 P.2d 540, 543 (Nev. 1994)).

13 21. Pursuant to NRS 18.005, costs must be reasonable. "Reasonable costs" must be  
14 actual and reasonable, "rather than a reasonable estimate or calculation of such costs. . ."  
15 *Berosini*, 971 P.2d at 385-86 (quoting *Gibellini*, 885 P.2d at 543); see also *Village Builders 96,*  
16 *L.P. v. U.S. Laboratories, Inc.*, 112 P.3d 1082, 1093 (Nev. 2005) (recognizing that costs must  
17 be actually incurred by the prevailing party). The district court retains sound discretion in  
18 determining the reasonableness of the amounts and the items of costs to be awarded. *Schwartz*  
19 *v. Estate of Greenspun*, 881 P.2d 638, 643 (Nev. 1994); see also *Berosini*, 971 P.2d at 385.

20 22. The State is the prevailing party in this action and is entitled to an award of costs  
21 under both NRS 18.020 and § 2.18 of the 2005 Settlement Agreement. The State requested  
22 costs incurred in the total amount of \$119,727.99.

23 23. The State paid KJC for legal research costs (Westlaw) in the amount of  
24 \$25,304.68. After reviewing the evidence provided by the State, the Court finds that the  
25 information provided does not sufficiently document the actual legal research costs incurred by  
26 KJC. Accordingly, the State's claimed legal research costs reflect an estimation of KJC's  
27 overhead and are denied in their entirety.

28 24. The State incurred expert witness costs in the amount of \$45,967.23. These costs

1 are reduced to \$24,639.32 as follows:

2 a. The State retained Alan Nevin and incurred costs in the amount of  
3 \$18,827.91 for his expert witness services. Because Mr. Nevin did not testify at either trial or in  
4 deposition, the Court does not find that his expert report and testimony was of such necessity to  
5 require a larger fee under NRS 18.005. Accordingly, these costs are reduced to \$1,500.00.

6 b. The State retained Jack Sjostrom and incurred costs in the amount of  
7 \$2,812.50 for his expert witness services. Mr. Sjostrom did testify at deposition and the  
8 circumstances surrounding his expert report and testimony were of such necessity to require a  
9 larger fee under NRS 18.005. These incurred costs will not be reduced.

10 c. The State retained Shelli Lowe and incurred costs in the amount of  
11 \$12,050.00 for her expert witness services. Ms. Lowe did testify at deposition and the  
12 circumstances surrounding her expert report and testimony were of such necessity to require a  
13 larger fee under NRS 18.005. The State is entitled to \$1,500.00 in costs for Ms. Lowe's time  
14 preparing for her report, and \$10,550.00 related to preparing for her testimony.

15 d. The State retained Ken Ackeret and incurred costs in the amount of  
16 \$12,276.82 for his expert witness services. Mr. Ackeret did testify at deposition and the  
17 circumstances surrounding his expert report and testimony were of such necessity to require a  
18 larger fee under NRS 18.005. The State is entitled to \$1,500 in costs for Mr. Ackeret's time  
19 preparing for his report, and \$6,776.82 related to preparing for his testimony.

20 25. The State is entitled to its costs incurred for clerk's fees (\$77.00), reporters' fees  
21 for depositions (\$15,940.85), witness fees (\$124.00), process server fees (\$1,229.50), telecopies  
22 (\$19.02), photocopies (\$15,588.05), long distance phone calls (\$141.86), postage (\$274.16),  
23 travel/lodging (\$2,364.09), and other reasonable and necessary expenses incurred in connection  
24 with this action for run service (\$1,460.00), trial support (\$6,828.79), and reporters' fees for  
25 transcripts of court proceedings (\$4,408.76). These costs total \$48,456.08.

26 26. The State is therefore entitled to costs in the amount of \$73,095.40 as these costs  
27 are reasonable, necessary, and actually incurred, and are also properly documented and  
28 consistent with Nevada law.

**Post-Judgment Interest**

27. NRS 17.130(2) provides that interest on a judgment will continue to accrue until it has been satisfied. Under this provision, post-judgment interest should accrue on the total amount of fees and costs awarded to the State until these fees and costs have been satisfied. This order and judgment shall continue to accrue post-judgment interest from the date this order and judgment has been entered, calculated at the prime rate plus two percent (2%), until such time as this order and judgment is completely satisfied.

**III.**

**ORDER AND JUDGMENT**

ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the State of Nevada, on relation of its Department of Transportation's Motion for Award of Attorneys' Fees, Costs, and Interest is GRANTED in part.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Fred Nassiri, individually, and as trustee of the Nassiri Living Trust's Motion to Retax Memorandum of Costs is GRANTED in part.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the State of Nevada, on relation of its Department of Transportation is awarded attorneys' fees in the amount of \$983,480.42 against Fred Nassiri, individually, and as trustee of the Nassiri Living Trust.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the State of Nevada, on relation of its Department of Transportation is awarded costs in the amount of \$73,095.40 against Fred Nassiri, individually, and as trustee of the Nassiri Living Trust.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the State of Nevada, on relation of its Department of Transportation is awarded post-judgment interest on the total amount of fees and costs awarded to the State (\$1,056,575.82) until these fees and costs have been satisfied against Fred Nassiri, individually, and as trustee of the Nassiri Living Trust. This Order and Judgment shall continue to accrue post-judgment interest from the date this Order and Judgment has been entered, calculated at the prime rate plus two percent (2%), until such time as this Order and Judgment is completely satisfied.

1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that each of the Court's  
2 findings of fact is to be construed as a conclusion of law, and each of the Court's conclusion of  
3 law are to be construed as a finding of fact, as may be necessary or appropriate to carry out this  
4 Order and Judgment.


5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to *Campos-*  
6 *Garcia v. Johnson*, 331 P.3d 890, 891 (Nev. 2014), this Order is also considered a Judgment in  
7 favor of the State of Nevada, on relation of its Department of Transportation, and may be  
8 executed upon.

9 DATED this 5<sup>th</sup> of July, 2018.

11   
12 DISTRICT COURT JUDGE

13 Respectfully submitted by:

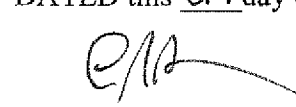
14 DATED this 2<sup>nd</sup> day of July 2018.

15   
16 William L. Coulthard, Esq. (#3927)  
17 Eric M. Pepperman, Esq. (#11679)  
18 Mona Kayeh, Esq. (#11825)  
19 KEMP, JONES & COULTHARD, LLP  
20 3800 Howard Hughes Parkway, 17th Fl.  
21 Las Vegas, Nevada 89169  
22 -and-

23 Attorney General Adam Paul Laxalt, Esq.  
24 Dennis V. Gallagher, Esq. (#955)  
25 Joe Vadala, Esq. (#5158)  
26 Janet L. Merrill, Esq. (#10736)  
27 OFFICE OF THE ATTORNEY GENERAL  
28 555 E. Washington Avenue, Suite 3900  
Las Vegas, Nevada 89101  
*Attorneys for the State of Nevada, on  
relation of its Department of Transportation*

Approved as to form and content:

DATED this 2<sup>nd</sup> day of June 2018.

15   
16 Eric R. Olsen, Esq. (#3127)  
17 Dylan T. Ciciliano, Esq. (#12348)  
18 GARMAN TURNER GORDON, LLP  
19 650 White Drive, Suite 100  
20 Las Vegas, Nevada 89119  
21 *Attorneys for Plaintiffs*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**April 22, 2013**

---

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

---

**April 22, 2013      11:00 AM      Motion**

**HEARD BY:** Allf, Nancy      **COURTROOM:** RJC Courtroom 03A

**COURT CLERK:** Billie Jo Craig

**RECORDER:** Traci Rawlinson

**REPORTER:**

**PARTIES**

**PRESENT:**      Ciciliano, Dylan T.      Attorney

**JOURNAL ENTRIES**

- Mr. Ciciliano appeared telephonically.

At request of counsel, COURT ORDERED, Motion to Extend Time for Service is GRANTED. Mr. Ciciliano advised that service was effectuated on 4/17/13.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**July 31, 2013**

---

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

---

**July 31, 2013      9:00 AM      Motion to Dismiss**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

**PRESENT:**      Coulthard, William L      Attorney  
Kaveh, Mona      Attorney  
Kern, Amanda B.      Attorney  
Olsen, Eric R.      Attorney

**JOURNAL ENTRIES**

- DEFENDANT NDOT'S 1) MOTION TO DISMISS AMENDED COMPLAINT AND/OR QUASH SERVICE OF THE SUMMONS AND AMENDED COMPLAINT FOR INSUFFICIENCY OF SERVICE OF PROCESS, OR ALTERNATIVELY. . . was first addressed by counsel. Mr. Coulthard argued for the motion on failure to serve the Attorney General's office and to list a basis for the untimely filing in the Order granting an ex-parte motion to enlarge service. Argued by Mr. Olsen as technical oversights, COURT ORDERED Motion DENIED.

. . . . 3) MOTION TO STRIKE THE PRAYER FOR PUNITIVE DAMAGES was discussed next by counsel and Mr. Olsen conceded that state law prohibits punitive damages being assessed against a state entity and plaintiff withdrew this request rendering defendant's motion to strike MOOT.

