

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

2 LYNITA SUE NELSON,
3 INDIVIDUALLY, AND IN HER
4 CAPACITY AS INVESTMENT
5 TRUSTEE OF THE LYNITA S.
6 NELSON NEVADA TRUST DATED
7 MAY 30, 2001,

8 Petitioner,

9 v.

10 EIGHTH JUDICIAL DISTRICT
11 COURT OF THE STATE OF
12 NEVADA, FAMILY DIVISION,
13 CLARK COUNTY; THE
14 HONORABLE FRANK P.
15 SULLIVAN,

16 Respondents,

17 ERIC L. NELSON, INDIVIDUALLY,
18 AND IN HIS CAPACITY AS
19 INVESTMENT TRUSTEE OF THE
20 ERIC L. NELSON NEVADA TRUST,
21 DATED MAY 30, 2001, and MATT
22 KLABACKA, DISTRIBUTION
23 TRUSTEE OF THE ERIC L.
24 NELSON NEVADA TRUST, DATED
25 MAY 30, 2001,

26 Real Parties in Interest.

Supreme Court Case No.:

 Electronically Filed
District Ct. Case No. 2018-09758 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

27 **PETITION FOR WRIT OF MANDAMUS OR OTHER**
28 **EXTRAORDINARY RELIEF**

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1 **NRAP 21(a)(3)(A) ROUTING STATEMENT**

2 NRAP 21(a)(3)(A) requires that a Writ Petition must state “whether the
3 matter falls in one of the categories of cases retained by the Supreme Court
4 pursuant to NRAP 17(a) or presumptively assigned to the Court of Appeals
5 pursuant to NRAP 17(b).” This case technically falls into one of the categories
6 of cases presumptively assigned to the Court of Appeals pursuant to NRAP
7 17(b), i.e., “[c]ases involving family law matters other than termination of
8 parental rights or NRS Chapter 432B proceedings.” Petitioner, LYNITA SUE
9 NELSON (“Lynita”), believes, however, that this case should be retained by the
10 Supreme Court for all of the following reasons:

11 (1) This case involves trust and estate matters with a corpus in excess
12 of \$5,430,000.

13 (2) The Court has previously heard an appeal in this matter – Nevada
14 Supreme Court Case No. 66772 – which resulted in a published decision:
15 *Klabacka v. Nelson*, 133 Adv. Op. 29, 394 P.3d 940 (2017). The *Klabacka*
16 decision included a number of statements regarding the character of the property
17 with which Eric and Lynita funded their Self-Settled Spendthrift Trusts
18 (“SSSTs”). Specifically, the *Klabacka* Court stated that “[i]n 2001, Eric and
19 Lynita converted their separate property trusts into Eric’s Trust and Lynita’s
20 Trust, respectively, and funded the SSSTs with the separate property contained
21 within the separate property trusts.” *Id.* at 943 (emphasis added). The Court did
22 not independently hold any evidentiary hearing on the issue, nor did it conduct

1 any tracing of the parties' property. Instead, it appears to have made the above-
2 quoted statements and a number of related holdings based on a mistaken
3 impression that the district court had previously made such factual
4 determinations. In fact, in its recitation of the facts of the underlying matter, the
5 *Klabacka* Court specifically stated that "[o]n June 3, 2013, the district court
6 issued the decree. The district court found that the SPA was valid and the
7 parties' SSSTs were validly established and funded with separate property." *Id.*,
8 at 944 (emphasis added). The district court, however, has clarified that it never
9 made such a finding. Now on remand, the district court has deferred to this
10 Court's "factual findings" and related holdings regarding the nature of the
11 property with which the SSSTs were funded, and has interpreted the Court's
12 findings and holdings to (1) require that the tracing required by this Court on
13 remand commence in 2001 (at the time of execution of the SSSTs) instead of in
14 1993 (following the execution of the parties' Separate Property Agreement
15 ("SPA")), and (2) preclude the tracing of the property referred to as Wyoming
16 Downs which was acquired during Lynita's, and Respondent, Eric Nelson's,
17 marriage.

18 (3) The above-described issue of whether a district court, on remand,
19 is required to defer to – as the law of the case – factual statements made by the
20 Court during a prior appeal when those factual statements were based on a
21 misunderstanding of the district court's own prior factual findings, represents a
22 ...

1 question of first impression pursuant to NRAP 17(a)(10), which accordingly
2 should be heard and decided by this Court.

3 (4) The above-described issue also represents a question of statewide
4 public importance pursuant to NRAP 17(a)(11), which likewise should be heard
5 and decided by this Court.

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1 D. HOWARD ECKER, ESQ., and EDWARD KAINEN, ESQ., of
2 ECKER & KAINEN, CHTD.; DAVID ALLEN STEPHENS, ESQ. of
3 STEPHENS, GOURLEY & BYWATER; JAMES J. JIMMERSON, ESQ., and
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5 MARSHAL S. WILICK, ESQ. and KARI J. MOLNAR, ESQ., of WILICK
6 LAW GROUP, prior Attorneys for Real Party in Interest, ERIC L. NELSON.

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I.

STATEMENT OF RELIEF SOUGHT

Petitioner seeks a writ of mandamus directing the district court to: (1) vacate the portion of its order entered on April 19, 2018, and clarified in the order entered on May 22, 2018, limiting the scope of the tracing to be conducted on remand to the time from the execution of the parties' Self-Settled Spendthrift Trusts ("SSSTs") on May 30, 2001, through the parties' divorce on June 3, 2013; (2) order that the tracing be conducted for the entire period from execution of the parties' Separate Property Agreement in July of 1993, through the entry of the parties' divorce decree on June 3, 2013; and (3) vacate that portion of its decision entered October 16, 2018, finding that the property known as Wyoming Downs belongs to ELN Trust and is not required to be included in the tracing on remand.

II.

STATEMENT OF ISSUES PRESENTED

1. Whether this Court found in its published decision, *Klabacka v. Nelson*, 133 Adv. Op. 29, 394 P.3d 940 (2017), that the property transferred to the parties' SSSTs was separate property without the requisite tracing required by the Court's holding.

2. If so, whether an appellate court's findings or holdings that are clearly and explicitly made in reliance on a finding of fact that was purportedly – but not actually – made by the district court can constitute the law of the case.

3. In the event such findings or holdings can constitute the law of the case, whether same can be ignored if they are clearly erroneous and would result in a manifest injustice.

4. Whether this Court affirmed the district court's decision regarding Wyoming Downs and excluded such property from the tracing to be conducted by the district court, even though Wyoming Downs was not expressly excluded from the tracing of assets within the SSSTs.

