IN THE SUPREME COURT OF THE STATE OF NEVADA

ROSAISET JARAMILLO, AS SPECIAL ADMINISTRATOR OF THE ESTATE OF MARIA JARAMILLO APPELLANT, VS. SUSAN R. RAMOS, M.D., F.A.C.S., RESPONDENT.	CASE NO. 77385

APPEAL FROM THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE
THE HONORABLE KATHLEEN DRAKULICH, DISTRICT JUDGE
DISTRICT COURT CASE NO. CV17-00221

APPELLANT'S OPENING BRIEF

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NRAP 26.1 DISCLOSURE STATEMENT

Pursuant to NRAP 26.1, the undersigned counsel of record for appellant Rosaiset Jaramillo, as Special Administrator of the Estate of Maria Jaramillo, does hereby certify that appellant is an individual who has been represented in the underlying proceeding by partners or associates of the law firm of Bradley, Drendel & Jeanney. Such counsel will continue to represent respondent in this appeal.

DATED this 31st day of January, 2019.

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes and Court Rules

Miscellaneous Authorities

JURISDICTIONAL STATEMENT

This is an appeal from a grant of summary judgment, and is thus a final judgment from which an appeal lies. *Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000). The order granting summary judgment was entered on October 9, 2018. AA, pg. 126. Written notice of entry was served through the district court's electronic filing system on October 10, 2018. AA, pg. 145. Appellant filed her notice of appeal on November 8, 2018. AA, pg. 157. Accordingly, appellate jurisdiction exists.

ROUTING STATEMENT

This matter is presumptively assigned to both the Supreme Court and the Court of Appeals. On one hand, it is presumptively assigned to the Court of Appeals because it is an appeal from a judgment that is less than $250,000 in a tort case. NRAP 17(b)(5). However, because it involves an issue of first impression that is of statewide public importance, *i.e.*, the effect of the statutory presumption of negligence set forth in NRS 41A.100(1)(a), it presumptively remains in the Supreme Court. *See* NRAP 17(a)(12) (noting the Supreme Court presumptively retains "[m]atters raising as a principal issue a question of statewide public importance . . .."). Appellant respectfully submits that this appeal should remain in the Supreme Court.

ISSUE PRESENTED FOR REVIEW

Whether the district court erred in granting summary judgment to Dr. Ramos?

STATEMENT OF THE CASE

Maria Jaramillo bought this action against various hospital entities and a surgeon when she learned that a foreign substance had been left in her body during a wire location biopsy. AA, pg. 001-004. She settled with the hospital entities. AA, pg. 120-25.. Dr. Ramos, the only remaining Defendant, had filed a motion for summary judgment on August 3, 2018. AA, pg. 032. Jaramillo filed her opposition on August 27, 2018. AA, pg. 98. Dr. Ramos filed her reply on August 29, 2018. AA, pg. 112. The district court entered its order granting the motion on October 9, 2018. AA, pg. 126. Written notice of entry of the order was filed and served electronically on October 10, 2018. AA, pg. 145. Jaramillo filed her notice of appeal on November 8, 2018. AA, pg. 157.

STATEMENT OF THE FACTS

It is undisputed that Maria Jaramillo had a mammogram of her left breast, which revealed that a lesion had increased in size from a previous exam performed approximately six months earlier. AA, pg. 128. The radiologist recommended a direct surgical incision to confirm the findings and Maria was referred to Dr. Ramos. *Id*. On April 29, 2015. Dr. Ramos performed a wire localization of the patient's left breast at St. Mary's Regional Medical Center. *Id*. On January 28, 2016, Maria returned to Dr. Ramos for a follow-up appointment. *Id*. Maria complained of pain in her left breast, whereupon Dr. Ramos ordered a mammogram and ultrasound. *Id*. These tests showed that a localization wire fragment, of approximately 3 cm, had been left in Maria's breast. *Id*. On March 28, 2016, Maria underwent surgery to remove the foreign substance from her breast. *Id*.