. . . . 2) MOTION TO DISMISS AMENDED COMPLAINT FOR FAILURE TO STATE A CLAIM was the final portion of the defendant's motion. Mr. Coulthard argued the three contract claims; breach of contract; contractual breach of implied covenant of good faith and fair dealing; and tortuous breach of the implied covenant of good faith and fair dealing should all be dismissed based on plaintiffs



signing the quit claim deed and settlement agreement. Mr. Coulthard continued that the two claims on negligent and intentional misrepresentation are tort claims based on NDOT's discretionary functions and are time barred due to the purchase being made 7 years ago, and finally, the claim for inverse condemnation should be dismissed as there was no warranty either express or implied. Mr. Olsen argued that Mr. Nassiri's property he exchanged and purchased was significantly diminished in value due to a 60 foot embankment constructed by the defendants for the Blue Diamond "fly over" that obscures the view of plaintiff's property from CA driver's on I-15. He also pointed out that defendant was in possession of an appraisal that they did not share with plaintiff which showed him paying at the top of the scale for a full view of the property.

Following argument, COURT ORDERED motion to dismiss GRANTED as to claims for relief five and six negligent misrepresentation and intentional misrepresentation; COURT FURTHER ORDERED motion to dismiss DENIED WITHOUT PREJUDICE to as to contract claims two, three, and four, breach of contract, contractual breach of implied covenant of good faith and fair dealing, and tortious breach of the implied covenant of good faith and fair dealing to being refiled after further Discovery; and finally, COURT ORDERED motion to dismiss DENIED as to inverse condemnation.

Mr. Coulthard to prepare proposed Order; Mr. Olsen to approve as to form and content.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**January 14, 2015**

---

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

---

**January 14, 2015**

**3:07 PM**

**Minute Order**

**Minute Order: Case  
Reassignment**

**HEARD BY:** Barker, David

**COURTROOM:**

**COURT CLERK:** April Watkins

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- EDCR 1.60(a) gives the Chief Judge the authority to assign or reassign all cases pending in the district. The instant was transferred to Department 2 due to the recent elections/reassignments. Department 2 has a conflict with one or more of the parties in this matter. By way of confirming letter, all parties and the originating department, Department 26, have agreed to have this case reassigned back to the originating department. Therefore, it is hereby ORDERED that this case be transferred back to Department 26.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**April 01, 2015**

---

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

---

**April 01, 2015      10:30 AM      All Pending Motions**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

**PRESENT:**      Ciciliano, Dylan T.      Attorney  
                 Coulthard, William L      Attorney  
                 Kaveh, Mona      Attorney  
                 Kern, Amanda B.      Attorney  
                 Olsen, Eric R.      Attorney  
                 Pepperman, Eric      Attorney

**JOURNAL ENTRIES**

- STATE OF NEVADA'S MOTION FOR PREFERENTIAL TRIAL SETTING ON FOUR-WEEK STACK SET TO BEGNI ON APRIL 27, 2015, ON OST

Counsel explained their positions on the Motion and both stated they are ready to proceed with trial. COURT ORDERED Motion for Preferential Trial Setting GRANTED as directed by NRS 37.055.

STATE OF NEVADA'S MOTION FOR PARTIAL SUMMARY JUDGMENT ON PLAINTIFF'S CLAIM FOR INVERSE CONDEMNATION

Mr. Coulthard argued plaintiff alleged impaired access and obstructed visibility in support of the inverse condemnation claim. The Citing Probasco v City of Reno as the controlling authority, Mr. Coulthard stated plaintiff does not meet the two required elements: that there be a taking of property and that there be an express easement regarding visibility. The deed for the property plaintiff

purchased in the 2004 Blue Diamond Realignment in exchange for the land taken was given on an "as is" and "where is" basis. The flyover was constructed under the 2010 Design-Build Project on land owned by the state since 1959. He asked the Court to grant the motion for partial summary judgment. Mr. Olson conceded that the allegation of impaired access is not ripe at this time. He argued that Probasco is not the controlling law as the taking of plaintiff's property occurred with the original condemnation action in 2004. At that time, the state never disclosed plans for a flyover or that its placement would adversely affect visibility of plaintiff's property purchased in an exchange. Loss of visibility was a compensable element known by the state at the time of the settlement.

STATE'S MOTION FOR SUMMARY JUDGMENT ON PLAINTIFF'S CLAIMS FOR 1) BREACH OF CONTRACT, 2) BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING, AND 3) TORTIOUS BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

Mr. Coulthard argued there is no breach of contract, as the state owes no duty to plaintiff under the four corners of the settlement agreement. The settlement agreement does not preclude the state from improving its property or require the state to protect plaintiff's visibility. As to Breach of Good Faith, plaintiff had notice as early as 1999 of the proposed flyover plans from the environmental assessments prepared and meetings he attended. As to tortious breach, Mr. Coulthard concluded the settlement agreement was conducted at arm's length, terms were heavily negotiated, plaintiff was well-represented by a qualified team of experts so there was no special relationship between the parties and the state is immune. Mr. Olson argued the state had a duty to act in good faith for an equitable settlement on all compensable issues. He cited the State's manual on eminent domain as saying acquisitions should be conducted to the end result of the project for the property owner's just compensation.

COURT STATED ITS FINDINGS that this case is a breach of contract claim and not an eminent domain or inverse condemnation issue. FURTHER FINDING Probasco is the controlling law; there was no taking; and the access issue is premature. COURT ORDERED Motion for Partial Summary Judgment on Inverse Condemnation Claim GRANTED WITH PREJUDICE as to the claim of obstructed visibility; GRANTED WITHOUT PREJUDICE as to the claim of impaired access.

COURT FURTHER STATED ITS FINDINGS on the Breach of Contract claims that these are questions of fact as to what plaintiff believed when he negotiated to pay \$24 million and when he knew about the flyover. COURT ORDERED Motion for Summary Judgment on claim of breach of contract DENIED; on the claim of Breach of Implied Covenant of Good Faith and Fair Dealing DENIED. COURT FURTHER ORDERED claim of Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing GRANTED.

Mr. Coulthard to prepare proposed Findings of Fact and Conclusions of Law; Mr. Olsen to review as to form and content.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract****COURT MINUTES****April 02, 2015**

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
                                  vs.  
                                  Nevada State of, Defendant(s)

**April 02, 2015      11:00 AM      Calendar Call**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Ciciliano, Dylan T.	Attorney
	Coulthard, William L	Attorney
	Kaveh, Mona	Attorney
	Kern, Amanda B.	Attorney
	Pepperman, Eric	Attorney

**JOURNAL ENTRIES**

**- CALENDAR CALL**

Counsel announced ready to go to trial on the two remaining contract claims left after the Court ruled on various summary judgments. Mr. Coulthard suggested the trial be bifurcated and proceed on this stack as a bench trial just on the equitable claim for rescission. Mr. Ciciliano requested the suggestion be put in motion form and Court advised if the motion could be drafted quickly, an OST would be signed to set the motion on 4/7. COURT ORDERED trial dates and pretrial conference SET in the event a week bench trial is decided. Otherwise, a three week jury trial could not be accommodated on this stack.

4.28.2015 AT 10:30AM    PRETRIAL CONFERENCE

TRIAL DATES:

Mon. 5.4 at 9:00am

Tues. 5.5 at 1:30pm

Wed. 5.6 at 9:00am  
Thur. 5.7 at 1:30pm  
Fri. 5.8 at 9:00am

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**April 07, 2015**

---

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

---

**April 07, 2015**

**9:30 AM**

**All Pending Motions**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

**PRESENT:**      Ciciliano, Dylan T.      Attorney  
                         Coulthard, William L      Attorney  
                         Kaveh, Mona      Attorney  
                         Kern, Amanda B.      Attorney  
                         Olsen, Eric R.      Attorney  
                         Pepperman, Eric      Attorney

**JOURNAL ENTRIES**

- DEFENDANT'S MOTION FOR SUMMARY JUDGMENT ON PLAINTIFF'S PRAYER FOR RESCISSION

Counsel argued whether plaintiff's contention there was a unilateral mistake met the elements to rescind the settlement agreement entered into by the parties. Argument raised if this was a partial rescission or if the taking by the State of plaintiff's four acres was also included. Counsel each made their arguments regarding the proposed flyover, and when plaintiff first learned of the proposal, and/or the modification and movement of the flyover closer to plaintiff's property. Counsel also argued whether or not visibility was part of the agreement. Following arguments, COURT ORDERED Motion for Summary Judgment on Rescission DENIED; FINDING that the question is one of fact and not law.

Mr. Olsen to prepare proposed Order; Mr. Coulthard to review as to form and content.