5. Whether a decision of this Court can be interpreted in a manner that would cause the Court to contradict itself in its decision and make inconsistent holdings.

III.

STATEMENT OF FACTS

A. Background

Lynita and Respondent, ERIC L. NELSON (“ Eric”) were married on September 17, 1983, and divorced by Decree of Divorce on June 3, 2013. AAPP V19:4691-4742.¹ During Lynita’s and Eric’s nearly thirty (30) years of

1

NRAP 30(b) provides as follows: “Except as otherwise required by this Rule, all matters not essential to the decision of issues presented by the appeal shall be omitted. Brevity is required; the court may impose costs upon parties or attorneys who unnecessarily enlarge the appendix.” Given that this matter has previously been the subject of a number of appeals that were heard by the this Court (Case No. 66772, consolidated with 68292), and that voluminous appendices were filed in those appeals, including, but not limited to, Appellant’s Record on Appeal (AAPP) and Respondent/Cross-Appellant, Lynita Sue Nelson’s Appendix (RAPP), Lynita is filing only a Supplemental Appendix with this Petition. In the interest of brevity, documents referenced in this Petition which were included in

1 marriage, they amassed a substantial amount of wealth. AAPP V19:4695:3.

2 1. Separate Property Agreement and Trusts

3 Eric and Lynita entered into a Separate Property Agreement (“SPA”) on
4 July 13, 1993. AAPP V19:4695:9-11; AAPP V26:6273-6282.
5 Contemporaneously with the SPA, the Eric L. Nelson Separate Property Trust
6 and the Lynita S. Nelson Separate Property Trust (collectively referred to as the
7 “1993 Trusts”) were created. AAPP V19:4695; AAPP V26:6283-6342.
8 Pursuant to the SPA, Eric and Lynita divided their community estate into two
9 separate property trusts, each purportedly containing assets with one-half(½) the
10 total value of the parties’ estate. AAPP V26:6273-6282. The specific assets
11 with which the parties’ Separate Property Trusts were funded are listed on
12 Schedule “A” and “B” of the SPA. AAPP V26:6277-6282.

13 2. Self-Settled Spendthrift Trusts

14 On May 30, 2001, the ELN Trust and LSN Trust – self-settled spendthrift
15 trusts (collectively referred to as the “SSSTs”) – were formed by the parties in
16 accordance with NRS 166.020. AAPP V19:4696; AAPP V26:6395-6427;
17 V26:6475-V27:6508; RAPP V3:0512-0544. Properties held in the 1993 Trusts
18 ...

19 _____
20 the prior appendices have been cited in the same manner to which they were cited
21 in the prior appeal (i.e., AAPP or RAPP). Lynita’s current supplemental
22 appendix will be cited to as Petitioner’s Supplemental Appendix “PSAPP.” In
the event this Court desires for Lynita to include the additional documents
required by NRAP 30(b)(2) (which documents were already included in the
appendices filed in Case No. 66772) in her Supplemental Appendix, Lynita will
immediately do so.

1 on May 30, 2001, which were not the same as the properties listed in the SPA,
2 were transferred to the SSSTs. AAPP V19:4695-4697; V27:6564-6565.

3 3. The Parties' Divorce

4 On May 6, 2009, Eric filed his Complaint for Divorce against Lynita.
5 AAPP V1:1-9. Eric and Lynita were embroiled in the litigation of the divorce
6 action for a period of more than four (4) years, and participated in sixteen (16)
7 days of trial prior to the district court's entry of the Decree of Divorce on June
8 3, 2013. The district court made a plethora of findings in the Decree of Divorce,
9 including, but not limited to, the following:

- 10 a. The parties entered into a Separate Property Agreement on July 13,
11 1993;
- 12 b. The parties' Separate Property Agreement was a valid agreement;
- 13 c. The parties' Separate Property Agreement contemporaneously
14 established the Eric L. Nelson Separate Property Trust and the
15 Lynita S. Nelson Separate Property Trust;
- 16 d. The ELN Trust was created on May 30, 2001;
- 17 e. The ELN Trust was established in accordance with NRS 166.020;
- 18 f. All of the assets and interest held by the Eric L. Nelson Separate
19 Property Trust were transferred or assigned to the ELN Trust;
- 20 g. The LSN Trust was created on May 30, 2001;
- 21 h. The LSN Trust was established in accordance with NRS 166.020;
- 22 and

1 i. All of the assets and interest held by the Lynita S. Nelson Separate
2 Property Trust were transferred or assigned to the LSN Trust.
3 AAPP V19:4695-4697.

4 While the district court found – as referenced above – that the assets and
5 interests held in the parties’ 1993 Trusts were transferred into their SSSTs,
6 nowhere in the Decree of Divorce did the district court make any findings
7 regarding the nature or character (i.e., separate or community) of the assets and
8 interests that were so transferred. In that regard, it is important to note that even
9 according to the data compiled by Eric’s own purported expert witness – Daniel
10 T. Gerety, CPA – none of the assets with which the ELN Trust was funded in
11 2001 were in existence at the time the SPA was entered into in 1993. AAPP
12 V27:6564-6465; AAPP V26:6277-6279. Additionally, with the exception of the
13 residence at 7065 Palmyra Avenue, Las Vegas, Nevada (awarded to Lynita in the
14 SPA and held in the LSN Trust at the time of divorce), none of the properties
15 divided in the Decree of Divorce were properties listed and divided in the SPA.
16 *Compare* AAPP V19:4695-4696; and AAPP V:19:4739.

17 Ultimately, as part of the relief granted in the Decree of Divorce, the
18 district court equally divided all property in the LSN Trust and ELN Trust.
19 AAPP V19:4739.

20 4. The Supreme Court’s Decision On Appeal

21 Following entry of the parties’ Decree of Divorce, this matter was
22 appealed to this Court. AAPP V23:5576-5578, AAPP V25:6249-6250, and

1 PSAPP V1:1-4. The cases were consolidated, and on May 25, 2017, this Court
2 rendered its decision in *Klabacka v. Nelson*, 133 Nev. Adv. Op. 24, 394 P.3d
3 940, 949 (2017), which decision, *inter alia*, vacated the equal division of
4 property in the LSN Trust and ELN Trust, and remanded the matter back to the
5 district court in order for the district court to conduct a tracing of the trust assets.

