

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY,

Appellant,

vs.

BRENT BEAN,

Respondent.

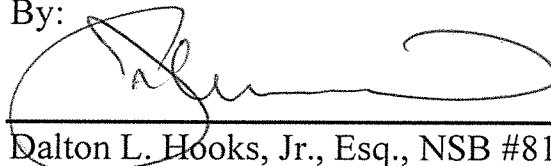
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Supreme Court Case No.: 78443  
District Court Case No.: A773957

**APPELLANT'S OPENING BRIEF**

HOOKS MENG & CLEMENT

By:



Dalton L. Hooks, Jr., Esq., NSB #8121

John A. Clement, Esq, NSB # 8030

Attorneys for Appellant, CLARK COUNTY

2820 W. Charleston Blvd., Ste. C-23

Las Vegas, NV 89102

Telephone No. (702) 766-4672

Facsimile No. (702) 919-4672

**I.**  
**NRAP 26.1 DISCLOSURE**

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

CLARK COUNTY,

Appellant,

vs.

BRENT BEAN,

Respondent.

Supreme Court Case No.: 78443  
District Court Case No.: A773957

The undersigned counsel of record certifies that the following are persons and entities described in NRAP 26.1, and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal. Appellant Clark County is a governmental entity.

Clark County, was represented by HOOKS MENG & CLEMENT in the underlying litigation and on appeal.

HOOKS MENG & CLEMENT

By: 

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Dalton L. Hooks, Esq. NSB # 8121  
John A. Clement, Esq, NSB # 8030  
Attorneys for Appellant, CLARK COUNTY  
2820 W. Charleston Blvd., Ste C-23  
Las Vegas, NV 89102  
Telephone No. (702) 766-4672  
Facsimile No. (702) 919-4672

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**IV.**  
**JURISDICTIONAL STATEMENT**

The instant appeal is an appeal from a District Court Order Denying Petitioner’s Petition for Judicial Review. [JA000282-JA000288]. This represents a final Order by the District Court. The Notice of Appeal, initiating the instant proceedings was filed on March 22, 2019. [JA000289-JA000303]. This Honorable Court, thereafter, issued an Order, on October 16, 2019, recognizing its jurisdiction over the appeal and reinstating briefing.

**V.**  
**ROUTING STATEMENT**

This case is presumptively assigned to the Court of Appeals pursuant to NRAP 17(b)(4) [Administrative agency appeals except those involving tax, water, or public utility commission]. This matter involves an appeal from the District Court’s Order Denying Petitioner’s Petition for Judicial Review. [JA000282-JA000288].

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**VI.**  
**STATEMENT OF THE ISSUES**

- 1) Whether the District Court erred in affirming the Decision & Order of the Appeals Officer finding that a Permanent Partial Disability (PPD) award is a medical benefit and not compensation.

**VII.**  
**STATEMENT OF THE CASE**

The matter before the District Court concerned the Petition for Judicial Review filed by Clark County on May 3, 2018, requesting reversal of an April 19, 2018 Decision and Order by Appeals Officer Georganne Bradley, Esq. regarding Appeal 1710715-GB, which Appellant asserts erroneously ordered Appellant to offer Respondent a 40% whole person permanent partial disability award. [JA000021-JA000028]. On May 9, 2018, Clark County thereafter filed a Motion for Stay [JA000001-JA000083], and the Respondent filed his Opposition thereto on May 16, 2018. [JA000084-JA000209]. Clark County filed a Reply in Support of the Motion on May 22, 2018 [JA000210-JA000225] and on May 25, 2018 a Stipulation and Order for Temporary Stay was entered [JA000226-JA000227]. On May 25, 2018 Respondent filed his Supplement to Opposition to Petitioner's Motion for Stay. [JA000229-JA000233].