DEFENDANT'S MOTION TO CONFIRM THAT THE MAY 4, 2015 TRIAL ON PLAINTIFF'S CLAIMS FOR THE EQUITABLE REMEDY OF RESCISSION WILL PROCEED AS A BENCH TRIAL, ALTERNATIVELY MOTION TO BIFURCATE . . . . PLAINTIFF'S OPPOSITION THERETO AND COUNTERMOTION FOR AN ADVISORY JURY

Counsel argued whether judicial resources would be wasted in utilizing the week allocated previously in the upcoming trial stack for a portion of the case that can be determined as a matter of law even if the same witnesses will need to be recalled during a jury trial. Court stated its preference was to utilize the week already designated to hear arguments on the statute of limitations issue. Mr. Coulthard stated since statute of limitations was an affirmative defense, the State would have the burden of proof. Mr. Olsen stated he would get with opposing counsel and review the motions in limine currently scheduled for April 21 and 28 to see if they could be moved. Court asked counsel to discuss the particulars of the bench trial on statute of limitations and confirm by the April 21st hearing that the bench trial would proceed.

Mr. Coulthard to prepare proposed Order; Mr. Olsen to review as to form and content.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**April 21, 2015**

---

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

---

**April 21, 2015      10:00 AM      All Pending Motions**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

**PRESENT:**      Ciciliano, Dylan T.      Attorney  
                         Coulthard, William L      Attorney  
                         Kern, Amanda B.      Attorney  
                         Olsen, Eric R.      Attorney  
                         Pepperman, Eric      Attorney

**JOURNAL ENTRIES**

- PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EXPERT TESTIMONY OF 1) JACK SJOSTROM, 2) ALAN NEVIN, AND 3) SHELLI LOWE . . . . PLAINTIFF'S MOTION TO LIMINE TO 1) PRECLUDE ARGUMENT THAT TAX PAYERS FUNDS WOULD PAY ANY JUDGMENT; 2) TO EXCLUDE ARGUMENT THAT PLAINTIFFS HAVE A PROPENSITY TO LITIGATE; 3) TO EXCLUDE ARGUMENT THAT STEVE OXOBY'S KNOWLEDGE IS IMPUTED TO PLAINTIFFS; 4) TO EXCLUDE ARGUMENT THAT THE SETTLEMENT AGREEMENT IS TWO SEPARATE AGREEMENTS; AND 5) TO PRECLUDE THE TESTIMONY OF WITNESSES

Court clarified that today counsel will argue 5) to preclude the testimony of witnesses. Counsel argued whether NDOT could call witnesses who contradict the testimony or explain facts their designated 30b(6) witness was unable to answer at his deposition. Additionally, objections as to the relevancy of the subject matter, time period, matters outside the statute of limitations defense. Further, counsel argued the efficacy of Mr. Terry designated as the 30b(6) witness. Counsel clarified upon inquiry of the Court that a motion to compel was not filed to be heard by the Discovery

Commissioner.

Following argument, COURT ORDERED Plaintiff's Motion in Limine 5 to Preclude the Testimony of Witnesses RESERVED FOR RULING at time of trial with respect to Mr. Terry, the designated 30b(6) witness, as to proper objections raised at time of trial, impeachment or motions to strike if he says something outside the scope. COURT CLARIFIED no ruling was being made today to preclude any other witness with relevant information from testifying.

Upon inquiry of the Court, counsel advised the motions in limine scheduled for April 28th are continued for the second phase of trial.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**May 04, 2015**

---

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

---

**May 04, 2015      10:00 AM      Bench Trial**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Shelly Landwehr

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Ciciliano, Dylan T.	Attorney
	Coulthard, William L	Attorney
	Kern, Amanda B.	Attorney
	Nassiri, Fred	Plaintiff
		Counter Defendant
	Olsen, Eric R.	Attorney
	Pepperman, Eric	Attorney

**JOURNAL ENTRIES**

- Introductions by counsel. Colloquy regarding joint exhibits. Opening statements by Mr. Pepperman. Opening statements by Mr. Olsen. Testimony and exhibits presented (see worksheet).

COURT EXCUSED parties for lunch recess. COURT RECONVENED. All present as before. Testimony resumed. COURT EXCUSED parties for brief recess. COURT RECONVENED. All present as before. Testimony resumed. Exhibits presented (see worksheet).

COURT EXCUSED parties for evening recess. Matter CONTINUED. COURT ADJOURNED.

CONTINUED TO: 5/05/15 1:30 PM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**May 05, 2015**

---

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

---

**May 05, 2015**

**1:30 PM**

**Bench Trial**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Ciciliano, Dylan T.	Attorney
	Coulthard, William L	Attorney
	Kern, Amanda B.	Attorney
	Nassiri, Fred	Plaintiff
		Counter Defendant
	Olsen, Eric R.	Attorney
	Pepperman, Eric	Attorney

**JOURNAL ENTRIES**

- BENCH TRIAL - DAY 2

Bench trial reconvened at 1:35pm. Mr. Terry retook the stand. Exhibits admitted per worksheets.

Trial recessed at 5:00PM.

CONTINUED TO 5/6/2015 AT 9:30AM.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**May 06, 2015**

---

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

---

**May 06, 2015      9:00 AM      Bench Trial**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Ciciliano, Dylan T.	Attorney
	Coulthard, William L	Attorney
	Kern, Amanda B.	Attorney
	Nassiri, Fred	Plaintiff
		Counter Defendant
	Olsen, Eric R.	Attorney
	Pepperman, Eric	Attorney

**JOURNAL ENTRIES**

- BENCH TRIAL - DAY THREE

Trial resumed at 9:35AM. Witnesses sworn and testified; exhibits admitted per worksheets.  
At 4:45PM Court recessed for the evening and will continue tomorrow at 1:00PM.

CONTINUED TO 5/7/2015 AT 1:00PM.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**May 07, 2015**

---

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

---

**May 07, 2015**

**1:30 PM**

**Bench Trial**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Ciciliano, Dylan T.	Attorney
	Coulthard, William L	Attorney
	Kaveh, Mona	Attorney
	Kern, Amanda B.	Attorney
	Nassiri, Fred	Plaintiff
		Counter Defendant
	Olsen, Eric R.	Attorney
	Pepperman, Eric	Attorney

**JOURNAL ENTRIES**

- BENCH TRIAL - DAY FOUR

Trial began at 1:05pm. Witnesses sworn and testified and exhibits admitted per worksheets. Court disclosed during questioning of a witness that she had a different case with one of the persons mentioned. Counsel had not objection. Court recessed at 6:00pm.

CONTINUED TO 5/8/15 AT 9:30AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**May 08, 2015**

---

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

---

**May 08, 2015      9:00 AM      Bench Trial**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Ciciliano, Dylan T.	Attorney
	Coulthard, William L	Attorney
	Kaveh, Mona	Attorney
	Kern, Amanda B.	Attorney
	Nassiri, Fred	Plaintiff
		Counter Defendant
	Olsen, Eric R.	Attorney
	Pepperman, Eric	Attorney

**JOURNAL ENTRIES**

- BENCH TRIAL - DAY FIVE

Trial resumed at 9:45AM. Witnesses sworn and testified; exhibits admitted per worksheets. Mr. Coulthard gave an offer of proof on Exhibit 129 the Court earlier denied admittance. Mr. Olsen argued against the offer. COURT DENIED the objection. Oxoby and Mireles depositions read into the record. State rested. Witnesses sworn and testified; exhibits admitted per worksheets in Plaintiff's case. Terry deposition read into the record. Plaintiff rested at 6:20pm.

Court and counsel agreed to return for closing arguments.

CONTINUED TO 5/19/2015 AT 1:30PMA

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract****COURT MINUTES****May 19, 2015**

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
                                  vs.  
                                  Nevada State of, Defendant(s)

**May 19, 2015      1:00 PM      Bench Trial**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Ciciliano, Dylan T.	Attorney
	Coulthard, William L	Attorney
	Kaveh, Mona	Attorney
	Kern, Amanda B.	Attorney
	Nassiri, Fred	Plaintiff
		Counter Defendant
	Olsen, Eric R.	Attorney
	Pepperman, Eric	Attorney

**JOURNAL ENTRIES**

**- BENCH TRIAL - DATE SIX - CLOSING ARGUMENTS**

Bench trial resumed at 1:30PM. Mr. Ed Miranda, NDOT Representative, present. Mr. Coulthard advised he had filed a bench brief on the parol evidence rule on the integration clause regarding the sketch maps presented. He then presented the state's closing arguments on the statute of limitations issue in this bifurcated trial. Mr. Olsen presented plaintiff's closing arguments.

Following closing arguments, Court stated its concern when the time started to toll the statute of limitations since the flyover was only a concept at the time the contract was entered into and neither the State nor Mr. Nassiri had actual knowledge of the impact to the land the State sold him as a part of the take until the flyover was built. Counsel requested they be allowed to brief on the narrow legal



question of what effect inquiry notice but not actual notice has on the rescission and should that be factored into the claim in the context of the taking.

Court directed briefing schedule for counsel to file simultaneously briefs by close of business June 16, 2015. Court will notify counsel if oral argument is needed.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**August 31, 2015**

---

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

---

**August 31, 2015      3:00 AM      Minute Order**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- MINUTE ORDER

As the Court inadvertently returned to counsel the draft version incorrectly captioned as a "judgment," COURT ORDERED Plaintiff's Findings of Fact, Conclusions of Law and Judgement and Notice of Entry of Judgment filed August 28, 2015 STRIKEN. The Court's Findings of Fact, Conclusions of Law and Order filed on August 29, 2015 is the final Order.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**November 10, 2015**

---

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

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**November 10, 2015      9:00 AM      Status Check**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

**PRESENT:**      Ciciliano, Dylan T.      Attorney  
Coulthard, William L      Attorney  
Olsen, Eric R.      Attorney  
Pepperman, Eric      Attorney

**JOURNAL ENTRIES**

- STATUS CHECK: PHASE 2 TRIAL SETTING

Counsel agreed phase 2 will be a jury trial and should take from 1 and one-half weeks to two weeks to hear. Counsel also agreed to set the trial sometime in the second quarter of 2016. COURT ORDERED trial date SET; Trial Order to issue.