6 PSAPP V1:5-34. Specifically, this Court held as follows:

7 *Tracing trust assets*

8 The parties contest whether the assets within the SSSTs remained
9 separate property or whether, because of the many transfers of
10 property between the trusts, the assets reverted back to community
11 property. In a divorce involving trust assets, the district court must
12 trace those trust assets to determine whether any community
property exists within the trusts – as discussed below, the parties’
respective separate property in the SSSTs would be afforded the
statutory protections against court-ordered distribution, while any
community property would be subject to the district court’s equal
distribution. We conclude the district court did not trace the assets
in question.

13 Eric’s Trust retained a certified public accountant to prepare a
14 report tracing the assets within the two trusts. However, as noted
15 by the district court, the certified public accountant maintained a
16 business relationship with Eric and Eric’s Trust for more than a
17 decade. Although the certified public accountant’s report
18 concluded that there was “no evidence that any community
19 property was transferred to Eric’s Trust or that any community
20 property was commingled with the assets of Eric’s Trust,” the
21 district court found the report and corresponding testimony to be
22 unreliable and of little probative value. We recognize that the
district court is in the best position to weigh the credibility of
witnesses, and we will not substitute our judgment for that of the
district court here. [Citation omitted]. However, the subject of the
certified public accountant’s report – the tracing of trust assets,
specifically any potential commingling of trust assets with personal
assets – must still be performed. *See Schmanski v. Schmanski*, 115
Nev. 247, 984 P.2d 752 (1999) (discussing transmutation of
separate property and tracing trust assets in divorce). Without
proper tracing, the district court is left with only the parties’
testimony regarding the characterization of the property, which
carries no weight. *See Peters v. Peters*, 92 Nev. 687, 692, 557 P.2d
713, 716 (1976) (“The opinion of either spouse as to whether
property is separate or community is of no weight whatsoever.”).
Accordingly, we conclude the district erred by not tracing the assets
contained within the trusts, either through a reliable expert or other

1 available means. Separate property contained within the
2 spendthrift trusts is not subject to attachment or execution, as
3 discussed below. However, if community property exists within
4 the trusts, the district court shall make an equal distribution of that
5 community property. See NRS 125.150(1)(b).

6 *Klabacka*, 394 P.3d at 948 (emphasis added).

7 B. The Erroneous Manner In Which The Tracing Required By This Court
8 Has Been Limited On Remand

9 1. The District Court's Interpretation Of The Supreme Court's
10 Decision

11 Following the remand of this case to the district court, the district court
12 held a hearing on January 31, 2018, during which a number of issues were
13 addressed, including, but not limited to, the parameters of the tracing ordered by
14 this Court. During that hearing, the district court summarized its understanding
15 of this Court's direction regarding tracing the property held in the parties' trusts.
16 PSAPP V1:225 - V2:290. Specifically, the district court described the scope of
17 the tracing that it was inclined to do:

18 District Court: The issue I see is tracing from the separate property
19 agreement, which was 1993, I believe it was signed on July the –
20 I think it was July 13th, 1993. And so I don't intend to go beyond
21 that period on that, because I think the Supreme Court indicated
22 those were appropriate separate property agreement, so any comp
– any community property interest would be transmuted at that time
to separate property.

My inclination would be to go tracing from the - - after the July
13th, 1993 to see if any community property claims other people put
in the trusts on that, they could put their half but they could not put
the other party's half, so my plan would be to trace after the July
13th [1993]. Because when I read the separate property agreement,
I saw nothing for post property after that, it just said here's the
property we got, this is separate property as of this time, but
nothing for future property acquired during their marriage, which
is presumed to be community property. So my plan would be to
trace it going back to July, and maybe property start August 1st,
1993 currently, because I know when they did the trusts, those were

1 2001, but there could have been property from 1993 August 1st, to
2 the 2001 trust, which could have had community property claims.
I don't know.

3 And then for the 2001 of course, anything that was community
4 property that either party put in the trust, they would not have the
5 right to put the other party's half. So that'd be my inclination is do
tracing from August 1st, 1993 up to basically the time of the divorce
decree, to sift through it and see was there community property
interest.

6 PSAPP V1:232:12 - 233:16 . Further, while the district court acknowledged that
7 such a tracing would be extremely time-consuming and expensive, the district
8 court emphasized that "we need to get this done for everybody." PSAPP
9 V1:234:4-6.

10 In response to the district court's above-quoted statements, Eric and ELN
11 Trust argued for a severe curtailment of the tracing required by this Court. In
12 that regard, Eric and ELN Trust argued that the district court should start the
13 tracing process at the time of execution of the SSSTs in 2001, rather than
14 following the execution of the parties' separate property agreements in 1993. In
15 support of such an argument, Eric and ELN Trust cited to portions of this
16 Court's *Klabacka* decision, claiming that this Court had made a factual finding
17 that the SSSTs had been funded with the parties' separate property. Specifically,
18 Eric and ELN Trust argued as follows:

19 Mr. Luszeck: But the Supreme Court in my opinion made it clear
20 as to the time frame for the tracing, and that would be from the
creation of the self settle[d] spendthrift trust through the divorce
21 decree. **And what the Supreme Court ordered, Your Honor, is**
22 **the law of the case.** And by underlying pleadings I cited at least
four different references by the Supreme Court with respect to the
separate property and the fact that the self settle[d] spendthrift trust
were funded with separate property.

1 PSAPP V1:242:3-11.

2 In their Reply to Opposition to Motion to Enforce Supreme Court's Order
3 Dated May 25, 2017, etc., Eric and ELN Trust had argued that this Court had,
4 *sua sponte*, found that the ELN Trust was funded with Eric's separate property,
5 going so far as to list specific evidence this Court purportedly took into account
6 and upon which it based its finding. PSAPP V1:166:2-17. In reality, however,
7 those were the findings that Eric and ELN Trust would have *liked* this Court to
8 make, but none of which were actually considered or referenced by this Court.