On June 7, 2018 the Department of Administration, Hearings Division, Appeals Office filed their Certification of Transmittal of Record on Appeal in



response to the filed Petition for Judicial Review [JA000396]. On July 10, 2019, Petitioner filed its Opening Brief [JA000234-JA000256] and Respondent filed his Answering Brief on August 9, 2018. [JA000257-JA000281]. On September 7, 2018, following the Court's Minute Order dated July 27, 2018 denying Petitioner's Motion for Stay, an Order Denying Motion for Stay Pending Petition for Judicial Review was filed [JA000588-JA000590]. On September 12, 2018 Appellant filed its Reply in Support of Petitioner's Opening Brief [JA000591-JA000598], and oral arguments were heard on October 25, 2018. At the hearing, Appellant's Petition was denied, and an Order Denying Petition for Judicial Review was filed on March 4, 2019 [JA000282-JA000288].

On March 22, 2019, Appellant filed its Notice of Appeal to the Supreme Court [JA000289-JA000303] and filed a Motion for Stay Pending Appeal on March 27, 2019. [JA000317-JA000340]. Appellant filed an Amended Motion for Stay Pending Appeal on March 28, 2019 [JA000341-JA000365], and Respondent filed his Opposition on March 28, 2019. [JA000366-JA000388]. On April 2, 2019, the matter was heard before the Court and denied. An Order Denying the Motion for Stay Pending Appeal was filed on August 27, 2019. [JA000389-JA000395].

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**VIII.**  
**STATEMENT OF FACTS**

On November 7, 2014, the Claimant, BRENT BEAN (“Respondent”), a CLARK COUNTY firefighter alleged an occupational disease following his retirement. [JA000540]. Importantly, the Respondent retired from the CLARK COUNT FIRE DEPT. effective July 25, 2011. [JA000543]. According to the C-4, the Respondent was diagnosed with prostate cancer, and thereafter completed his C-4 on December 22, 2014. [JA000540, JA000548]. Appellant subsequently completed a C-3, which noted they initially doubted the validity of the claim due to late reporting. [JA000541]. A C-1 was completed on December 24, 2014 and signed by both the Respondent and employer on that date. [JA000542].

On January 13, 2014, the Appellant issued its determination accepting the claim for prostate cancer. [JA000576]. The Respondent treated with Dr. David Ludlow, who recommended the Respondent for a prostatectomy. [JA000552-JA000555]. The Respondent underwent said prostatectomy on February 25, 2015. [JA000556-JA000560]. After appropriate follow-up, on June 24, 2016, Dr. Ludlow concluded that the Respondent had reached maximum medical improvement (“MMI”) and specifically noted, “from my standpoint he is cured from disease.” [JA000563]. The acceptance of the prostate cancer and the medical treatment received for this condition were not disputed in the underlying appeal.

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Thereafter, the Appellant scheduled an evaluation of the Respondent with a rating physician off the Division of Industrial Relations (“DIR”) rotating list. [JA000565]. Following the evaluation on November 2, 2016 with Dr. Charles E. Quaglieri, the Respondent was found to have a forty percent (40%) whole person impairment as a result of his prostate cancer. [JA000566-JA000570]. The Respondent, via counsel, requested the Appellant award the 40% PPD pursuant to the rating completed by Dr. Quaglieri. [JA000575].

On January 24, 2017, the Appellant sent correspondence to the Respondent, advising that the Appellant would provide the compensation specified in NRS 617.453(4)(a), which did not include the PPD award. [JA000578]. As stated in that letter, the Appellant indicated that because the claim was made after retirement, pursuant to NRS 617.453(4)(a), the Respondent was not entitled to receive any monetary compensation for his occupational disease other than payment of medical benefits. *Id.*

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On or about January 26, 2017, the Respondent filed a request for hearing regarding the Appellant's determination. [JA000579]. The matter was subsequently bypassed directly to the Appeals Office. [JA000580-JA000581]. Following proceedings before Appeals Officer Georganne Bradley, the Appeals Officer REVERSED the Appellant's January 24, 2017 determination and remanded the Appellant to offer the Respondent a 40% PPD award based upon the earnings at the time of his retirement. [JA000400-JA000407]. In so doing, the Appeals Officer notes that she declined to extend the Nevada Supreme Court case of *Howard v. City of Las Vegas*, 120 P.3d 410 (Nev. 2005), to determine the calculation of permanent partial disability awards. *Id.*