Counsel then discussed the upcoming motions and plaintiff's Motion to Strike on OST defendant's Motion to Exclude currently set to be heard December 8, 2015. Following discussion, COURT ORDERED Motion to Strike SET and Motion to Exclude RESET to a later time on the 12/8/15 calendar.

11/17/2015 AT 9:30 PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S MOTION TO EXCLUDE DAMAGES EVIDENCE RELATED TO PLAINTIFF'S BREACH OF CONTRACT CLAIMS AD/OR MOTION TO STRIKE PLAINTIFF'S EXPERT, KEITH HARPER, MAI

12/8/2015 AT 10:00AM DEFENDANT'S MOTION TO EXCLUDE DAMAGES EVIDENCE  
RELATED TO PLAINTIFF'S BREACH OF CONTRACT CLAIMS AD/OR MOTION TO STRIKE  
PLAINTIFF'S EXPERT, KEITH HARPER, MAI

5/5/2016 AT 9:00AM CALENDAR CALL  
5/31 THRU 6/24/2016 TRIAL STACK

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**November 17, 2015**

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A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

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**November 17, 2015      9:30 AM**

**All Pending Motions**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Ciciliano, Dylan T.	Attorney
	Coulthard, William L	Attorney
	Kern, Amanda B.	Attorney
	Olsen, Eric R.	Attorney
	Pepperman, Eric	Attorney

**JOURNAL ENTRIES**

- Also present: Ed Miranda, Client Representative for NDOT.

PLAINTIFF'S MOTION TO STRIKE DEFENDANTS' MOTION TO EXCLUDE DAMAGES EVIDENCE RELATED TO PLAINTIFF'S BREACH OF CONTRACT CLAIMS AND/OR MOTION TO STRIKE PLAINTIFF'S EXPERT, KEITH HARPER, MAI ON AN ORDER SHORTENING TIME . . . Mr. Ciciliano argued that the defendant's Motion was, in reality, a motion in limine, and the deadline for motions in limine and dispositive motions had long passed. Even though the trial was bifurcated to have a bench trial on the statute of limitations, the Court did not reset discovery and deadlines for the jury trial scheduled next year. Mr. Coulthard stated his opposition that once the trial was bifurcated, all motions in limine were taken off calendar and have never been argued before the Court. COURT STATED ITS FINDINGS that while discovery is closed and is not to be reopened, new Motions in Limine should be scheduled and heard in normal course. COURT ORDERED Plaintiff's Motion to Strike Defendant's Motion to Exclude Damages DENIED; new trial order with dispositive dates to issue.

Mr. Coulthard to prepare proposed Order.

DEFENDANT/COUNTERCLAIMANT MOTION FOR SUMMARY JUDGMENT ON PLAINTIFF'S RESCISSION CLAIM BASED ON THE COURT'S 8/29/15 FINDINGS OF FACT CONCLUSIONS OF LAW AND JUDGMENT. . . Mr. Pepperman argued that that law does not allow rescission claims based on future contingencies and the flyover was not a reality until 2010. Mr. Olsen argued the State always planned for a flyover as soon as funding permitted but that fact was not known to plaintiff until construction began. COURT ORDERED Motion for Summary Judgment on Plaintiff's Rescission Claim DENIED; FINDING the mistake occurred in 2005 but was not known until 2010.

COURT FURTHER ORDERED at counsel's request and agreement to CONTINUE the 12/8/15 hearing on the Motion to Exclude Damages Evidence to 1/5/2016 at 10:30AM.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**January 05, 2016**

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A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

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**January 05, 2016      10:30 AM      Motion to Exclude**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

**PRESENT:**      Ciciliano, Dylan T.      Attorney  
                         Coulthard, William L      Attorney  
                         Kern, Amanda B.      Attorney  
                         Olsen, Eric R.      Attorney  
                         Pepperman, Eric      Attorney

**JOURNAL ENTRIES**

- DEFENDANT'S MOTION TO EXCLUDE DAMAGES EVIDENCE RELATED TO PLAINTIFF'S BREACH OF CONTRACT CLAIMS AND/OR MOTION TO STRIKE PLAINTIFF'S EXPERT, KEITH HARPER, MAI

Counsel argued whether damages related to breach of contract could be claimed if damages were not previously calculated and provided to defendant during discovery. Following argument, COURT ORDERED matter CONTINUED FOR CHAMBERS DECISION.

CONTINUED TO 1/19/2016 AT 10:00AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract****COURT MINUTES****January 19, 2016**

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
                                  vs.  
                                  Nevada State of, Defendant(s)

**January 19, 2016      10:00 AM      All Pending Motions**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Ciciliano, Dylan T.	Attorney
	Coulthard, William L	Attorney
	Olsen, Eric R.	Attorney
	Pepperman, Eric	Attorney

**JOURNAL ENTRIES**

- PLAINTIFFS' MOTION IN LIMINE TO EXCFLUDE THE EXPERT TESTIMONY OF: 1) JACK SJOSTROM, 2) ALAN NEVIN, AND 3) SHELLI LOWE . . . Mr. Olsen presented a power point presentation on the reasons to exclude three defendant experts. He stated that Sjostrom and Nevin compared the wrong things after the Court ruled on the matter at the first hearing and as to Lowe, to the extent her report relief on Sjostrom's report. Mr. Pepperman argued the state's experts opined as to the before and after conditions laid out by Plaintiff's expert. Until the Plaintiff's expert changed his report, the analysis compared the proposed "fly-over" vs. the "final fly-over" and not the subsequent "no fly-over" vs "fly-over" so the state's experts relied on Plaintiff's experts' report. The complaint was originally laid out and was answered on. Following argument, COURT ORDERED Motion in Limine to Exclude Expert Testimony DENIED as to Shelli Lowe. COURT FURTHER ORDERED Motion in Limine to Exclude Expert Testimony of Alan Nevin RESERVED FOR TIME OF TRIAL as it goes to weight and reserved for objections raised at time of trial. COURT FURTHER ORDERED MIL to Exclude Expert Testimony of Jack Sjostrom RESERVED FOR RULING AT TIME OF TRIAL to see whether foundation can be laid to quality Mr. Sjostrom as an expert or if he should be a percipient witness who happens to be an expert in the field.



CHAMBERS DECISION ON MOTION TO EXCLUDE DAMAGES . . .COURT ORDERED Motion to Exclude Damages Evidence Related to Plaintiff's Breach of Contract Claims DENIED; finding that Mr. Harper's testimony goes to weight; FINDING the state was on notice the plaintiff was considering contract damages with a March 19, 2014 e-mail.

Court directed each side to prepare proposed Orders on their own motions and allow review of form and content by opposing counsel considering defendant's indication they would seek a writ on the Motion to Exclude Damages.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**July 26, 2016**

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A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

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**July 26, 2016      9:00 AM      Status Check**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Linda Denman

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

**PRESENT:**      Coulthard, William L      Attorney  
Rosales, Janet L.      Attorney

**JOURNAL ENTRIES**

- STATUS CHECK: PETITION FOR WRIT OF MANDAMUS

Mr. Coulthard reminded the Court this matter was stipulated stayed pending the Nevada Supreme Court's determination of the State's Writ. He advised the Writ was accepted by the Court, an answering brief was filed, and the State is presently preparing a reply. COURT ORDERED Stay CONTINUED; status check SET.

CONTINUED TO 11/22/2016 AT 9:00AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**November 22, 2016**

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A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

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**November 22, 2016      9:00 AM      Status Check**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Melissa Murphy

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

**PRESENT:**      Ciciliano, Dylan T.      Attorney  
                         Pepperman, Eric      Attorney

**JOURNAL ENTRIES**

- Mr. Ciciliano noted the writ was fully briefed and that it would be appropriate to have a status check. Mr. Pepperman noted the parties stipulated to a stay pending resolution of the writ and that the five year ruled was stayed. COURT ORDERED, Stay CONTINUED pending appeal; Status Check CONTINUED.

CONTINUED TO: 05/23/17 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**May 23, 2017**

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A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

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**May 23, 2017      9:00 AM      Status Check**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 10D

**COURT CLERK:** Lorna Shell

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

**PRESENT:**      Coulthard, William L      Attorney  
Olsen, Eric R.      Attorney

**JOURNAL ENTRIES**

- Mr. Olsen stated they were just waiting to hear from the Supreme Court regarding the decision on the writ. COURT ORDERED, Status Check Re: Petition for Writ of Mandamus CONTINUED.

