

**CODE: \$2515**

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Electronically Filed  
Jul 10 2019 01:26 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Attorneys for: Silverwing Development, J. Carter Witt III

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
**IN AND FOR THE COUNTY OF WASHOE**

SILVERWING DEVELOPMENT, a Nevada  
corporation; J CARTER WITT III, an individual,

CASE NO.: CV18-00128

DEPT. NO.: 10

Petitioners,

vs.

NEVADA STATE CONTRACTORS BOARD

Respondents.

**Notice of Appeal**

Notice is hereby given that Petitioners Silverwing Development and J Carter Witt III  
(collectively, "Silverwing") appeals to the Nevada Supreme Court from the following:

1. The District Court's June 21, 2019 Order Denying Petition for Judicial Review  
(Attached as Exhibit 1).
2. And from all other orders and judgments made final and appealable by the  
foregoing.

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## Affirmation

The undersigned affirm that this document does not contain any social security numbers.

Dated July 3, 2019.

/s/ Michael S. Kimmel

Michael S. Kimmel

HOY | CHRISSINGER | KIMMEL | VALLAS

Attorneys for Petitioners

## Certificate of Service

I hereby certify that on July 3, 2019, I electronically filed the foregoing with the Clerk of the Court by using the electronic filing system which will send a notice of electronic filing to the following:

### **Respondent**

**NOAH ALLISON, ESQ.** for NEVADA STATE CONTRACTORS BOARD

### **Amicus**

**PHILIP MANNELLY, ESQ.** for ASSOCIATED BUILDERS & CONTRACTORS, INC., NEVADA CHAPTER ASSOCIATED GENERAL CONTRACTORS, SOUTHERN NEVADA HOME BUILDERS ASSOCIATION, SOUTHERN NV CHAPTER OF NATIONAL ELECTRONIC CONTRACTORS ASSOC, SHEET METAL & AIR CONDITIONING CONTRACTORS NATL ASSOC SO. NV, NEVADA CONTRACTORS ASSOCIATION, MECHANICAL CONTRACTORS ASSOCIATION OF LAS VEGAS, NEVADA SUBCONTRACTORS ASSOCIATION, NEVADA ASSOCIATION OF MECHANICAL CONTRACTORS

**EVAN JAMES, ESQ.** for SOUTHERN NV PAINTERS, DECORATORS, & GLAZIERS LMCC

**WESLEY SMITH, ESQ.** for SOUTHERN NV PAINTERS, DECORATORS, & GLAZIERS LMCC

/s/ Shondel Seth

An employee of Hoy | Chrissinger | Kimmel | Vallas PC

## INDEX OF EXHIBITS

<u>Exhibit #</u>	<u>Description</u>	<u># of Pages</u>
Exhibit 1	June 21, 2019 Order	8

FILED  
Electronically  
CV18-00128  
2019-07-03 11:21:19 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7354594 : yvilorla

**Exhibit 1**

**Exhibit 1**

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

\*\*\*

SILVERWING DEVELOPMENT,  
a Nevada corporation; J CARTER  
WITT III, an individual,

Petitioners,

Case No.: CV18-00128

vs.

Dept. No.: 10

NEVADA STATE CONTRACTORS  
BOARD,

Respondent.

**ORDER DENYING PETITION FOR JUDICIAL REVIEW**

Presently before the Court is the PETITION FOR JUDICIAL REVIEW ("the Petition").

The Petition was filed by Petitioners, SILVERWING DEVELOPMENT and J CARTER WITT III (collectively "the Petitioners") on January 17, 2018. The Petitioners filed PETITIONERS' OPENING BRIEF ("the Petitioners' Brief") on April 3, 2018. Respondent NEVADA STATE CONTRACTORS BOARD ("the Respondent") filed RESPONDENT'S ANSWERING BRIEF ("the Respondent's Brief") on May 10, 2018.<sup>1</sup> The Petitioners filed the REPLY TO RESPONDENT'S ANSWERING BRIEF ("the Petitioner's Reply") on June 15, 2018. The Court held a hearing on the matter on September 4, 2018, and took the matter under advisement.