On May 3, 2018, Petitioner filed its Petition for Judicial Review regarding the April 19, 2018 Decision and Order, which was assigned as case number A-18-773957-J. Appellant additionally submitted a Motion for Stay of the Order and argument by the parties was held. Prior to the Motion hearing, the parties entered into a Stipulation and Order Granting a Temporary Stay which was filed with this Court on May 25, 2018, [JA000226-JA000227].

At a hearing, the District Court issued its Order Denying Appellant's Petition for Judicial Review. On March 22, 2019, the Appellant filed its Notice of Appeal to the Nevada Supreme Court regarding this District Court's Order. [JA000289-JA000303].

**IX.**  
**SUMMARY OF THE ARGUMENT**

The District Court's conclusion that permanent partial disability is a medical benefit and not a form of disability associated with lost wages is erroneous, given the Supreme Court's holding in *Howard v. City of Las Vegas*, 120 P.3d 410 (2005), as well as the language contained in NRS 617.453, including language contained in SB 215, which amended NRS 617.453. Attorney General's Opinion 2002-28, cited by Respondent in his Opposition to Appellant's Petition for Judicial Review, was incorrectly relied upon by the District Court over controlling case law and clear statutory language.

**X.**  
**ARGUMENT**

**A. Standard Of Review**

As the underlying proceeding involved a petition for judicial review of an administrative decision, this matter is governed by the Administrative Procedures Act, codified in NRS Chapter 233B. Regarding matters of statutory compliance, this Court applies de novo review. *See Washoe County v. Otto*, 282 P. 3d 719, 128 Nev. 424 (2012); *see also Ogawa v. Ogawa*, 125 Nev. 660, 667, 221 P.3d 699, 704 (2009) (applying de novo review to issues of subject matter jurisdiction).

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Additionally, this Court reviews issues of statutory construction de novo. See *Hardy Companies, Inc. v. SNMARK, LLC*, 126 Nev. 258, 245 P.3d 1149, 1153 (2010). To determine legislative intent, this court will not go beyond a statute's plain language if the statute is facially clear. *Bacher v. State Engineer*, 122 Nev. 1110, 1117, 146 P.3d 793, 798 (2006). However, when a statute "is susceptible to more than one natural or honest interpretation, it is ambiguous, and the plain meaning rule has no application." See *State, Bus. & Indus. v. Granite Constr.*, 118 Nev. 83, 87, 40 P.3d 423, 426 (2002).

In construing an ambiguous statute, we must give the statute the interpretation that "reason and public policy would indicate the legislature intended." See *State, Dep't Mtr. Vehicles v. Vezeris*, 102 Nev. 232, 236, 720 P.2d 1208, 1211 (1986) (internal quotations and citations omitted). When a statute is ambiguous, this court determines the Legislature's intent by evaluating the legislative history and construing the statute in a manner that conforms to reason and public policy. *Chanos v. Nevada Tax Comm'n*, 124 Nev. 232, 181 P.3d 675, 681 (2008).

**B. The District Court Erred in Affirming the Decision & Order of the Appeals Officer finding that Respondent is not disqualified from receiving PPD benefits.**

The District Court's conclusion affirming the Appeals Officer's Decision and Order, which states that neither *Howard v. Nevada* nor applicable statute

disqualifies claimant from the PPD benefits is erroneous as applied to both *Howard v. Nevada* and NRS 617.453.