CONTINUED TO: 09/19/17 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**September 19, 2017**

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A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

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**September 19, 2017    9:00 AM      Status Check**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 10D

**COURT CLERK:** Lorna Shell

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

**PRESENT:**      Rosales, Janet L.      Attorney

**JOURNAL ENTRIES**

- Ms. Merrill stated the Supreme Court had not adjudicated the appeal and therefore requested a 90 day continuance. COURT ORDERED, Status Check: Petition for Writ of Mandamus CONTINUED; Counsel to report to the Court regarding the agreement between the parties for a stay by October 31, 2017.

CONTINUED TO: 11/14/17 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract**

**COURT MINUTES**

**February 27, 2018**

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A-12-672841-C      Fred Nassiri, Plaintiff(s)  
vs.  
Nevada State of, Defendant(s)

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**February 27, 2018      9:00 AM      All Pending Motions**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 10D

**COURT CLERK:** Lorna Shell

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

**PRESENT:**      Ciciliano, Dylan T.      Attorney  
                 Coulthard, William L      Attorney  
                 Kaveh, Mona      Attorney  
                 Olsen, Eric R.      Attorney  
                 Pepperman, Eric      Attorney  
                 Vadala, Joseph      Attorney

**JOURNAL ENTRIES**

- Also present was Ed Moranda from the Department of Transportation.

**MOTION FOR ATTORNEYS' FEES, COSTS, AND INTEREST:**

Mr. Coulthard argued this case had a long and protracted history, it was an inverse condemnation case, it was complex, there was lengthy briefing, there were several claims involved, there were over 20,000 documents produced and reviewed, 14 depositions were taken, there were multiple experts, and there were multiple Motions for Summary Judgment.

Mr. Olsen argued they failed to substantiate that the billing was reasonable and necessary, that based on the documents fees cannot be awarded against the trust, that there were no invoices by the Attorney General's Office (AG), the AG's office did not contribute anything, and they cannot demonstrate the reason for their fees.

COURT FINDS additional documentation was required regarding the fees AND THEREFORE ORDERED, Counsel to SUBMIT additional billing information to Chambers within the next two weeks; opposing counsel to have the opportunity to object.

Mr. Olson objected as that would be an untimely supplement.

COURT THEREFORE ORDERED, Briefing Schedule SET, Deft. to produce the complete record by March 16, 2018, Pltf.'s Opposition due March 30, 2018, Deft.'s Reply due April 13, 2018, and Hearing CONTINUED.

CONTINUED TO: 05/01/18

MOTION TO RETAX MEMORANDUM OF COSTS:

Mr. Ciciliano argued inverse condemnation fees were barred, that cost statutes were strictly construed, that sufficient documentation was required, that there cannot be a reasonable estimate, that pursuant to NRS 18.005 even if the client agreed to a higher fee rate that rate cannot be recovered, and that the Westlaw costs were unreasonable.

Ms. Kaveh argued this case included five years of litigation, there were protracted motions, there was a bench trial and a writ of mandamus, that the State was entitled to recover pursuant to NRS 18.020, this was not an inverse condemnation action as no property was taken, the costs were reasonable, customary and incurred, that there were hundreds of document pages and multiple witnesses, and the costs were discounted.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Breach of Contract****COURT MINUTES****May 24, 2018**

A-12-672841-C      Fred Nassiri, Plaintiff(s)  
    vs.  
    Nevada State of, Defendant(s)

**May 24, 2018      10:30 AM      All Pending Motions**

**HEARD BY:** Sturman, Gloria      **COURTROOM:** RJC Courtroom 10D

**COURT CLERK:** Lorna Shell

**RECORDER:** Kerry Esparza

**REPORTER:**

**PARTIES**

**PRESENT:**      Coulthard, William L      Attorney  
    Kaveh, Mona      Attorney  
    Olsen, Eric R.      Attorney

**JOURNAL ENTRIES**

- MOTION TO RETAX MEMORANDUM OF COSTS .. MOTION FOR ATTORNEYS' FEES, COSTS, AND INTEREST

Mr. Coulthard updated the Court regarding the history of the case and further argued when Pltf.'s brought their suit it included Mr. Nassiri and the Nassiri Trust, the case was litigated with both parties, and the claims were intertwined making it impossible to allocate based on the way the case was plead. Mr. Coulthard argued the Brunzell factors were addressed, the fees were reasonable, that the five-year case was contentiously litigated, and Pltf.'s admit it should have been dismissed. Mr. Coulthard stated all attorney fees were billed at a reduced rate and that over two years ago the State of Nevada offered to walk away and not ask for fees; however the Pltf. did not agree. Mr. Coulthard stated he did not believe pre-judgment interest had been supported and therefore they were not pursuing it; however Deft.'s were asking for post-judgment interest. Upon inquiry by the Court regarding the Attorney General's (AG) fees and costs and why the AG was any different than a corporate representative, Mr. Coulthard stated they were very involved in discovery, design, etc., they were part of the case strategy, and they prepared the writ. Mr. Coulthard argued the AG's office worked over 1200 hours on the case and any unreimbursed costs would be billed to the taxpayers.



Mr. Olsen argued the case challenged the way the state was doing business and their way of dealing with citizens. Mr. Olsen argued Deft.'s must prove the reasonableness and necessity of the work done and they had not done that and that they provided block billed invoices making it impossible to determine which tasks were involved or the time spent on them. Mr. Olsen argued there was no obligation for the trust to pay fees, block billing was unreasonable, and by block billing the Pltf.'s were forced to suffer because they cannot allocate. Mr. Olsen stated the Deft.'s fees should be reduced by 30%.

COURT FINDS this was a complex case where the skill of counsel was not doubted and that the Court appreciated the services were provided at a discounted rate; however the problem was the number of entries that were blocked billed making it difficult to determine how the law firm allocated work to each team. There were some trouble areas where multiple people were billing for the same entry and some inter-office conferences that did not appear to be an effective use of time. COURT FINDS a problem with the AG's office billings, since if they hadn't been working on this case they would have been on another; COURT THEREFORE ORDERED, Attorney General's fees DENIED; Westlaw charges by the Attorney General DENIED as they were unusually high and appeared to be a passive revenue generator; the AWARD would be TO BOTH Mr. Nassiri and the Nassiri Living Trust; Kemp, Jones, Coulthard law firm Westlaw charges DENIED as they lacked documentation specifics; and a 10% DEDUCTION for all block billing. COURT FURTHER ORDERED, witness fees shall be allowed as follows: Ken Ackert's report time limited to \$1500 plus all time in court related to testimony and all preparation time for testimony GRANTED; Shelli Lowe report time limited to \$1500 plus all time in court related to her testimony and all preparation time related to testimony GRANTED; Jack Sjostrom all amounts requested GRANTED; Alan Nevin limited to \$1500 GRANTED.

## VAULT EXHIBIT FORM

CASE NO	A672841	HEARING DATE	5/4/15
CASE TITLE	NASSIRI v STATE OF NEVADA	JUDGE	GLORIA STURMAN
RECORDER	KERRY ESPARZA	CLERK	LINDA DENMAN
PLAINTIFF	FRED NASSIRI	PLTF COUNSEL	ERIC OLSEN
DEFENDANT	STATE OF NEVADA DOT	DEFT S COUNSEL	WILLIAM COULTHARD
OTHERS		OTHER COUNSEL	

Date Offered	Objection	Date Admitted
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SEE ATTACHED EXHIBIT LISTS

176-112841

LIST OF JOINT TRIAL EXHIBITS

No.	Date	Exhibit	BATES No.	Offered	Objected	Admitted
1.	1/1/1999	Public Notice Ad Purchase Order re: July 27, 1999 meeting	(NV_NASSIR003294)	MAY 04 2015		Stipulated
2.	7/7/1999	Intent to Study Letter, Transportation Notice and Mailing List re: July 27, 1999 meeting	(NV_NASSIR001710 NV_NASSIR001721)	MAY 04 2015		Stipulated
3.	1/2/1999	July 27, 1999 Public Informational Meeting Handout	(NV_NASSIR001717 NV_NASSIR001706)	MAY 04 2015 MAY 08 2015	YES YES	NO NO
4.	2/1/2000	Public Notice Ad Purchase Order re: February 23, 2000 meeting	(NV_NASSIR003298)	MAY 04 2015		Stipulated
5.	2/2/2000	Intent-to-Study Letter, Transportation Notice and Mailing List re: February 23, 2000 meeting	(NV_NASSIR001695 NV_NASSIR001704)	MAY 04 2015		Stipulated
6.	2/23/2000	February 23, 2000 Public Informational Meeting Handout	(NV_NASSIR001724R NV_NASSIR0017163)	MAY 04 2015	YES	MAY 04 2015
7.	3/1/2000	Nassiri's comment form re: February 23, 2000 public meeting	(NV_NASSIR002002)	MAY 04 2015		MAY 04 2015
8.	3/16/2002	Public Notice Ad Purchase Order re: May 7, 2002 meeting	(NV_NASSIR003573)			
9.	4/16/2002	Public Notice Ad Purchase Order re: May 7, 2002 meeting	(NV_NASSIR001304)	MAY 04 2015		Stipulated
10.	4/19/2002	Public Notice Ad Composite re: May 7, 2002 meeting	(NV_NASSIR003577)	MAY 04 2015		Stipulated
11.	5/7/2002	Transportation Notice and Mailing List re: May 7, 2002 meeting	(NV_NASSIR001737 NV_NASSIR001738)	MAY 04 2015		Stipulated
12.	5/11/2002	May 7, 2002 Public Informational Meeting Handout	(NV_NASSIR003585 NV_NASSIR003588)	MAY 04 2015		MAY 04 2015
13.	9/24/2002	Letter from Koroghli to Nassiri re: September 2002 meeting	(Chapman000174)	MAY 08 2015	YES	MAY 08 2015
14.	3/21/2003	NDOT Memo re: R/W Setting - East Side I-15 Phase 1	(NV_NASSIR003409 NV_NASSIR003412)	MAY 08 2015	YES	MAY 08 2015
15.	3/21/2003	NDOT Memo re: R/W Setting - East Side I-15 Phase 1	(Chapman000391 Chapman000394)	MAY 08 2015	YES	MAY 08 2015
16.	7/2/2003	Public Notice Ad Purchase Order re: July 28, 2003 meeting	(NV_NASSIR003423)	MAY 04 2015		Stipulated
17.	8/24/2003	Memo from Weight to Surplus Committee	(NV_NASSIR001707 NV_NASSIR001709)	MAY 04 2015		Stipulated