9 Eric and ELN Trust's argument was as follows:

10 Thus, the Supreme Court found that the ELN Trust was funded in
11 2001 with his separate property, as opposed to community property.
12 *This finding was based upon Lynita's failure to show by clear and*
13 *convincing evidence that the separate property was transmuted*
14 *back to community property and the following evidence: (1) the*
15 *Separate Property Agreement, which as indicated supra, the*
16 *Nevada Supreme Court found to be valid; (2) the Separate*
Property Trusts, which provides '[t]he property comprising the
original Trust estate, during the life of the Trustor, shall retain its
character as his separate property...;' [footnote omitted] (3)
Shelley Newell, the bookkeeper for Eric and Lynita's Separate
Property Trusts testified that the assets and liabilities owned by the
Trusts were kept separate, and that all acquisitions in Eric's
Separate Property Trust originated from Eric's separate funds;
[footnote omitted] and (4) Section 12.13 of both the ELN Trust and
Lynita's SSST

17 PSAPP V1:166:2-17 (emphasis added). During the hearing of January 31, 2018,

18 Eric and ELN Trust further threatened as follows:

19 Mr. Luszeck: So it's the ELN Trust's position that if this Court
20 believes that a tracing is necessary, it only needs to look back from
21 2001 through the entry of the divorce decree, and if this Court is
22 inclined to go back to 1993, we'll likely take that issue up with the
Supreme Court on a writ, Your Honor, because it is going to be an
extremely time consuming burdensome effort and we think the
Supreme Court made it clear in what they ordered and its order is
the law of the case and that needs to be followed by this Court.

1 PSAPP V1:244:15-23.

2 Lynita responded during the hearing as follows:

3 Mr. Karacsonyi: Now, as to the tracing. We agree with - - with
4 you that the tracing needs to start in 1993. The relevant - the really
5 relevant finding that - that you quoted and that he quoted, Mr.
6 Luszeck, was on page 6. "On June 3rd, 2013," under - I underlined
7 this - 'the District Court found that the separate property agreement
8 was valid and the parties' self settle[d] spendthrift trusts were
9 validly established and funded with separate property.'

10 The Supreme Court, if you - Your Honor knows that you weren't
11 - you obviously didn't do a tracing back to 1993. The Supreme
12 Court was relying on your statement in the decree that the
13 properties from the 1993 revocable trust were transferred to the
14 2001 trust and was just simply referring to that to find that the - the
15 properties from one trust were transferred to another. The District
16 - the Supreme Court didn't perform a tracing. The Supreme Court
17 wasn't making additional factual findings or meaning to make
18 additional factual findings separate and distinct from what Your
19 Honor made. And if Your Honor did not trace and find that 1993
20 property made it all the way through to 2001 in the initial decree,
21 the Supreme Court certainly wasn't contradicting its own order, its
22 own holding, by doing that.

12 It's - essentially they want you to read the Supreme Court as
13 having made findi - having contradicted themselves in their own
14 decision, that you need to perform a tracing to see if community
15 property exists, but with respect to anything before 2001, no tracing
16 is necessary. Well, that would be contrary to exactly what the
17 Supreme Court said that you need to determine whether or not
18 there's any community property in these trusts, and the Supreme
19 Court was clear on that.

15 In a divorce involving trust assets, the District Court must trust
16 those trust - trace those trust assets to determine whether any
17 community property exists within the trust. And that was page 15.

17 District Court: Page 15 and again -

18 Mr. Karacsonyi: Yeah.

19 District Court: - it comes up on page 16, about without property
20 -

20 Mr. Karacsonyi: And to - yeah.

21 District Court: Without proper tracing, this Court is left with only
22 the parties' testimony regarding the characterization of property
which carries no weight.

1 PSAPP V2:256:10 - 258:4.

2 On April 19, 2018, the district court entered its Decision, wherein it
3 completely changed the position it had taken during the hearing of January 31,
4 2018, and adopted Eric's and ELN Trust's interpretation of this Court's
5 Decision. Specifically, the district court ruled as follows:

6 The Nevada Supreme Court held that both the ELN and LSN Trusts
7 were funded with separate property stemming from the 1993
8 Separate Property Agreement. As such, the proper date to begin the
tracing would be May 30, 2001, the date both the ELN and LSN
Trusts were executed.

9 PSAPP V2:293:10-14.

10 Following the entry of the district court's Decision on April 19, 2018,
11 Lynita sought reconsideration regarding the appropriate start date for the tracing,
12 and asked that the district court confirm and clarify the nature and extent of any
13 tracing that had been conducted by the district court at the time of entry of the
14 parties' Decree of Divorce. PSAPP V2:311-329.

15 2. The District Court's Clarification As To Its Own Findings, Or The
16 Lack Thereof

17 On May 22, 2018, the district court issued its Decision Affirming the Date
18 of Tracing; Denying a Separate Blocked Account for \$720,000; and Granting a
19 Joint Preliminary Injunction for the Banone, LLC. And Lindell Properties
20 ("Decision of May 22, 2018"). PSAPP V2:339-345. In the Decision of May 22,
21 2018, the district court affirmed the May 31, 2001 start date for the tracing, and
22 made clear that its ruling as to the proper start date for the tracing of the parties'

1 property was not based on any prior tracing or finding by the district court
2 regarding the nature or character of such property at the time the SSSTs were
3 executed, but rather was based solely on the findings and holding made by this
4 Court on appeal, as follows:

5 In its May 25, 2017 Order, the Nevada Supreme Court
6 concluded that this Court erred by ‘not tracing the assets contained
7 within the trusts, either through a reliable expert or other available
8 means.’ The Nevada Supreme Court also held that both the Eric L.
9 Nelson Nevada Trust (“ELN Trust”) and the Lynita S. Nelson
10 Nevada Trust (“LSN Trust”) “are valid and the trusts were funded
11 with separate property stemming from a valid separate property
12 agreement.”

13 In its April 19, 2018 Order, this Court did not address the
14 tracing performed in the underlying divorce proceeding. During
15 the divorce proceeding, this Court did not perform a tracing of
16 assets contained within either the Eric L. Nelson Nevada Trust
17 (“ELN Trust”) or the Lynita S. Nelson Nevada Trust (“LSN
18 Trust”). In its May 25, 2017 Order, the Nevada Supreme Court
19 found that ‘[i]n 2001, Eric and Lynita converted their separate
20 property trusts into Eric’s Trust and Lynita’s Trust, respectively,
21 and funded the SSST’s with the separate property contained within
22 the separate property trusts.’ The Nevada Supreme Court then held
23 that both the ELN and LSN Trusts were funded with separate
24 property based on their findings.

25 **While this Court never performed a tracing of assets in**
26 **the trusts in the underlying divorce proceedings,** the Nevada
27 Supreme Court held that ‘the SSSTs are valid and the trusts were
28 funded with separate property stemming from a valid separate
29 property agreement.’ Therefore, based upon the Nevada Supreme
30 Court’s finding and holding, this Court interprets the proper date to
31 begin tracing as May 30, 2001, the date on which both the ELN and
32 LSN Trusts were executed.