**1) The Appeals Officer's and District Court's Failure to Follow Controlling Case Law and Properly Interpret NRS 617.453 is a Clear Error of Law and/or Abuse of Discretion.**

At issue is the Appeals Officer's Decision and Order awarding Respondent PPD benefits, concluding that a PPD award constitutes a medical benefit and not compensation, and the District Court's affirmance of the same. However, the Appeals Officer and District Court specifically elected not to apply the binding Supreme Court of Nevada *Howard* case. In *Howard*, Oscar Howard was a retired firefighter who attempted to assert a claim for disability benefits resulting from a claim for heart disease. The Court concluded that when a retired claimant becomes eligible for occupational disease benefits, the claimant is entitled to receive medical benefits *but may not receive any disability compensation if the claimant is not earning any wages* at the time of his application. *Howard*, 120 P.3d at 411 (emphasis added). It is important to note that in the statement above, the Court does not differentiate between temporary total disability (TTD) and PPD, but rather, as stated above, notes simply and clearly that the claimant "...may not receive *any* disability compensation if the claimant is not earning any wages." *Id.* (emphasis added).

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In the case at hand, the Respondent had retired as of 07/25/11, but did not file a claim until 12/22/14. As such, the Respondent was not earning any wages for over three years prior to filing the C-4 form. Based upon the analysis in *Howard*, the Respondent is not entitled to receive any disability compensation as he was not earning any wages at the time of his application. Therefore, Respondent is not entitled to the PPD benefits he is seeking.

**i. Any Argument That Permanent Partial Disability Amounts to a Medical Benefit is Unsupportable.**

Consistent with NRS 617.453, payment of medical treatment expenses is proper when a claimant has been impacted by a disabling cancer. The statute does not provide for any other benefits in addition to medical benefits, however. The statute provides in pertinent part:

**NRS 617.453**

4. Compensation awarded to the employee or his or her dependents for disabling cancer pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for **medical treatments**, surgery and hospitalization in accordance with the schedule of fees and charges established pursuant to NRS 616C.260 or, if the insurer has contracted with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract; and

(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.

*See* NRS 617.453(4) (2015).

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The Petitioner/SIE does not contest its responsibility for payment of the medical expenses incurred for treatment of the Respondent/Claimant's prostate cancer and, in fact, did so without issue. However, because permanent partial disability benefits are analogous to the temporary total disability benefits which arise from the same statutes as contemplated in *Howard*, the Petitioner/SIE properly declined to offer a PPD award in this case. Any attempt to argue that a PPD award constitutes medical benefits is unsupportable. The American Medical Association's *Guides to the Evaluation of Permanent Impairment*, Fifth Edition – which has been adopted under NRS 616C.110 – defines **disability** as an alteration of the individual's capacity to meet *personal, social or occupational demands* or statutory or regulatory requirements because of an impairment. *Guides to Evaluation of Permanent Impairment, Fifth Edition*, 1.2b. Nowhere in the Nevada Industrial Insurance Act is a claimant's permanent partial disability defined as a **medical benefit**. Clearly, medical benefit contemplates medical treatments, surgery, hospitalization, physical therapy, and prescriptions; not disability awards such as a PPD award.

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NRS 616C.480 provides further evidence that PPD awards are not medical benefits but rather are analogous to TTD benefits. The statute provides in pertinent part:

**NRS 616C.480**

If an employee who has received compensation in a lump sum for a permanent partial disability is subsequently injured by an accident arising out of and in the course of his or her employment and is thereby entitled to receive compensation for a temporary total disability, the compensation for the subsequent injury may not be reduced because of the receipt of the lump-sum payment *if the subsequent injury is distinct from the previous injury*. [emphasis added]

NRS 616C.480 makes it clear that in an instance where an individual who has received a PPD award is subsequently injured and receives a TTD award, compensation may not be reduced *only* where the subsequent and previous injuries are distinct. The purpose of distinguishing between distinct injuries is obvious; an Injured Employee should not have an award reduced because of an unrelated prior award. However, what is also clear is that where the prior and subsequent injuries are the same, a subsequent TTD award may be reduced as a result of the prior PPD award. If Respondent's assertion that PPD was meant to be a medical benefit, unlike TTD, the statute would not allow for an offset of TTD benefits from a prior PPD award. It is clear the legislature did not intend for PPD award to be a medical benefit and it should not be considered as such.