LIST OF JOINT TRIAL EXHIBITS

No.	Date	Exhibit	BATES No.	Offered	Objected	Admitted
18	4/28/2004	Informal oral meeting notice	(NV NASSIRI002130) (NV NASSIRI002135)	MAY 05 2015	YES	MAY 05 2015
19	4/28/2004	Transportation Notice and Meeting List re July 28, 2003 meeting	(NV NASSIRI001124) (NV NASSIRI001130)	MAY 04 2015		Stipulated
20	5/25/2004	Letter re Planning Phases	(NV NASSIRI001097) (NV NASSIRI001098)	MAY 04 2015		Stipulated
21	9/9/2004	NDOT email	(Chapman000180)			
22	9/16/2004	Meeting with Mayor, NDOT, Koropkin	(Chapman000401)			
23	10/6/2004	Appraisal of Condensed Property Kent	(NV NASSIRI000016) (NV NASSIRI000128)	MAY 04 2015		Stipulated
24	10/22/2004	Letter from NDOT to Mayor re September 17, 2003 meeting	(Chapman000181) (Chapman000182)	MAY 04 2015		Stipulated
25	10/28/2004	NDOT memo to Mayor re NDOT property	(NV NASSIRI001026)	MAY 04 2015		Stipulated
26	11/21/2004	Appraisal Review	(Chapman000088) (Chapman000094)	MAY 04 2015		Stipulated
27	4/1/2004	2004 Environmental Assessment	(NV NASSIRI001877) (NV NASSIRI002051)	MAY 04 2015	YES	MAY 04 2015
28	4/1/2004	EAD circulation list	(NV NASSIRI000018) (NV NASSIRI000443)	MAY 05 2015	YES	MAY 05 2015
29	4/6/2004	Order of Purchase	(Chapman000035) (Chapman000490)	MAY 04 2015		Stipulated
30	4/6/2004	Accession Diary	(Chapman000167) (Chapman000188)	MAY 04 2015		Stipulated
31	4/6/2004	Notice re Corridor Package Needs	(Chapman000311)	MAY 04 2015		Stipulated
32	4/19/2004	Letter from Chapman to NDOT re State's offer and trading time for land	(Chapman000356) (Chapman000357)	MAY 04 2015		Stipulated
33	4/22/2004	Public Notice Ad Purchase Order re May 19, 2004 meeting	(NV NASSIRI001327)	MAY 04 2015		Stipulated

LIST OF JOINT TRIAL EXHIBITS

No.	Date	Exhibit	BATES No.	Offered	Objected	Admitted
34	4/30/2004	Public Notice Ad Composite re May 19, 2004 meeting	(NV NASSIR003333)	MAY 04 2015		Stipulated
35	4/30/2004	Public Notice Ad Proof re May 19, 2004 meeting	(NV NASSIR003330) (NV NASSIR003331)	MAY 04 2015		Stipulated
36	5/5/2004	Public Notice Ad Proof re May 19, 2004 meeting	(NV NASSIR003362) (NV NASSIR003364)			
37	5/6/2004	Addendum to Transportation Notice Reproduction Job Request Form re May 19, 2004 meeting	(NV NASSIR003512) (NV NASSIR003527)			
38	5/19/2004	May 19, 2004 Public Hearing Transcripts	(NV NASSIR003334) (NV NASSIR003359)	MAY 05 2015	YES	YES
39	5/19/2004	May 19, 2004 Public Informational Meeting Handout	(NV NASSIR002112) (NV NASSIR002121)	MAY 05 2015	YES	MAY 05 2015
40	5/19/2004	Transportation Notice	(NV NASSIR003407) (NV NASSIR003408)	MAY 04 2015		Stipulated
41	5/23/2004	Letter from Chapman to Heidi Mireles concerning May 28, 2004 meeting	(Chapman000445)	MAY 24 2015		Stipulated
42	5/28/2004	Blue D annotated map from Chapman Deposition	(Chapman003531)	MAY 24 2015		Stipulated
43	5/28/2004	Blue D annotated map highlighted by Heidi Mireles during deposition	(Chapman003531)	MAY 04 2015		Stipulated
44	5/28/2004	Oxley handwritten notes	(NV NASSIR0004575)			
45	5/28/2004	Oxley handwritten notes	(NV NASSIR0004586) (NV NASSIR0004589)			
46	6/1/2004	Letter from Chapman to John Kiehlbach enclosing copy of Guffy Report attached	(Chapman000444)	MAY 04 2015		Stipulated
47	6/8/2004	Letter from Chapman to Heidi Mireles requesting NDOT's correspondence	(Chapman000444)	MAY 04 2015		Stipulated
48	6/16/2004	Memo to File	(NV NASSIR0037070)	MAY 04 2015		Stipulated
49	6/22/2004	Phase 1 Counter motions	(Chapman000413)	MAY 04 2015		Stipulated
50	7/9/2004	Final Court Report to Madelon and Ike Kiehl	(NV NASSIR0037020) (NV NASSIR0037021)			
51	7/12/2004	Letter from NDOT, requesting on access to to condemn property	(NV NASSIR001111) (NV NASSIR001112)			
52	7/22/2004	Resolution of Controversy	(Chapman002195) (Chapman002196)	MAY 04 2015		Stipulated
53	8/13/2004	Transportation Notice re Project Approval	(NV NASSIR003454) (NV NASSIR003455)			

Handwritten initials and date: 8/2/04

LIST OF JOINT TRIAL EXHIBITS

No.	Date	Exhibit	BATES No.	Offered	Objected	Admitted
54	8/27/2004	Letter from Chapman	(NV NASSIRI004572) (NV NASSIRI004574)	MAY 04 2015		Stipulated
55	8/30/2004	Appraisal of Exchange Property by Kent	(NASSI0000775) (NASSI0000776)	MAY 07 2015	ALLS	MAY 07 2015
56	8/31/2004	Letter from NDO1, re: settling of meeting	(Chapman000774)	MAY 04 2015		Stipulated
57	8/31/2004	Verified Complaint in Internet Domain	(Chapman002280) (Chapman002316)	MAY 04 2015		Stipulated
58	8/31/2004	Notice of Expenditures	(Chapman002759) (Chapman002773)	MAY 04 2015		Stipulated
59	8/31/2004	Motion for Immediate Occupancy	(Chapman002775) (Chapman002778)	MAY 04 2015		Stipulated
60	9/1/2004	Letter enclosing Complaint	(Chapman000871) (Chapman000872)	MAY 04 2015		Stipulated
61	9/1/2004	Stipulation for occupancy	(Chapman000756) (Chapman000772)	MAY 04 2015		Stipulated
62	9/23/2004	Offer of Settlement	(Chapman000753) (Chapman000754)	MAY 04 2015		Stipulated
63	10/21/2004	Chapman's letter regarding ownership	(Chapman000699) (Chapman000709)	MAY 04 2015		Stipulated
64	11/16/2004	Letter from Chapman to Kirby Grace re: requesting Gary Kent appraisal	(NV NASSIRI001722) (NV NASSIRI001724)	MAY 06 2015		Stipulated
65	12/6/2004	Settlement Offer from NDO1	(NV NASSIRI001106) (NV NASSIRI001110)	MAY 04 2015		Stipulated
66	12/11/2004	Chapman letter re: Appraisal	(Chapman000678) (Chapman000679)	MAY 04 2015		Stipulated
67	12/17/2004	Letter from Walcott to Chapman re: NDO1's Settlement Offer and withdrawal period	(Chapman000671)	MAY 04 2015		Stipulated
68	12/17/2004	Joint Case Conference report	(Chapman002139) (Chapman002155)	MAY 04 2015		Stipulated
69	12/28/2004	Letter from Walcott to Chapman concerning NDO1's offer	(Chapman000573)	MAY 04 2015		Stipulated
70	1/25/2005	Letter from Chapman to Walcott concerning settlement proposal	(NV NASSIRI001743) (NV NASSIRI001749)	MAY 04 2015		Stipulated
71	1/27/2005	Letter from Chapman to Walcott following up on January 25, 2005 letter	(Chapman000507) (Chapman000508)	MAY 04 2015		Stipulated
72	1/28/2005	Letter from Walcott to Chapman re: settlement	(Chapman000506)	MAY 04 2015		Stipulated