On February 2, 2017, Maria filed suit against various hospital entities and Dr. Ramos.[1] AA, pg. 001. Maria did not attach an affidavit of merit to her complaint, alleging no such affidavit was required given the applicability of NRS 41A.100(1)(a). *Id*.

In its Order Granting Defendant Susan B. Ramos, M.D.'s Motion for Summary

[1]On August 19, 2016, Maria was diagnosed with stomach cancer, to which she succumbed on October 23, 2017. AA, pg. 128.

Judgement, the district court found the following facts to be undisputed:

> On March 26, 2015, Plaintiff Maria Jaramillo had a mammogram of her left breast, which showed that a lesion increased in size from the time of her previous exam six months earlier. *Compl*. at ¶8. Thereafter, the radiologist recommended a direct surgical incision to confirm the findings and referred Plaintiff to Dr. Ramos. *Id*. at ¶¶9-10.
>
> On April 29, 2015, Dr. Ramos performed a wire localization of the patient's left breast. *Id*. at ¶11. Plaintiff returned to Dr. Ramos for a follow-up appointment on January 28, 2016, wherein Plaintiff complained of pain in her left breast. *Id*. Dr. Ramos ordered a mammogram and ultrasound, the results of which showed a 3 cm length localization wire fragment in the upper left breast. *Id*. at ¶¶12-14. On March 28, 2016, Sharon Wright, M.D., performed a surgical excision of the wire fragment. *Plaintiff's Answer to Interrogatory No. 8*.
>
> On October 23, 2017, Plaintiff passed away from gastrointestinal cancer, the cause of which is unrelated to the allegations in this matter.

AA, pg. 128.

SUMMARY OF ARGUMENT

Thee district court erred in granting summary judgment on the strength of the declaration of Defendant's expert, Andrew B. Cramer, M.D. Because this is a res ipsa loquitur case, based on NRS 41A.100(1)(a), Plaintiff was not required to rebut Dr. Cramer's opinion with expert testimony of her own.

ARGUMENT

I. STANDARD OF REVIEW

This Court reviews de novo the grant of summary judgment. *Butler v. Bayer*, 123 Nev. 450, 457, 168 P.3d 1055, 1061 (2007). The relevant principles were summarized in *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 713-14, 57 P.3d 82, 87 (2002), as follows:

> Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories, admissions, and affidavits on file show that there exists no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. "A genuine issue of material fact is one where the evidence is such that a reasonable jury could return a verdict for the non-moving party." When a motion for summary judgment is made and supported as required by NRCP 56, the non-moving party may not rest upon general allegations and conclusions, but must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine factual issue. "The non-moving party's documentation must be admissible evidence," as "he or she 'is not entitled to build a case on the gossamer threads of whimsy, speculation and conjecture.'" However, all of the non-movant's statements must be accepted as true, all reasonable inferences that can be drawn from the evidence must be admitted, and neither the trial court nor this court may decide issues of credibility based upon the evidence submitted in the motion or the opposition. [Footnotes omitted.]

It will now be demonstrated that proper application of these principles requires reversal of the order granting Dr. Ramos summary judgment.

///

///

II. THE DISTRICT COURT ERRED IN GRANTING SUMMARY JUDGMENT TO DR. RAMOS

NRS 41A.100 provides as follows:

> 1. Liability for personal injury or death is not imposed upon any provider of health care based on alleged negligence in the performance of that care unless evidence consisting of expert medical testimony, material from recognized medical texts or treatises or the regulations of the licensed medical facility wherein the alleged negligence occurred is presented to demonstrate the alleged deviation from the accepted standard of care in the specific circumstances of the case and to prove causation of the alleged personal injury or death, except that such evidence is not required and a rebuttable presumption that the personal injury or death was caused by negligence arises where evidence is presented that the provider of health care caused the personal injury or death occurred in any one or more of the following circumstances:
>
> (a) A foreign substance other than medication or a prosthetic device was unintentionally left within the body of a patient following surgery;
> (b) An explosion or fire originating in a substance used in treatment occurred in the course of treatment;
> (c) An unintended burn caused by heat, radiation or chemicals was suffered in the course of medical care;
> (d) An injury was suffered during the course of treatment to a part of the body not directly involved in the treatment or proximate thereto; or
> (e) A surgical procedure was performed on the wrong patient or the wrong organ, limb or part of a patient's body.
>
> 2. Expert medical testimony provided pursuant to subsection 1 may only be given by a provider of health care who practices or has practiced in an area that is substantially similar to the type of practice engaged in at the time of the alleged negligence.
>
> 3. The rebuttable presumption pursuant to subsection 1 does not apply in an action in which a plaintiff submits an affidavit pursuant to NRS 41A.071, or otherwise designates an expert witness to establish that