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**ii. As A Retiree, the Respondent Has No Wages for Calculation of Disability Benefits and is, Therefore, Not Entitled to PPD Benefits.**

Within NRS 617, under the section addressing compensation for disability and death, NRS 617.430 provides in part:

**NRS 617.430 Eligibility; limitations.**

1. Every employee who is disabled or dies because of an occupational disease, as defined in this chapter, arising out of and in the course of employment in the State of Nevada, or the dependents, as that term is defined in chapters 616A to 616D, inclusive, of NRS, of an employee whose death is caused by an occupational disease, are entitled to the compensation provided by those chapters for temporary disability, permanent disability or death, as the facts may warrant ...

*See* NRS 617.430 (2015).

This entitlement must be specifically addressed in light of the Respondent's/Claimant's status as a retiree. Going back to the analysis in *Howard*, the Court first looked at NRS 617.420, which states:

No compensation may be paid under this chapter for disability which does not incapacitate the employee for at least 5 cumulative days within a 20-day period from earning full wages, but if the incapacity extends for 5 or more days within a 20-day period, the compensation must then be computed from the date of disability. The limitations in this section do not apply to medical benefits, which must be paid from the date of application for payment of medical benefits.

*Howard*, 120 P.3d at 411.

The Court then held that when a retired claimant becomes eligible for occupational disease benefits, *the claimant is entitled to receive medical benefits but may not receive any disability compensation if the claimant is not earning any wages*. *Id.* at 412 (emphasis added). The Court's rationale for this ruling is

based on two reasons. First, retirement benefits are not included in NRS 617.050's definition of "compensation" and no other provision suggests that retirement benefits should be included within the meaning of wages.<sup>1</sup> Second, a retiree has usually lost no salary or wages due to the impairment. *Id.*

The Court in *Howard* unequivocally stated that the period immediately preceding the occupational disease is the date from which we **must** calculate disability benefits. *See Howard*, 120 P.3d at 412 (citing *Mirage v. State Dept. of Administration*) (emphasis added). In reaching this conclusion, the Court in *Howard* looked at case law from multiple jurisdictions and appropriately noted that "a retired New Hampshire claimant, like a retired Nevada claimant, is effectively denied disability benefits because his weekly wage calculation amounts to zero." *Id.*

Following the mandatory authority of the *Howard* case, and applying the relevant statutes and regulations, the Respondent's average monthly wage – as calculated pursuant to NAC 616C.435 – amounts to \$0; thereby the PPD award is also \$0. Here, the Respondent's earliest period of disability was the date of diagnosis on 11/07/14. *ROA* at pg. 143. At that time, the Respondent was retired and earning no wage. As stated above, the idea of disability is tied to earning capacity. Therefore, while the Respondent contracted an occupational disease, he

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<sup>1</sup> See NAC 616C.423 (describing items included in average monthly wage but omitting retirement benefits.)

has not been disabled from earning a wage. As such, he is precluded from earning TTD and/or precluded from any entitlement to a PPD award.

Additionally, the Court's ruling in *Howard* can be gleaned from NRS 616C.390(6), which denies TTD or vocational rehabilitation benefits where a claimant has retired. As reasoned: there should be no award for disability benefits where there are no "wages" lost. In fact, a retired claimant maintains his exact same income; unaffected by his occupational injury or disease. In the instance of a permanent partial disability award, going back to the AMA Guides definition, there is no disability to occupational demands where there is no occupational income lost.