2016-1-10 p. 2

LIST OF JOINT TRIAL EXHIBITS

No.	Date	Exhibit	BATES No.	Offered	Objected	Admitted
73	4/1/2005	Letter from Chapman to Walsh and Kirby Groubow re joint draft settlement agreement	{Chapman0001249}	MAY 04 2015		Stipulated
74	4/2/2005	Letter from Chapman to Walsh and Kirby Groubow re copy last draft settlement agreement	{Chapman0001276 Chapman0001277}	MAY 04 2015		Stipulated
75	4/14/2005	Quitclaim Deed	{Chapman0002842 Chapman0002846}			
76	4/15/2005	Map of Project	{Chapman0003533}			
77	4/24/2005	Fax letter to Santoro De ERS from Chapman	{Chapman0001208 Chapman0001210}	MAY 04 2015		Stipulated
78	4/11/2005	Fax letter to Santoro De ERS from Chapman	{Chapman0001191 Chapman0001192}	MAY 04 2015		Stipulated
79	4/17/2005	Letter from Walsh to Stone and Chapmans	{NASS0001500 NASS0001501}	MAY 04 2015		Stipulated
80	4/18/2005	Letter from ERS members	{Chapman0001183 Chapman0001184}			
81	4/28/2005	Letter from Chapman to Walsh and Kirby Groubow re response to draft settlement agreement	{Chapman0001147 Chapman0001151}	MAY 04 2015		Stipulated
82	4/19/2005	Chapman letter regarding chambers claims	{Chapman0001135 Chapman0001138}			
83	4/27/2005	Fax to Chapman from Walsh	{Chapman0001741}	MAY 04 2015		Stipulated
84	4/24/2005	Fax to Santoro De ERS from Chapman re comment on draft Settlement Agreement	{Chapman0001076 Chapman0001091}	MAY 04 2015		Stipulated
85	4/25/2005	Walsh Memo re Transacton Status	{NV NASS0004617}	MAY 04 2015		Stipulated
86	4/27/2005	Letter to Santoro De ERS from Chapman	{Chapman0001054 Chapman0001057}			
87	4/28/2005	Settlement Agreement and Release signed by all parties Re ERS claims	{Chapman0001499 Chapman0001510}	MAY 04 2015		Stipulated
88	4/29/2005	NDOT Ex. re Lawrence	{Chapman0001040 Chapman0001041}	MAY 04 2015		Stipulated
89	5/5/2005	Transmittal on Notice re May 5, 2005 meeting	{NASS0008601}	MAY 04 2015		Stipulated
90	5/17/2005	Letter from Chapman to Walsh re outstanding issues which need to be resolved before closing	{NV NASS0001467 NV NASS0001468}	MAY 04 2015		Stipulated

LIST OF JOINT TRIAL EXHIBITS

No.	Date	Exhibit	BATES No.	Offered	Objected	Admitted
91	5/25/2005	Letter from Walsh to Chapman's office in response to his outstanding issues	(NV NASSIR001365) NV NASSIR001369	MAY 31 4 2015		Stipulated
92	5/27/2005	Letter from Nasser to Chapman's office in response to Walsh's May 25, 2005 correspondence	(Chapman000987) Chapman000993	MAY 0 4 2015		Stipulated
93	5/27/2005	Fax from Chapman's office to Walsh forwarding Nasser's May 26, 2005 response letter	(NV NASSIR001380) NV NASSIR001386	MAY 0 4 2015		Stipulated
94	5/31/2005	Letter to Chapman from Santoro Drugs transmitting Signed Judgment for signature	(Chapman000977) Chapman000984	MAY 0 4 2015		Stipulated
95	6/1/2005	Map	(Chapman003532)	MAY 0 7 2015		MAY 0 7 2015
96	6/1/2005	Map	(Nasser 001451)			
97	5/27/2005	Revisions to the Amended Settlement Agreement	(Chapman001740)	MAY 06 2015 MAY 06 2015		MAY 06 2015
98	6/2/2005	Final to Greg Walsh	(Chapman001741) Chapman001742	MAY 0 4 2015		Stipulated
99	6/2/2005	Fax to Santoro Drugs from Chapman transmitting Draft Final Addendum to Settlement Agreement	(Chapman000939) Chapman000941	MAY 0 4 2015		Stipulated
100	6/2/2005	Fax transmitting Judgment and Final Order of Confirmation, etc	(Chapman000954) Chapman000956	MAY 0 4 2015		Stipulated
101	6/2/2005	Quack in Docs	(Chapman002962) Chapman002963	MAY 0 4 2015		Stipulated
102	6/3/2005	Fax added to Santoro Drugs from Chapman transmitting corrected Quack in Docs	(Chapman000972) Chapman000973	MAY 0 4 2015		Stipulated
103	6/23/2005	Fax to Santoro Drugs from Chapman transmitting Assignment and Release of All Claims	(Chapman001168) Chapman001184	MAY 0 4 2015		Stipulated
104	6/23/2005	Final Addendum to Settlement Agreement and Release of All Claims signed by all parties	(Chapman001429) Chapman001433	MAY 0 4 2015		Stipulated
105	6/29/2005	Formal Instructions	(Chapman001391) Chapman001446	MAY 0 4 2015		Stipulated
106	7/13/2005	Notice of Entry of Judgment and Final Order of Confirmation	(NV NASSIR001720) NV NASSIR001725	MAY 0 4 2015		Stipulated
107	8/4/2005	2005 US 06 Tax re Maps	(NV NASSIR001618) NV NASSIR001620	MAY 0 4 2015		Stipulated

MAY 06 2015  
MAY 06 2015  
MAY 06 2015



LIST OF JOINT TRIAL EXHIBITS

No.	Date	Exhibit	BATES No.	Offered	Objected	Admitted
108	10/10/2005	Certified copy of order of final judgment	(Chapman001312) (Chapman001317)	MAY 04 2015		Stipulated
109	7/28/2006	Letter to Stipulation and Order to Amend Judgment and Final Order of Contemplation	(Chapman0001805) (Chapman0001828)	MAY 04 2015		Stipulated
110	7/29/2007	Letter from Nassir, Re: temporary easement	(Chapman0000012)	MAY 04 2015		Stipulated
111	8/3/2007	Letter from NDOT to Observer re: easement	(Nassir0011748)	MAY 04 2015		Stipulated
112	5/5/2008	Map	(INV NASSIR001056)	MAY 06 2015	yes	MAY 06 2015
113	10/1/2008	2008 Environmental Assessment	(Nassir000301) (Nassir000515)	MAY 05 2015	yes	MAY 05 2015
114	11/18/2008	Public Ad Notices re: November 18, 2008 meeting	(Nassir000166) (Nassir000169)			
115	11/18/2008	Transportation Notice re: November 18, 2008 meeting	(Nassir000297) (Nassir000300)			
116	11/18/2008	Public Informational Meeting Handout re: November 18, 2008 meeting	(Nassir000602)			
117	3/8/2009	Termination of Temporary Easement	(INV NASSIR000650) (INV NASSIR000653)	MAY 04 2015		Stipulated
118	6/30/2009	Letter from NDOT to LV Paving Award of Design Build	(INV NASSIR013422)	MAY 04 2015		Stipulated
119	7/1/2009	Transportation Notice re: July 1, 2009 meeting	(INV NASSIR001824)			
120	9/10/2009	Design Build Agreement with LV Paving	(INV NASSIR000339) (INV NASSIR000358)	MAY 04 2015		Stipulated
121	3/24/2010	Public Notice re: March 24, 2010 meeting	(Nassir000147)	MAY 05 2015	yes	MAY 05 2015
122	3/24/2010	Transportation Notice re: March 24, 2010 meeting	(Nassir000148)	MAY 05 2015	yes	MAY 05 2015
123	3/24/2010	Public Informational Meeting Handout re: March 24, 2010 meeting	(Nassir000149) (Nassir000163)	MAY 05 2015		
124	3/24/2010	LV South Design Build mapsheet	(Nassir000119) (Nassir000136)	MAY 04 2015		Stipulated
125	3/25/2010	LV Paving Lease Agreement	(Nassir000122) (Nassir000126)	MAY 04 2015		Stipulated
126	3/27/2010	Letter from Nassir to John Terry re: the easements	(INV NASSIR001688)	MAY 05 2015		Stipulated
127	9/20/2011	Letter from Patrick Stuchlik to Las Vegas Paving re: Grand Lease Agreement dated April 15, 2010	(Nassir001435)			
128	9/30/2011	Letter from O'Shea to John Terry re: legal representation of Nassir	(INV NASSIR001689) (INV NASSIR001690)			
129	5/29/2012	Nassir Demand Letter and exhibits	(INV NASSIR000735) (NV NASSIR0001095)	5/8/15	yes	yes