> the specific provider of health care deviated from the accepted standard of care.
>
> 4. Nothing in this section shall be construed to preclude any party to the suit from designating and presenting expert testimony as to the legal or proximate cause of any alleged personal injury or death.

This Court has never directly decided whether the rebuttal presumption described in NRS 41A.100(1) acts as substantive evidence and therefore survives as a potential basis for a plaintiff's verdict in the face a defense expert's declaration that no negligence occurred. However, other courts have addressed the issue. *Deuel v. Surgical Clinic, PLLC*, 2010 WL 3237297 (Tenn.App. Aug. 16, 2010), is instructive. There, the plaintiff's husband, Clyde Deuel, had undergone surgery, during which a surgical sponge was accidentally left inside the patient's body. Mr. Deuel died of unrelated causes and his widow, Lorraine Deuel, brought a medical malpractice action against the surgeon, Dr. Richard Geer, and his surgical group.

Tennessee had a medical malpractice res ipsa loquitur statute that, like NRS 41A.100, provided for a "rebuttable presumption" of negligence and causation in the factual circumstances to which it applied. Tenn. Code Annot. § 29-26-115(c). The parties filed cross-motions for summary judgment. In support of their motion, defendants submitted affidavits from Dr. Geer, himself, and another expert, both of

whom asserted that Dr. Geer had not fallen below the standard of care.[2] *Id*. at *1. Initially, the plaintiff tendered a counter-affidavit from her own expert, but later withdrew it stating that she intended to proceed to trial without a liability expert witness. *Id.* The trial court granted defendants' motion and plaintiff appealed. The appellate court reversed.

The Court of Appeals began with the following generalized discussion of res ipsa loquitur:

> Under the doctrine of *res ipsa loquitur,* a plaintiff need not prove specific acts of negligence by the defendant in order to get his case to the jury. *Burton v. Warren Farmers Coop.,* 129 S.W.3d 513, 523 (Tenn.Ct.App.2002) (citing *Summit Hill Assocs. v. Knoxville Utils. Bd.,* 667 S.W.2d 91, 96 (Tenn.Ct.App.1983); *Parker v. Warren,* 503 S.W.2d 938, 942 (Tenn.Ct.App.1973)). The elements usually required for application of the doctrine are:
>
> > (1) the event must be of a kind which ordinarily does not occur in the absence of someone's negligence;
> >
> > (2) it must be caused by an agency or instrumentality within the exclusive control of the defendant; [and]
> >
> > (3) it must not have been due to any voluntary action or contribution on the part of the plaintiff.
>
> W. Page Keeton, Prosser and Keeton on Torts 244 (5th ed. 1984 & Supp.1988); *see Seavers,* 9 S.W.3d at 91 ("The plaintiff must

[2]More specifically, the experts opined that Dr. Geer was not negligent in relying on the nurses' sponge count, which erroneously indicated that all surgical sponges had been collected before the surgical site was closed.

> demonstrate that he or she was injured by an instrumentality that was within the defendant's exclusive control and that the injury would not ordinarily have occurred in the absence of negligence.").
>
> "***[T]he doctrine of res ipsa loquitur is ... a rule of circumstantial evidence***, not a substantive rule of negligence law." Keeton, *supra,* at 244 (Supp.1988); *accord Burton,* 129 S .W.3d at 525 ("Res ipsa loquitur is a rule of evidence, not a rule of law."). ***The doctrine is primarily used in jury trials to provide a framework to determine whether the plaintiff's evidence is sufficient to entitle him to get his case to the jury.*** *Burton,* 129 S.W.3d at 526 (citing *N. Memphis Sav. Bank v. Union Bridge & Constr. Co.,* 196 S.W. 492, 498 (Tenn.1917); *Ford v. Roddy Mfg. Co.,* 448 S.W.2d 433, 437 (Tenn.Ct.App.1969); *John Bouchard & Sons, Co. v. Keaton,* 9 Tenn.App. 467, 480 (1928)). Under the common law, if the requirements of *res ipsa loquitur* are met, it "permits, but does not compel, a jury to infer negligence from the circumstances of an injury." *Seavers,* 9 S.W.3d at 91 (citing *Poor Sisters of St. Francis v. Long,* 230 S.W.2d 659, 663 (Tenn.1950); *Lewis v. Casenburg,* 7 S.W.2d 808, 811 (Tenn.1928); *Armes v. Hulett,* 843 S.W.2d 427, 432 (Tenn.Ct.App.1992)). Application of the doctrine allows an inference of negligence, but it does not "dispense with the plaintiff's burden of proof." *Id.* (citing *Summit Hill Assocs. v. Knoxville Utils. Bd.,* 667 S.W.2d 91, 96 (Tenn.Ct.App.1983); *Oliver v. Union Transfer Co.,* 71 S.W.2d 478, 480 (Tenn.Ct.App.1934); 57B Am.Jur.2d *Negligence* § 1920 (1989)).

Id. at *10; emphasis supplied.

The Court in *Deuel* continued by summarizing Dr. Geer's argument, which is almost identical with Dr. Ramos's argument herein:

> Dr. Geer argues that any inference or presumption raised pursuant to the doctrine of *res ipsa loquitur* has been rebutted by the expert testimony he proffered in support of his summary judgment motion. . . ..
>
> Dr. Geer argues that this testimony rebuts any inference or

> presumption of negligence under *res ipsa loquitur,* and the Plaintiff cannot get her case to the jury where, as here, she has served notice that she does not intend to submit expert testimony. Dr. Geer argues that the trial court therefore correctly granted his motion for summary judgment.

Id. at *14.

After extensive discussion of *Coleman v. Rice*, 706 So.2d 696 (Miss. 1997), and *Breaux v. Thurston*, 888 So.2d 1208 (Ala. 2003), and citing several other cases rejecting similar defense arguments,[3] the Court in *Deuel* turned its attention to *Restatement (Second) of Torts* §328D, quoting *comment n* as follows:

> In discussing the procedural effect of the doctrine of *res ipsa loquitur*, the *Second Restatement of Torts* analyzes the effect of evidence from the defendant that the injury did not result from his negligence as follows:
>
> > When the defendant in turn offers evidence that the event was not due to his negligence the inference which arises . . . ***is not necessarily overthrown***. Although the defendant testifies that he has exercised all reasonable care, the conclusion may still be drawn, on the basis of ordinary human experience, that he has not . . .. Normally, therefore, a verdict cannot be directed for the defendant in a res ipsa loquitur case, solely upon the basis of the defendant's evidence of his own due care.

2010 WL 3237297 at *18; our emphasis. The Court in *Deuel* then concluded as follows:

> Considering the above authorities, we must conclude that the Plaintiff was not required to submit expert testimony on Dr. Geer's

[3]All of these cases lend further support to Jaramillo's position.

> negligence, in response to the expert testimony submitted by Dr. Geer, in order to present the issue to the jury. As stated succinctly in *Chi Yun Ho* [*v. Frye*, 880 N.E.2d 1192 (Ind. 2008)]: "The inference of breach of duty confronts medical opinion of no breach of duty. Justice thus requires a trial." *Chi Yun Ho,* 880 N.E.2d at 1199 (quoting *Burke v. Capello,* 520 N.E.2d 439, 442 (Ind.1988)).

Id. See also Anderson v. Ming Wang, 2018 WL 4847114 (Tenn.App. October 5, 2018).