33 PSAPP V2:340:9 - 341:13 (emphasis added).

34 During a subsequent hearing held in the matter on July 23, 2018, the
35 district court further clarified that it considered itself bound by this Court’s
36 stated findings relating to the appropriate start date for the requisite tracing:

37 I think the Supreme Court – I said with their language I wasn’t sure
38 when it went back to 1993. They made it real clear that we find –

1 we hold that they were funded with separate property agreements.
2 That's why I started with the 2001 date because I thought the
3 Supreme Court used the word we find, we hold. That's not dicta,
4 that findings. That's why again I did the tracing from the 2001 to
5 the divorce decree to sit there and see where it came from, where
6 it went, that way we can make a determination was it separate
7 property, maintain separate property, fine.

8 PSAPP V2:494:21 - 495:6. In addition, the district court noted that this Court's
9 finding may have been based on a mistaken perception of the underlying matter,
10 but made clear that it was bound by the language used by this Court:

11 But I know Mr. Karacsonyi disagrees, and I respect that
12 about the Supreme Court, but they – to me their language, we hold.
13 We find. I felt – and that's why I went from the May 31st, 2001
14 based upon a – now maybe they used poor language, but that's
15 something you clarify with them. But that's why I went from the
16 May 31st, 2001, here's where it started, where did it go through,
17 June 2013. That's all I'm trying to trace it through that.

18 PSAPP V2:485:20 - 486:3.

19 C. The District Court's October 16, 2018 Decision, Excluding Wyoming
20 Downs From The Required Tracing

21 In the Decree of Divorce, the district court did not divide a Wyoming
22 racetrack property ("Wyoming Downs") that had been recently reacquired by the
ELN Trust, finding that it was without sufficient information "to make a
determination as to the disposition of the property." AAPP V19:4737:23-4738:3.
On June 7, 2013, Lynita filed her Motion to Amend or Alter Judgment, for
Declaratory and Related Relief, requesting, in part, that the district court equally
divide Wyoming Downs. AAPP V20:4755-4798. On May 30, 2014, an
evidentiary hearing regarding Wyoming Downs was conducted. AAPP
V22:5348-5494. On September 18, 2014, the district court denied Lynita's

1 request to be awarded a 50% interest in Wyoming Downs, but awarded Lynita
2 \$75,000 to compensate her for the monies taken from properties awarded to
3 Lynita for the down payment for Wyoming Downs. AAPP V23:5553-5561;
4 RAPP V6:1369:17-1370:17; RAPP V4:864-866. Lynita appealed the district
5 court's order denying her a fifty percent (50%) community property interest in
6 Wyoming Downs.

7 This Court's Decision (quoted above) required a tracing of the properties
8 in the ELN Trust and LSN Trust. It did not except from the tracing Wyoming
9 Downs, which was held in the ELN Trust and purchased during Eric's and
10 Lynita's marriage. Nonetheless, on October 16, 2018, the district court issued
11 a Decision finding that Wyoming Downs should not be included in the tracing
12 on remand based on this Court's Decision. PSAPP V3:514:23 - 516:3.
13 Specifically, the district court found as follows:

14 F. Wyoming Downs Is Property of the ELN Trust

15 On September 18, 2014, this Court filed an Order
16 Determining Disposition of Dynasty Development Management,
17 Inc. aka Wyoming Downs. In this Order, this Court ordered that,
18 "neither Lynita S. Nelson nor the LSN Trust are entitled to an
19 interest in Dynasty Development Management, LLC aka Wyoming
20 Downs." This Court also Ordered that "Dynasty Development
21 Management, LLC aka Wyoming Downs belongs to the ELN Trust.
22

On May 25, 2017, the Nevada Supreme Court filed their
Decision affirming in part, vacating in part, and remanding this
Court's June 8, 2015 Order. In its Decision, the Nevada Supreme
Court made note that "an appeal would be available to all parties
upon the disposition of Wyoming Downs. The Nevada Supreme
Court also made not that Wyoming Downs had been disposed of by
this Court, making its judgment final. Finally, the Nevada Supreme
Court vacated the June 8, 2015 order, "to the extent it enforces or
implements portions of the divorce decree relating to assets in Eric's
Trust and Lynita's Trust..."

This Court disposed of the Wyoming Downs property on September 18, 2014. The only references to the Wyoming Downs Property in the June 8, 2015 Order involves providing documentation and income received, not a disposition of any property. Therefore, as the Nevada Supreme Court's Decision vacated portions of the divorce decree relating to assets in the ELN and LSN Trust, and the Wyoming Downs property was disposed of in this Court's September 18, 2014 Order, and not the June 8, 2015 Order, this Court finds that the ELN Trust remains the owner of the Wyoming Downs Property.

PSAPP V3:514:23 - 516:3. Essentially, the district court found that although the Court overturned the division of assets in the Decree of Divorce and remanded the case for a tracing of assets in the ELN Trust and LSN Trust, the Court did not specifically state it was overturning the district court's order amending the Decree of Divorce, and therefore, such order was affirmed and no tracing of Wyoming Downs is required. The district court made this finding even though this Court did not expressly exclude any property from the required tracing, and despite the fact that its finding would cause the Court's Decision to contradict itself (on one page holding that property in trust needs to be traced to determine its character, and on another page allowing property in trust to be adjudicated without the required tracing).

IV.

REASONS WHY WRIT SHOULD ISSUE

A. Standard for Issuance of Writ

“A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion.” *International Game Tech. v.*

1 *Dist. Ct.*, 124 Nev. 193, 197, 178 P.3d 556, 558 (2008). In this matter, a writ of
2 mandamus is necessary to compel the district court to conduct a tracing that fully
3 complies with this Court’s direction that “[i]n a divorce involving trust assets,
4 the district court must trace those trust assets to determine whether any
5 community property exists within the trusts.” *Klabacka*, 394 P.3d at 948.