*Book 113*

LIST OF JOINT TRIAL EXHIBITS

No.	Date	Exhibit	BATES No.	Offered	Objected	Admitted
130	3/27/2013	Amended Complaint	{NV_NASSIR0017226 NV_NASSIR0017442}			
131	4/2/2013	E-mail from Nassiri to Rudy Malfabon and Paul Saucedo re: BLM/NDOT Land Parcels	{NV_NASSIR001691- NV_NASSIR001694}			
132	10/31/2013	Department's Answer to Amended Complaint and Counterclaim	{NV_NASSIR0017443 NV_NASSIR0017492}			
133	11/25/2013	Nassiri's Answer to Department's Counterclaim	{NV_NASSIR0017493 NV_NASSIR0017502}			
134	9/22/2014	Certificate of Custody and of Records		MAY 06 2015		Stipulated
135	N/A	Build Alternative Map Figure 10f	{Nassiri000353}			
136	N/A	Various maps	{Nassiri000127 Nassiri000135}			
137	N/A	Nassiri's Parcel Information Spreadsheet and Supporting Documents	{NV_NASSIR0017536- NV_NASSIR0017526}			
138	N/A	Map	{Chapman003491}			
139		Chapman File-Closing Docs	{Chapman002819 Chapman002840}			
140		Photograph	{Nassiri002347}			
141		Map	{Nassiri001476}			
142		2005 Nassiri001234 Aerial Fall 2005 at 8x elevation	{Nassiri001244}	MAY 06 2015	N/C	MAY 06 2015
143		Map	{Chapman000655}			
144		2006 Nassiri001246 Aerial Fall 2006 at 8x elevation	{Nassiri001246}			
145		2007 Nassiri001248 Aerial Fall 2007 at 8x elevation	{Nassiri001248}			
146		2010 Nassiri003254 Aerial Fall 2010 at 8x elevation	{Nassiri003254}	MAY 06 2015	N/C	MAY 06 2015
147		Elevation Map	{Nassiri002890}			
148		2011 Nassiri003256 Aerial Fall 2011 at 8x elevation	{Nassiri003256}	5102 90 AM MAY 06 2015	N/C	MAY 06 2015

LIST OF JOINT TRIAL EXHIBITS

No.	Date	Exhibit	BATES No.	Offered	Objected	Admitted
149	2/24/11	NDOT Manual	(NV NASSIR003811) (NV NASSIR004379)			
150		Map	(NV NASSIR004052)			
151		Code of Federal Regulations	(NV NASSIR017503) (NV NASSIR017515)	Took JUDICIAL NOTICE		
152	8/10/1990	Nassir letter to Daryl James (NDOT)	(NV NASSIR001969)			5/1/15
153	5/23/2002	Nassir letter to Daryl James (NDOT)	(NV NASSIR001970) (NV NASSIR002025)	MAY 06 2015 MAY 08 2015		MAY 08 2015
154	6/17/2005	Recorded Quittance Deed	(Chapman0001417) (Chapman0001421)	MAY 07 2015	1/1	MAY 07 2015
155	1/7/2004	Email from Jeff Lerod	(NV NASSIR001762)			
156	6/9/2003	Email from John Erbe	(NV NASSIR001752) (NV NASSIR001753)	MAY 06 2015	A/C	MAY 06 2015
157	5/6/2003	Email from John Erbe	(NV NASSIR001755) (NV NASSIR001756)	MAY 06 2015	1/1	MAY 06 2015
158	2/3/2003	Email from John Erbe	(NV NASSIR001754)	MAY 06 2015	A/C	MAY 06 2015
159	5/30/2014	Department of Transportation's Answers to Plaintiff's First Set of Interrogatories	(Nassir003301) (Nassir003323)			
160	5/30/2014	Department of Transportation's Answers to Plaintiff's First Set of Requests for Production of Documents	(Nassir003324) (Nassir003329)			
161	5/30/2014	Department of Transportation's Responses to Plaintiff's First Set of Requests for Production of Documents	(Nassir003340) (Nassir003352)			
162	10/30/2014	Department of Transportation's First Supplemental Responses to Plaintiff's First Set of Requests for Production of Documents	(Nassir003353) (Nassir003376)			
163	1/16/2015	Department of Transportation's Responses to Plaintiff's Second Set of Requests for Production of Documents	(Nassir003372) (Nassir003383)			
164	12/30/2014	Department of Transportation's Second Supplemental Responses to Plaintiff's First Set of Requests for Production of Documents	(Nassir003382) (Nassir003405)			
165	6/6/14	Plaintiff's First Supplemental Responses to Department of Transportation's First Set of Requests for Production of Documents	(Nassir003406) (Nassir003433)			

LIST OF JOINT TRIAL EXHIBITS

No.	Date	Exhibit	BATES No.	Offered	Objected	Admitted
166		Plaintiff's Answers to Department of Transportation's First Set of Interrogatories	(Nassiri003434 Nassiri003448)			
167	1/14/15	Plaintiff's Responses to Department of Transportation's Second Set of Requests for Admissions	(Nassiri003449 Nassiri003457)			
168	5/30/14	Plaintiff's Responses to Department of Transportation's First Set of Requests for Admissions	(Nassiri003458 Nassiri003463)			
169	5/30/14	Plaintiff's Responses to Department of Transportation's First Set of Requests for Production of Documents	(Nassiri003464 Nassiri003491)			
170	1/30/15	Plaintiff's Answers to Department of Transportation's Second Set of Interrogatories	(Nassiri003492 Nassiri003501)			
171		<i>Plaintiff's Property Insurance</i>	<i>Nassiri 003502</i>	<i>MAY 08 2015</i>	<i>YES</i>	<i>N/A</i>
172		<i>Map of Property Insurance</i>	<i>Nassiri 003503</i>	<i>MAY 06 2015</i>	<i>No</i>	<i>MAY 06 2015</i>
173		<i>Public Mtg Summary Chart</i>		<i>MAY 07 2015</i>	<i>No</i>	<i>MAY 07 2015</i>
174		<i>MOOT - SE 160 Wednesday</i>	<i>Sign on Sheet 3534</i>	<i>MAY 06 2015</i>	<i>No</i>	<i>MAY 06 2015</i>
175		<i>4-26-05 EMAIL</i>		<i>MAY 06 2015</i>	<i>No</i>	<i>MAY 06 2015</i>
176		<i>4-22-05 EMAIL</i>		<i>MAY 06 2015</i>	<i>No</i>	<i>MAY 06 2015</i>
177		<i>Plaintiff's Insurance</i>		<i>MAY 06 2015</i>	<i>No</i>	<i>MAY 06 2015</i>
178		<i>NASSIRI TIMELINE</i>		<i>MAY 08 2015</i>	<i>YES</i>	<i>N/A COURT EX. #2</i>
179		<i>Plaintiff's Insurance</i>		<i>MAY 08 2015</i>	<i>No</i>	<i>MAY 08 2015</i>
180		<i>Plaintiff's Insurance</i>		<i>MAY 08 2015</i>	<i>No</i>	<i>MAY 08 2015</i>
181		<i>Plaintiff's Insurance</i>		<i>MAY 08 2015</i>	<i>No</i>	<i>MAY 08 2015</i>

## COURT EXHIBITS

**CASE #** A672841; NASSIRI v NV.

③ Power Point Chasing

Date Offered	Objector	Date Accepted
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5-19-15. N/A. 5/19/16

1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

# COURT EXHIBITS

**CASE #** A672841; Nassiri v State of Nevada

	Date Offered	Objection	Date Admitted
1. Nassiri Power Point	1.19.16	No	1.19.16
2. State's Ground Lease Agreement	1.19.16	No	1.19.16
3. State's 9/20/11 Letter to Newcome from Sheehan	1.19.16	No	1.19.16
4. 5/29/12 Letter (Pg. 4)	1.19.16	No	1.19.16
5. NDOT Map	1.19.16	No	1.19.16
6. 4/6/12 Letter to Olsen from Morse	1.19.16	No	1.19.16
7. Pg. 16 of Pltf's Request for Judgment	1.19.16	No	1.19.16
8. Expert Deposition of Sjostrom	1.19.16	No	1.19.16



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

**ERIC R. OLSEN, ESQ.**  
**650 WHITE DR., STE 100**  
**LAS VEGAS, NV 89119**

**DATE: August 9, 2018**  
**CASE: A-12-672841-C**

**RE CASE: FRED NASSIRI; NASSIRI LIVING TRUST vs. STATE OF NEVADA**

NOTICE OF APPEAL FILED: August 7, 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

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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; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART: (1) THE STATE OF NEVADA'S MOTION FOR AWARD OF ATTORNEYS' FEES, COSTS, AND INTEREST; AND (2) NASSIRI'S MOTION TO RETAX MEMORANDUM OF COSTS; AND JUDGMENT; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART; (1) THE STATE OF NEVADA'S MOTION FOR AWARD OF ATTORNEYS' FEES, COSTS, AND INTEREST; AND (2) NASSIRI'S MOTION TO RETAX MEMORANDUM OF COSTS; AND JUDGMENT; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

FRED NASSIRI; NASSIRI LIVING TRUST,

Plaintiff(s),

vs.

STATE OF NEVADA,

Defendant(s),

Case No: A-12-672841-C

Dept No: XXVI

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 9 day of August 2018.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk