

IN THE SUPREME COURT OF THE STATE OF NEVADA

J.E. JOHNS & ASSOCIATES, a
Nevada business entity; and A.J.
JOHNSON, an individual,

Appellants,

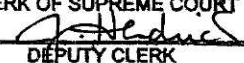
vs.

JOHN LINDBERG, an individual;
MICHAL LINDBERG, an individual;
AND JUDITH L. LINDBERG, an
individual,

Respondents.

FILED

AUG 20 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

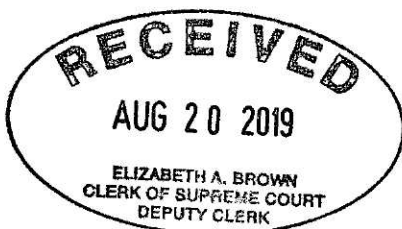
Supreme Court Case No. 78086
District Court Case No. CV15-00281

APPEAL

From the Second Judicial District Court
The Honorable Judge Jerome Polaha, District Court Judge

**NEVADA REALTORS' MOTION FOR LEAVE TO FILE AN AMICUS
BRIEF**

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19-34848

**NEVADA REALTORS' MOTION FOR LEAVE TO FILE AN AMICUS
BRIEF**

NEVADA REALTORS®, a Nevada non-profit coop corporation (“NVR”), through its counsel, Tiffany Banks, Esq., general counsel for NVR, hereby moves this Court for leave to file its proposed Brief of Amicus Curiae in Support of Appellants J.E. JOHNS & ASSOCIATES and A.J. JOHNSON (collectively, “Appellants”), attached hereto as Exhibit A.

This Motion is made pursuant to Rule 29 of the Nevada Rules of Appellate Procedure (“NRAP”) and is based upon the following Memorandum of Points and Authorities, all other pleadings, papers, and documents on file with the Court.

DATED this ____ day of August, 2019.

NEVADA REALTORS®

By: _____



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MEMORANDUM OF POINTS AND AUTHORITIES

I. Nevada REALTORS® Has an Interest in the Outcome of this Appeal as A Decision Could Impact Nevada's Due Diligence Standard for Licensees and Should Be Granted Leave to File an Amicus Curiae Brief.

Amicus Curiae Nevada REALTORS® (“NVR”) is a non-profit organization whose goal it is to provide services to, advocate on behalf of, and enhance the success of, its nearly 18,000 REALTOR® members. NVR, through its board of directors and members, is active throughout the communities of Nevada, holding events, engaging in advocacy, offering services, and resolving disputes on behalf of the real estate professionals that make up its member base. NVR is the state-level association of the National Association of REALTORS® (“NAR”). There are five (5) local associations in the State of Nevada: the Greater Las Vegas Association of REALTORS®, Incline Village REALTORS®, the Reno/Sparks Association of REALTORS®, Sierra Nevada REALTORS®, and the Elko County Association of REALTORS®.

As discussed below, NVR has an interest in this appeal, and therefore, requests leave from this Court to file the proposed amicus curiae brief in support of Appellant attached hereto as Exhibit A, to address concerns with the lower court's decision. While the default seven (7) day deadline to file an amicus brief in support of Appellants has lapsed, NVR became aware of the importance of filing an Amicus brief only after reviewing both briefs filed in this Appeal. Accordingly, NVR

requests that this Court exercise its discretion to grant this Motion notwithstanding that both parties have already filed their briefs in this matter, pursuant to NRAP 29(f).

A. NVR's proposed *amicus curiae* brief can assist the Court in resolving the primary issue in this appeal.

The primary issue in this appeal involves what a real estate licensee has a duty to disclose in a real estate transaction, and what knowledge can be imputed to licensees as part of that duty. More specifically, this appeal presents the Court with a situation where the parties do not dispute that Appellants disclosed relevant facts pertaining to the subject property, but where the lower court nevertheless concluded that the duty to disclose under NRS 645.252 *et seq.* extended to a duty to explicitly reiterate and identify very specific potential zoning/code issues implicated by those disclosed facts. Respondents/Cross-Appellants JOHN LINDBERG, MICHAL LINDBERG, and JUDITH LINDBERG's (collectively, "Respondents") make clear that their claims were prosecuted against both Appellants, as agents of the seller in the underlying real estate transaction, and their own agent, a non-party to this appeal. As such, Respondents' position in this appeal calls for a decision that would significantly impact *all* Nevada licensees' obligations in all future real estate transactions.

NVR represents the interests of nearly 18,000 REALTORS® in the state of Nevada and provides dispute resolution services to those REALTORS®. As such,

NVR not only disseminates information relating to its members' obligations as real estate licensees, but also is actively engaged in resolving disputes between licensees with involving those obligations. This Appeal presents this Court with an opportunity to address the scope of real estate licensees' duty to disclose under NRS 645, and potentially resolve (or create) future disputes with real estate licensees that are members of NVR. NVR is in a position to offer useful insight into the primary issue before this Court, and how that issue may affect Nevada real estate licensees' obligations and NVR's alternative dispute resolution program in the future.

B. This Court should grant NVR's Motion for Leave.

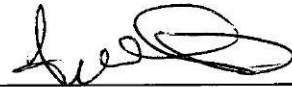
Because of NVR's intimate understanding of the primary issue of a real estate licensee's duty to disclose material facts, and because of the implications of expanding the scope of that duty on NVR's members (and on its dispute resolution processes), NVR has a substantial concern about the outcome of this matter. NVR acknowledges that the default timeline for requesting leave to file an amicus brief is seven days after the filing of the appellant's opening brief. In this case, NVR became aware of the primary issue in this matter after that timeline had passed, and upon reviewing Respondents' Brief, realized the scope of the relief requested. NVR's Motion was not prepared or filed with any dilatory motive, but rather, was prepared after discussion of the importance of this Appeal to all Nevada real estate

professionals. Thus, NVR respectfully requests that this Court grant leave to submit an *amicus curiae* brief in support of Appellants pursuant to NRAP 29(f).

DATED this 20th day of August, 2019.

NEVADA REALTORS®

By: _____



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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, pursuant to NRAP 25(c), on August _____, 2019, I caused to be served a true and correct copy of the foregoing NEVADA REALTORS' MOTION FOR LEAVE TO FILE AN AMICUS BRIEF upon the following by the method indicated:

☐ BY ELECTRONIC SUBMISSION: submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

☒ BY U.S. MAIL: by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail addressed as set forth below:

John David Moore, Esq.
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