6 While it is true that a writ of mandamus constitutes extraordinary relief,
7 it is also true that a writ “shall be issued in all cases where there is not a plain,
8 speedy and adequate remedy in the ordinary course of law.” NRS 34.170. In
9 addition, this Court has also determined to exercise its discretion to consider a
10 writ petition when “there are either urgent circumstances or important legal
11 issues that need clarification in order to promote judicial economy and
12 administration.” *Cheung v. Dist. Ct.*, 121 Nev. 867, 869, 124 P.3d 550, 552
13 (2005). In this case, both of these factors are applicable, as follows:

14 1. Lynita Does Not Have A Plain, Speedy And Adequate
15 Remedy In The Ordinary Course Of Law

16 Generally speaking, this Court has held that the right to appeal constitutes
17 an adequate and speedy legal remedy that would preclude the issuance of a writ.
18 *See, e.g., D.R. Horton v. Dist. Ct.*, 123 Nev. 468, 168 P.3d 731, 736 (2007). This
19 Court has specifically noted, however, that “[w]hether a future appeal is
20 sufficiently adequate and speedy necessarily turns on the underlying
21 proceedings’ status, the types of issues raised in the writ petition, and whether
22 a future appeal will permit [the Supreme Court] to meaningfully review the

1 issues presented.” *Id.* For example, in *D.R. Horton*, this Court issued a writ of
2 mandamus and found that in a case that had “already existed below in a pre-
3 litigation stage for more than two and one-half years, and which involve[d] a
4 pre-litigation notice of constructional defects designed to prevent litigation
5 altogether, an eventual appeal from any final judgment would be neither a
6 speedy nor adequate remedy.” *Id.*, 168 P.3d at 736. Likewise, in *Rolf Jensen &*
7 *Assocs., Inc. v. Dist. Ct.*, 128 Nev. Adv. Op. 42, 282 P.3d 743, 746 (2012), this
8 Court issued a writ of mandamus and found that “an appeal is not a speedy or
9 adequate remedy in light of the relatively early stages of litigation and
10 considerations of sound judicial administration.”

11 As detailed in the above Statement of Facts, the parties’ litigation of this
12 matter commenced more than **nine (9) years-ago**, with the filing of Eric’s
13 Complaint for Divorce in May of 2009. AAPP V1:1-8. The parties’ divorce was
14 finally granted in June of 2013. AAPP V19:4691-4742. After amendment of the
15 Decree of Divorce, this matter was appealed to the Court. The matter was
16 remanded to the district court in May of 2017. On April 19, 2018, May 22,
17 2018, and October 16, 2018, the district court entered decisions clarifying the
18 time period and scope for which it will be conducting the tracing required by this
19 Court’s Decision. A Status Check hearing regarding the tracing is scheduled for
20 November 8, 2018. The tracing will likely be an extremely time-consuming and
21 expensive process.

22 . . .

1 Lynita seeks the instant writ relief as she believes the district court's
2 decision regarding the time period for the tracing is incorrect, and if Lynita is
3 required to wait until the completion of such erroneous/incomplete tracing to file
4 an appeal and bring this matter before this Court, such will certainly not
5 constitute a "speedy" or "adequate" remedy. By the time the tracing is
6 completed, a new final order is entered by the district court, the matter is
7 appealed to this Court, and the matter is remanded for a second time, it will have
8 certainly been ten (10) or more years since the start of the parties' divorce action.
9 At that point in time, the case will still not be completed as an additional tracing
10 will be required.

11 2. Urgent Circumstances Exist in this Case And There Are
12 Important Legal Issues That Need Clarification In Order To
Promote Judicial Economy And Administration

13 As detailed in the above Statement of Facts, the district court has now
14 ordered only a limited time period and scope for the tracing that this Court
15 required be done on remand. The district court's ruling was based solely on the
16 findings purportedly – but not actually – made by this Court. In that regard, the
17 district court is relying on such purported findings as the law of the case. Given
18 these circumstances, it is urgent for this Court to address the issues raised in this
19 petition in order for the district court to correctly expand the period required for
20 the tracing. If this Court declines to exercise its discretion and to consider
21 Lynita's instant writ petition, the tracing will have to be completed, Lynita will
22 then have to file an appeal, and if this Court then rules in Lynita's favor, the

1 matter will again have to be remanded to the district court for yet another tracing
2 to be redone under the correct parameters. Such a course of action would
3 constitute a significant waste of judicial time and resources.

4 B. Findings/Holdings Made By This Court Based On A Mistaken Perception
5 That The District Court Previously Made Such Factual Findings Should
6 Not Constitute The Law Of The Case

7 As detailed in the above Statement of Facts, the district court has entered
8 an order limiting the time frame for the tracing of the parties' property from May
9 31, 2001, to June 3, 2013, as a direct result of this Court's purported finding that
10 the property with which Eric's and Lynita's SSSTs were funded was their
11 separate property. The district court has, on remand, acknowledged and
12 confirmed that it did not make any findings relating to the nature or character of
13 the property with which the SSSTs were funded, but effectively agreed with
14 Eric's and ELN Trust's argument that this Court's statements on the matter
15 constitute the law of the case.

16 Nevada case law has long provided that "where an appellate court
17 deciding an appeal states a principle or rule of law, necessary to the decision, the
18 principle or rule becomes the law of the case and must be adhered to throughout
19 its subsequent progress both in the lower court and upon subsequent appeal."
20 *LoBue v. State ex rel. Dep't of Highways*, 92 Nev. 529, 532, 554 P.2d 258, 260
21 (1976). Further, a district court on remand, "commits error if its subsequent
22 order contradicts the appellate court's directions." *State v. Eureka Cnty.*, 133
Nev. Adv. Op. 71, 402 P.3d 1249, 1251 (2017). It is also well-established,

1 however, that not everything stated by an appellate court constitutes the law of
2 the case. Generally, “for the law-of-the-case doctrine to apply, the appellate
3 court must actually address and decide the issue explicitly or by necessary
4 implication.” *Dictor v. Creative Mgmt. Servs., L.L.C.*, 126 Nev. 41, 44, 223 P.3d
5 332, 334 (2010) (citing *Snow-Erlin v. United States*, 470 F.3d 804, 807 (9th Cir.
6 2006)). Likewise, “[t]he doctrine only applies to issues previously determined,
7 not to matters left open by the appellate court.” *Wheeler Springs Plaza, L.L.C.*
8 *v. Beemon*, 119 Nev. 260, 266, 71 P.3d 1258, 1262 (2003). Finally, “[a]
9 significant corollary to the doctrine is that dicta have no preclusive effect.”
10 *Ferguson v. Las Vegas Metro Police Dep’t*, 131 Nev. Adv. Op. 94, 364 P.3d
11 592, 597 (2015) (quoting *Rebel Oil Co., v. Atl. Richfield Co.*, 146 F.3d 1088,
12 1093 (9th Cir. 1998)).