Also instructive is *Dolaway v. Urology Associates of Northeastern New York, P.C.*, 897 N.Y.S.2d 776 (A.D. 2010). There, a man underwent endoscopic surgery to remove a kidney stone. He alleged that two broken pieces of guide-wire sheathing were left in his ureter. Mr. Dolaway filed suit and the defendants moved for summary judgment. The lower court initially held that the plaintiffs, who had not identified any expert witnesses, could rely on the doctrine of res ipsa loquitur, even though the defendants' expert had opined that the defendants had not deviated from the standard of care. Thus, the motion for summary judgment was denied. However, when the parties appeared for trial, defendants filed a motion in limine, which the trial court granted, on the ground that plaintiff could not succeed without an expert witness. The appellate division reversed, holding that, "under the circumstances here, expert testimony in not necessary to enable the jury to conclude that, more likely than not, the resulting injury was caused by the surgeon's negligence." *Id*. at 777=78.

All this is consistent with Nevada law. NRS 41A.100(1)(a) expressly exempts Plaintiff from the burden of establishing her claim through expert medical testimony. As noted above, it provides, in relevant part, as follows:

> 1. Liability for personal injury or death is not imposed upon any provider of health care based on alleged negligence in the performance of that care unless evidence consisting of expert medical testimony, material from recognized medical texts or treatises or the regulations of the licensed medical facility wherein the alleged negligence occurred is presented to demonstrate the alleged deviation from the accepted standard of care in the specific circumstances of the case and to prove causation of the alleged personal injury or death, ***except that such evidence is not required and a rebuttable presumption that the personal injury or death was caused by negligence arises where evidence is presented that the provider of health care caused the personal injury or death occurred in any one or more of the following circumstances***:
>
> (a) ***A foreign substance other than medication or a prosthetic device was unintentionally left within the body of a patient following surgery*** . . .. [Emphasis supplied.]

Despite this clear language, Dr. Ramos contended below that Plaintiff was required to present the testimony of a medical expert. AA, pgs. 038, *et seq.*

Further, Dr. Ramos contended that "Plaintiff has *alleged* that the doctrine of *res ipsa loquitur* applies, but has not established the application of that doctrine." AA, pg. 039, lns. 7-8; emphasis in original. This argument is unclear. We recognize that a party need not support a Rule 56 motion with an affidavit, *Clauson v, Lloyd*, 103 Nev. 432, 743 P.2d 631 (1987), and can instead merely point to the absence of evidence in

the record to support the opponent's position as to a matter on which he will have the burden of proof at trial. *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548 (1986). But this requires an affirmative showing, not merely a conclusory statement in the motion. *Id*. Dr. Ramos made no such showing, probably because she realized she could not do so. Even her own expert recognized that a foreign substance, a wire fragment, was inadvertently left in Ms. Jaramillo's body. AA, pg. 084, ¶ 5.

Finally, Dr. Ramos argued that her presentation of the unrebutted declaration of Dr. Cramer somehow placed the burden on Ms. Jaramillo to come forward with evidence beyond that necessary to establish the applicability of NRS 41A.100(1)(a). This is simply not true. Here, Dr. Ramos misconceived the import of *Johnson v. Egtedar*, 112 Nev. 428, 915 P.2d 271 (1996). She cited that case for the proposition that "the presumption of negligence only arises after the plaintiff has established that the occurrence giving rise to the litigation does not ordinarily happen in the absence of negligence." AA, pg. 039, lns. 17-20. However, the portion of the opinion to which Dr. Ramos cited is a discussion of traditional res ipsa cases, not those arising under NRS 41A.100. As to the latter category of cases, the Court held that the legislature, by enacting NRS 41A.100, had in effect determined that the enumerated circumstances do not occur in the absence of negligence. The Court said:

> Under NRS 41A.100, however, the presumption automatically

> applies where any of the enumerated factual circumstances are present. In regard to these factual predicates, the legislature has, in effect, already determined that they ordinarily do not occur in the absence of negligence. Thus, we conclude, all a plaintiff need do to warrant an instruction under the statutory medical malpractice res ipsa loquitur rule is present some evidence of the existence of one or more of the factual predicates enumerated in the statute. If the trier of fact then finds that one or more of the factual predicates exist, then the presumption must be applied. This is the approach taken in Nev. J.I. 6.17 and Plaintiff's A. Accordingly, the district court should have given the proposed instruction if it was supported by evidence adduced at trial.