The *Howard* Court also comments that the date of disability for Mr. Howard was the date of his heart attack and the date immediately preceding the occupational disease is the date from which disability benefits are properly calculated. *Howard*, 120 P.3d at 412; *see also Mirage v. State. Dept. of Administration*, 110 Nev. 257, 871 P.2d 317 (1994). In other words: disability benefits trigger at the time of disablement. This has been addressed in NRS 617.060 as well as NRS 617.420 (*supra*). NRS 617.060 provides:

**617.060 "Disablement" and "total disablement" defined.**

"Disablement" and "total disablement" are used interchangeably in this chapter and mean the event of becoming physically incapacitated by reason of an occupational disease arising out of and in the course of employment as defined in this chapter *from engaging, for remuneration or profit, in any occupation for which he or she is or becomes reasonably fitted by education,*

*training or experience.*

See NRS 617.060 (2015) (emphasis added).

Further, the Supreme Court of Nevada has considered the issue of disablement as it relates to occupational diseases and held:

[I]n order to become eligible for disability benefits, the employee must be incapacitated by the occupational disease for a least five cumulative days within a twenty-day period **earning full wage**.

See *Mirage v. State Dept. of Admin.*, 110 Nev. at 260, 871 P.2d 317 (1994); see also *Manwill v. Clark County*, 123 Nev. 238, 244 (2007); *Employers Ins. Co. of Nevada v. Daniels*, 122 Nev. 1009, 1014 (2006). Moreover, the Court has stated:

An employee is not entitled to compensation from the mere contraction of an occupational disease. Instead, compensation ... flows from a disablement resulting from such a disease.

See *Daniels*, 122 Nev. at 1027 (internal quotations omitted).

Thus, in looking at the standards of disablement, they are focused on the fact that there must be a loss of ability in earning a wage from an occupation. The *Mirage* Court has indicated that for occupational disease cases, compensation in terms of average monthly wage must be computed from the date of disability. In fact, the Supreme Court of Nevada has definitively held “[o]nly after the employee becomes disabled does it become necessary to look to NRS Chapter 616 for the method of calculating the employee’s average wage.” *Mirage*, 871 P.2d at 319.

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As in the *Howard* case, the Respondent, as a retiree, was properly denied an award for PPD as he has no wages on which to calculate a disability award. His income consists of retirement benefits from the fire department; which is not considered “compensation.” Nor is there evidence of alternate employment. Accordingly, the Respondent was not earning an actual wage as contemplated under NAC 616C.423 from which any disability benefit could be calculated.

**2) Recent Amendments to NRS 617.453 Clearly State that Respondent is only Entitled to Receive Medical Benefits**

Effective July 1, 2019, SB 215 amended NRS 617.453 to include the following language:

*10. A person who files a claim for a disabling cancer pursuant to subsection 7 after he or she retires from employment as a firefighter, investigator of fires or arson, or instructor or officer for the provision of training concerning fire or hazardous materials is not entitled to receive any compensation for that disease other than medical benefits. (emphasis added).*

Given the language referenced in *Howard* as well as the previously-referenced case law, it is clear that the legislature intended to clarify unequivocally what a firefighter who files a claim for a disabling cancer pursuant to subsection 7 is entitled to after retirement, which is specifically the case here. During the 03/22/2019 session before the Senate Committee on Commerce and Labor, it was noted that “[t]he intent is to match the language in the heart and lung statute and to extend coverage for first responders after retirement.” *See Hearing on S.B. 215*

*Before the Senate Comm. on Commerce and Labor, 80<sup>th</sup> Leg.* (Nev, March 22, 2019). Given the stated purpose of the amendment is to match the heart and lung statute (NRS 617.455 and 617.457), a review of the relevant amendments to those statutes is necessary. During the 05/06/2015 session before the Assembly Committee on Commerce and Labor, it was stated that “[o]ne of the things we are doing is putting into statute the heart and lung presumption created by a court ruling. There was another Nevada Supreme Court action that stated that the benefits of *Nevada Revised Statutes* (NRS) 617.455 and 617.457 will be limited only to medical benefits.” *See Hearing on S.B. 153 Before the Assembly Comm. on Commerce and Labor, 78<sup>th</sup> Leg.* (Nev, May 6, 2015).