13 In the instant case, no party to this action specifically raised on appeal the
14 issue of whether the ELN Trust and the LSN Trust were funded with separate or
15 community property (the parties raised/disputed the issue of the character of
16 property held by the ELN Trust and LSN Trust at the time of divorce), and the
17 issue was not “adjudicated” by this Court. This Court did not make any factual
18 inquiry and findings of its own that ELN Trust and LSN Trust were funded with
19 separate property in May of 2001. Further, this Court did not hold any
20 evidentiary proceedings in order to determine the nature of the property with
21 which the SSSTs were funded, nor did it conduct any tracing of such property.
22 Finally, this Court did not rule that any finding of fact by the district court

1 regarding a tracing of the parties' property was erroneous or that a contrary
2 finding was being made. Instead, and as detailed in the above Statement of
3 Facts, this Court specifically observed that the district court had already made
4 a finding that the LSN Trust and the ELN Trust were funded with the parties'
5 separate property, and deferred to such purported finding in its own holding. In
6 that regard, this Court specifically stated as follows:

7 On June 3, 2013, the district court issued the decree. **The district**
8 **court found** that the SPA was valid and the parties' SSSTs were
 validly established **and funded with separate property**.

9 *Klabacka*, 394 P.3d at 944 (emphasis added).

10 It is well-established by Nevada law that “[a] district court’s findings of
11 fact and conclusions of law, even where predicated upon conflicting evidence,
12 must be upheld if supported by substantial evidence, and may not be set aside
13 unless clearly erroneous.” *Pombo v. Nev. Apartment Ass’n.*, 113 Nev. 559, 562,
14 939 P.2d 725, 727 (1997). This Court even specifically noted in the instant
15 matter that “[t]his court defers to a district court’s findings of fact and will only
16 disturb them if they are not supported by substantial evidence.” *Klabacka*, 394
17 P.3d at 949. Based on all of the above, it is clear that this Court’s statements
18 regarding the separate property nature of the property with which the SSSTs
19 were funded do not constitute the law of the case, but rather constitute this
20 Court’s attempt to summarize the district court’s findings made below. Such a
21 conclusion is supported even by the manner in which this Court included – in its
22 . . .

1 opening recitation of the factual background of the underlying case – the
2 following:

3 Suffice it to say, the parties have substantial trust issues. Ten years
4 into their marriage, Eric and Lynita Nelson signed a separate
5 property agreement (the SPA) that transmuted their property into
6 separate property and placed that property into the parties'
7 respective separate property trusts. Later, the parties converted
8 those trusts into self-settled spendthrift trusts (SSSTs) and funded
9 them with their respective separate property.

10 *Klabacka*, 394 P.3d at 943.

11 Clearly, this Court included any and all statements regarding the nature
12 of the property with which the parties' SSSTs were funded as a means of
13 describing the background of the case, and not in any attempt to dispose of an
14 issue that was not even before this Court. This Court has previously held that
15 if an order of this Court "is a description, not a disposition, [it] therefore does
16 not qualify for deference pursuant to law of the case." *Ferguson*, 354 P.3d at
17 597.

18 For the reasons set forth above, the Court should issue a writ of mandamus
19 clarifying that it did not make any factual findings that the SSSTs were funded
20 with separate property, and instead relied on a misinterpretation of the district
21 court's Decree of Divorce, which the district court has since clarified. The Court
22 should also clarify that its factual statements regarding the funding of the SSSTs
do not constitute the law of the case, and should direct the district court to begin
the required tracing at the time of Eric's and Lynita's Separate Property
Agreement.

1 C. Even If Findings/Holdings Made By This Court Based On A Mistaken
2 Perception That The District Court Previously Made Such Factual
3 Findings Are To Be Considered The Law Of The Case, Such
4 Findings/Holdings Should Be Ignored In This Matter As They Are Clearly
5 Erroneous And Would Work A Manifest Injustice

6 This Court has long made clear that “the doctrine of the law of the case is
7 not absolute, and [this Court has] the discretion to revisit the wisdom of [its]
8 legal conclusions if [it] determine[s] that such action is warranted.” *Bejarano v.*
9 *State*, 122 Nev. 1066, 1074, 146 P.3d 265, 271 (2006). Likewise, this Court has
10 detailed a number of situations wherein the law of the case can be ignored. *See*
11 *Clem v. State*, 119 Nev. 615, 620, 81 P.3d 521, 525 (2003) (“[w]e will depart
12 from our prior holdings only where we determine that they are so clearly
13 erroneous that continued adherence to them would work a manifest injustice.”);
14 *Hsu v. County of Clark*, 123 Nev. 625, 173 P.3d 724, 726 (2007) (“In some
15 instance, equitable considerations justify a departure from the doctrine that the
16 principles set forth in a first appeal are the law of the case on all subsequent
17 proceedings.”). The Supreme Court of the United States itself has found such
18 exceptions to exist to the doctrine of the law of the case. *See Arizona v.*
19 *California*, 460 U.S. 605, 618, 103 S.Ct. 1382, 75 L.Ed.2d 318, n.8 (1983)
20 (“Under law of the case doctrine, as now most commonly understood, it is not
21 improper for a court to depart from a prior holding if convinced that it is clearly
22 erroneous and would work a manifest injustice.”).

23 In the instant case, and as detailed in the above Statement of Facts, this
24 Court’s findings/holdings that the parties’ SSSTs were funded with the parties’

1 separate property are clearly erroneous, as such findings/holdings were explicitly
2 based on this Court's mistaken belief that the district court had previously made
3 the findings of fact in question. The district court, however, has made clear that
4 it never made the factual finding attributed to it by this Court, and that it never
5 conducted any tracing of the properties with which the SSSTs were funded.
6 PSAPP V2:340:9 - 341:13. It is further undisputed that this Court did not
7 conduct any tracing of the parties' property, nor did it hold any evidentiary
8 proceedings in order to support such a finding. These circumstances prove that
9 any findings/holdings made by this Court regarding the separate property nature
10 of the property with which the parties' SSSTs were funded are clearly erroneous,
11 as such findings/holdings directly violate this Court's own directives to the
12 district court on remand. Those directives made clear that any findings/holdings
13 made in the absence of a tracing would be erroneous:

14 In a divorce involving trust assets, the district court must trace
15 those trust assets to determine whether any community property
16 exists within the trusts – as discussed below, the parties' respective
 separate property in the SSST's would be afforded the statutory
 protection against court-ordered distribution, while any community
 property would be subject to the district court's equal distribution.

17 *Klabacka*, 394 P.3d at 948. In other words, a tracing must be conducted that
18 covers a time period sufficient to know whether there was community property
19 of the parties placed into any trusts. As it remains unknown to both this Court
20 and the district court whether the ELN Trust and LSN Trust were funded in 2001
21 with separate or community property, the appropriate time frame for the tracing
22 ...