Id. at 433-34, 915 P.2d at 274-75.

Nor is there any merit in Dr. Ramos's contention that even if the presumption of negligence applies that she rebutted it as a matter of law. As shown above, this is simply not true. Additionally, the jury is not required to accept the testimony of Dr. Cramer. *See* Nev. J.I. § 2.11 (instructing the jury to give expert testimony whatever weight, ***if any***, it deems appropriate). Thus, the question of whether the statutory presumption has been rebutted by Dr. Cramer was a question of fact for the trier of fact; and since there is a presumption of negligence and causation, Dr. Ramos' assertion fails as to both issues. *See. e.g., Nehls v. Leonard*, 97 Nev. 325, 630 P.2d 258 (1981) (questions of negligence and causation are questions of fact in Nevada, not questions of law for the courts); *Rish v. Simao*, 132 Nev. ___, ___, 368 P.3d 1203, 1209 (Adv.Op.No. 17, March 17, 2016) (citing *Nehls* with approval).

While accurately portraying Jaramillo's argument, the lower court misconceived

its implications:

> Plaintiff argues that since the presumption of negligence "automatically applies" here, there is no other evidence that Plaintiff is obligated to present, and it is for the jury to weigh the testimony of Dr. Cramer. Plaintiff contends that the question of whether the statutory presumption has been rebutted is question of fact for the jury.
>
> This Court rejects Plaintiff's arguments. Accepting Plaintiff's argument means that the presumption of negligence arising from a prima facie case of any scenario enumerated in NRS 41A.100(1) cannot be rebutted, and thus, must go to trial for the jury to decide. However, in scenarios such as this, where Defendant has put forth uncontroverted evidence that negligence did not occur and thus rebutting the presumption of negligence, only three results could occur: (1) defendants move for a directed verdict at the conclusion of their case, wherein the Court would have to grant it; (2) the jury finds no negligence; or (3) the jury finds a verdict in favor of negligence and Defendant appeals on the basis that the verdict is unsupported by the evidence.

AA, at 130.

Scenarios (1) and (3) both assume that the presumption itself is not evidence which would support a jury verdict. In other words, it seemed to be lost on the district court that Dr. Cramer's opinion testimony merely created a question of fact for the jury. Thus, the district court overlooked the fact that res ipsa loquitur is a "rule of circumstantial evidence," the purpose of which is to "provide a framework to determine whether the plaintiff's evidence is sufficient to entitle him to get his case to the jury." *Deuel, supra*.

The district court seemed incredulous that NRS 41A.100(1) could be construed in such a way "that no evidence presented could rebut the presumption of negligence prior to trial." AA, pg. 131. It is difficult to understand this view. The obvious purpose of NRS 41A.100(1) is to carve out very limited exceptions to the general rule that expert medical opinion evidence is required in medical malpractice cases. What seems incredible is that, under the district court's view, the defendant could nullify these narrow legislative carve-outs by merely finding an expert who is willing to sign a declaration to the effect that the medical provider was not negligent.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the district court's Order Granting Defendant Susan R. Ramos, M.D.'s Motion for Summary Judgment should be reversed and the matter remanded back to the district court for trial. DATED this 31st day of January, 2019.

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CERTIFICATION OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in proportionally spaced typeface using WordPerfect 12 in 14-point Times New Roman.

2. I further certify that this brief complies with the page- or type-volume limitations set forth in NRAP 32(a)(7) because it is proportionally spaced, has a typeface of 14 points or more and contains 3,803 words.

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

s/ *William C. Jeanney*
William C. Jeanney, Esq.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this document was filed electronically with the Nevada Supreme Court on the 31st day of January, 2019, and therefore the court's computer system has electronically delivered a copy of the Appellant's Opening Brief and the Appellant's Appendix to the following person(s) at the following email address:

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