As stated above, Respondent retired as a firefighter effective 07/25/2011 and filed a claim for disabling cancer pursuant to subsection 7 on 12/22/2014, over three years following his retirement. Based upon the clear language above, as well as the case and statutory law previously cited, as well as the intent of the legislature to limit benefits to medical benefits only, Respondent is *only* entitled to compensation in the form of medical benefits.

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## **XI.** **CONCLUSION**

The Order Denying Petition for Judicial Review of the District Court, dated March 04, 2019, as well as the Appeals Officer's Decision and Order, dated April 19, 2018 are, for the myriad of reasons set forth heretofore erroneous, arbitrary and capricious. Namely, the District Court and ignored and/or misinterpreted controlling case law and statutes in Affirming the Decision and Order of the Appeals Officer ordering the Appellant to offer a PPD award calculated in a manner not provided under statute or controlling law. As such, the March 04, 2018 Order Denying Petition for Judicial Review is predicated upon a clear error of law and/or abuse of discretion. Therefore, the January 24, 2017 determination of the Petitioner should have been Affirmed, and the April 19, 2018 Decision and Order of the Appeals Officer should have been Reversed.

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For the reasons as stated herein, Appellant requests that this Court reverse the Order Denying Petition for Judicial Review from the District Court and further requests that the matter be remanded to the District Court for further proceedings in accordance with this Court's determination.

Dated this 10 day of January, 2020

Respectfully submitted,

HOOKS, MENG & CLEMENT

By:

A handwritten signature in black ink, appearing to read 'Dalton L. Hooks', is written over a horizontal line.

DALTON L. HOOKS, ESQ.

JOHN A CLEMENT, ESQ.

2820 W. Charleston Blvd., Ste. C-23

Las Vegas, NV 89102

Attorneys for Appellant, CLARK COUNTY

**XII.**  
**CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief complies with the formatting requirements of NRAP 32(1)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in Time New Roman 14 point font. I further certify that this brief complies with the type-volume limitations of NRAP 32(a)(7) because, excluding parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionally spaced, has a typeface of 14 points, and contains 4,933 words.

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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), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 10 day of January, 2020.

Respectfully submitted,

HOOKS, MENG & CLEMENT

By:

A handwritten signature in dark ink, appearing to read 'Dalton L. Hooks, Jr.', is written over a horizontal line.

DALTON L. HOOKS, JR., ESQ.

JOHN A. CLEMENT, ESQ.

2820 W. Charleston Blvd., Ste. C-23

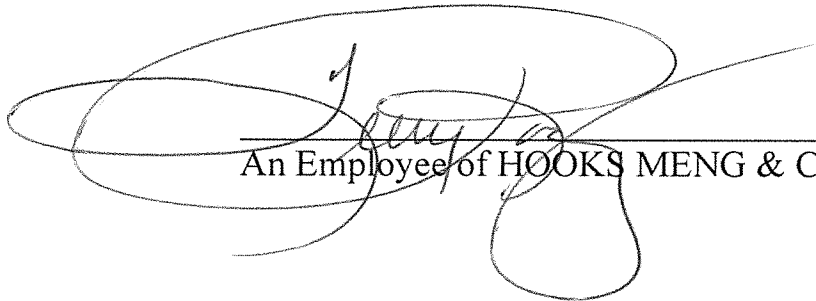
Las Vegas, NV 89102

Attorneys for Appellant, CLARK COUNTY

**XIII.**  
**CERTIFICATE OF SERVICE**

The undersigned, an employee of HOOKS, MENG & CLEMENT hereby certifies that on the 10<sup>th</sup> day of January, 2020, a true and correct copy of **APPELLANT'S OPENING BRIEF**, was served on the party set forth below by Notice of Electronic Filing via the eflex system as maintained by the Court Clerk's Office as follows:

LISA M. ANDERSON, ESQ.  
GREENMAN GOLDBERG RABY & MARTINEZ  
2770 S MARYLAND PARKWAY, SUITE 100  
LAS VEGAS, NV 89110

  
An Employee of HOOKS MENG & CLEMENT