1 is from July 13, 1993 (and not May 30, 2001), to entry of the parties' Decree of
2 Divorce.

3 In addition to the fact that this Court's findings/holdings regarding the
4 nature of the property with which the parties' SSSTs were funded are clearly
5 erroneous, it is also necessary for this Court to consider that Lynita will suffer
6 a manifest injustice in the event the law of the case doctrine is applied to such
7 findings/holdings. While Nevada case law does not define "manifest injustice"
8 for purposes of an analysis of the law of the case doctrine, the Ninth Circuit has
9 provided some insight into such term: "The existence of exceptional
10 circumstances is required before finding a manifest injustice. [Citations omitted]
11 At a minimum, the challenged decision should involve a significant inequity or
12 the extinguishment of a right before being characterized as manifestly unjust."
13 *Jeffries v. Wood*, 114 F.3d 1484, 1492 (9th Cir. 1997), *overruled on other*
14 *grounds by Gonzalez v. Arizona*, 677 F.3d 383 (9th Cir. 2012). Certainly such
15 a manifest injustice would occur here. It would be a significant inequity and a
16 complete extinguishment of Lynita's rights to a tracing of property accumulated
17 during her marriage to Eric, to have all property held by Eric and Lynita and
18 their trusts deemed separate property based on a misinterpretation of the district
19 court's findings.

20 Additionally, and as this Court is aware, Eric and Lynita have already
21 been involved in litigation for a period of more than **nine (9) years**, and are
22 litigating over the entirety of their assets. During the pendency of such

1 litigation, the parties' assets remain tied up – their ultimate dispositions
2 unknown. In the event the district court is permitted to move forward with only
3 an incomplete tracing of the properties held in the SSST's, Lynita will be forced
4 to await the conclusion of such a tracing, and to only thereafter be permitted to
5 appeal the matter to this Court in an attempt to correctly expand the tracing
6 completed. Certainly the circumstances of this matter are exceptional.

7
8 D. The Court Should Direct The District Court To Include Wyoming Downs
In Its Tracing

9 As set forth in the Statement of Facts, the district court has ruled that
10 Wyoming Downs should not be included in the tracing to be conducted on
11 remand because this Court only overturned portions of the Decree of Divorce,
12 but not the order which amended the Decree of Divorce. This Court did not state
13 that only some of the property held in trust needed to be traced to determine if
14 there was community property, nor did the Court exclude any specific property.
15 The district court's interpretation of this Court's Decision is nonsensical, and
16 would cause this Court to have contradicted itself by allowing a piece of
17 property to have its character determined without the requisite tracing. The
18 Court should issue a writ of mandamus directing the district court to include
19 Wyoming Downs in its tracing.

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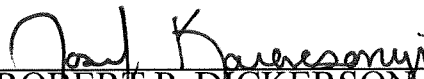
V.

CONCLUSION

For the reasons set forth above, this Court should issue a writ of mandamus directing the district court to: (1) vacate the portion of the order entered on April 19, 2018, and clarified in the order entered on May 22, 2018, whereby the scope of the tracing to be conducted on remand was limited to only that period of time from the execution of the parties' SSSTs on May 30, 2001, through the time of the parties' divorce on June 3, 2013; (2) order that the requisite tracing be conducted for the entire period from execution of Eric's and Lynita's SPA in July of 1993, through the entry of the parties' divorce decree on June 3, 2013; and (3) order Wyoming Downs to be included in the requisite tracing.

Respectfully submitted,

THE DICKERSON KARACSONYI
LAW GROUP


ROBERT P. DICKERSON, ESQ.
JOSEF M. KARACSONYI, ESQ.
Attorneys for Petitioner

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VERIFICATION BY AFFIDAVIT

STATE OF NEVADA }
COUNTY OF CLARK } SS:

Josef M. Karacsonyi, Esq., hereby deposes and states under penalty of perjury:

1. I am a partner at The Dickerson Karacsonyi Law Group, Counsel for Petitioner. I am over the age of eighteen (18) years, and have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those facts, I believe them to be true.

2. This Petition for Writ of Mandamus or Other Extraordinary Relief (“Petition”) is verified by me as Petitioner’s counsel because the facts upon which the Petition is based are within my personal knowledge in that the issues primarily involve the lengthy procedural history of the instant matter and issues of law.

3. I have participated in the drafting and reviewing of the Petition and know the contents thereof. To the best of my knowledge, the Petition and the facts contained therein are true and correct.

...
...
...
...
...

4. I certify and affirm that this Petition is made in good faith and not for purposes of delay.

Dated this 29th day of October, 2018.

Josef Karacsonyi
Josef M. Karacsonyi, Esq.

Subscribed and Sworn to before me
this 29th day of October, 2018.

PK Kennedy
Notary Public in and for said County
and State



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1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of THE DICKERSON KARACSONYI
3 LAW GROUP, and that on this 29th day of October, 2018, I filed a true and
4 correct copy of the foregoing PETITION FOR WRIT OF MANDAMUS OR
5 OTHER EXTRAORDINARY RELIEF, with the Clerk of the Court through the
6 Court's eFlex electronic filing system and notice will be sent electronically by
7 the Court to the following:

8 RHONDA K. FORSBERG, ESQ .
9 FORSBERG LAW OFFICE
Attorneys for Respondent, ERIC L. NELSON

10 MARK A. SOLOMON, ESQ.
JEFFREY P. LUSZECK, ESQ.
11 SOLOMON, DWIGGINS & FREER, LTD.
Attorneys for Respondent, MATT KLABACKA

12 I further certify that on this day a copy of the foregoing document will also
13 be deposited for mailing in the United States Mail, in a sealed envelope upon
14 which first class postage is prepaid, in Las Vegas, Nevada, addressed to the
15 following:


16 RHONDA K. FORSBERG, ESQ .
FORSBERG LAW OFFICE
64 North Pecos Road, Ste. 800
17 Henderson, Nevada 89074
Attorneys for Respondent, ERIC L. NELSON

18 MARK A. SOLOMON, ESQ.
JEFFREY P. LUSZECK, ESQ.
19 SOLOMON, DWIGGINS & FREER, LTD.
9060 W. Cheyenne Avenue
20 Las Vegas, Nevada 89129
Attorneys for Respondent, MATT KLABACKA

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22 ...

1 HONORABLE FRANK P. SULLIVAN
2 Eighth Judicial District Court, Department O
3 601 North Pecos Road
4 Las Vegas, Nevada 89101

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6 _____
7 An employee of The Dickerson Karacsonyi Law Group
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