<sup>1</sup> The Southern Nevada Painters and Decorators and Glaziers Labor-Management Cooperation Committee, Nevada Chapter Associated General Contractors, Nevada Association of Mechanical Contractors, Southern Nevada Chapter of National Electronic Contractors' Association, Southern Nevada Home Builders Association, Nevada Contractor's

1 The Petitioners seek judicial review of the Respondent's decision finding the Petitioners in  
2 violation of NRS 624.3013(5) and imposing a \$33,000.00 fine. The Petition Ex. 1, p. 9. The  
3 Petitioners make four arguments: 1) NRS 624.220(2)<sup>2</sup> violates the Petitioners' due process rights  
4 because it is unconstitutionally vague and unconstitutional as-applied; 2) NRS 624.220(2) violates  
5 the Petitioners' right to equal protection because similarly situated licensees were treated  
6 differently; 3) the use of an advisory opinion discussing the ambiguity of "single construction site"  
7 in NRS 624.220(2), ("the Tesla Opinion"), constituted an unconstitutional delegation of legislative  
8 authority; and 4) there is insufficient evidence to support the conclusion the projects at issue are  
9 "subdivisions." The Petitioner's Brief 8:6-7; 14:5-7; 17:13-15; 19:15-16. The Respondent argues:  
10 1) the Administrative Law Judge, the Honorable Phillip M. Pro (Ret.) ("Judge Pro"), properly  
11 invoked and applied NRS 278.320(1) to define "subdivision site;" 2) NRS 624.220(2) is not  
12 unconstitutionally vague because it is clear to individuals of ordinary intelligence and provides  
13 specific standards for its enforcement; and 3) NRS 624.220(2) does not violate the Equal Protection  
14 Clause because it is rationally related to the legitimate purpose of ensuring the financial  
15 responsibility of contractors. The Respondent's Brief 20:5-6; 22:15; 23:23-25; 25:1-2, 22-24. The  
16 Petitioner makes four arguments in response: 1) *Chevron*<sup>3</sup> deference cannot save an  
17 unconstitutionally vague statute; 2) Judge Pro's interpretation of NRS 624.220(2) was unreasonable  
18 because it impermissibly equates "subdivision" and "subdivision site;" 3) severing "subdivision

19 Association, Mechanical Contractor's Association of Las Vegas, Nevada Subcontractor's Association, Sheet Metal and  
20 Air Conditioning Contractors' National Association of Southern Nevada and Associated Builders and Contractors, Inc.  
21 were permitted to participate as amici curiae.

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25 <sup>2</sup> This statute requires the Respondent to establish monetary limits for contractor licenses, with the limit being "the  
26 maximum contract a licensed contractor may undertake on one or more construction contracts on a single construction  
27 site or subdivision site for a single client." NRS 624.220(2).

28 <sup>3</sup> *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837, 104 S. Ct. 2778 (1984) (holding agency  
interpretation of statute it administers will be upheld where Congress has not spoken on issue and interpretation is based  
on permissible construction of statute).

1 site” from the statute does not cure the statute’s unconstitutionality; and 4) the statute is not  
2 rationally related to contractor solvency. The Petitioner’s Reply 3:5-14, 20-27; 6:5-8, 15.

3 NRS 624.3015(3) provides that “knowingly bidding to contract or entering into a contract  
4 with a contractor for work in excess of his or her limit or beyond the scope of his or her license” is  
5 a cause for disciplinary action. On December 17, 2017, Judge Pro filed the Decision (“the  
6 Decision”) which disciplined the Petitioner. Judge Pro found the Petitioner in violation of NRS  
7 624.3015(3), for knowingly entering into a contract with a contractor for work in excess of its  
8 monetary limit, as enumerated in NRS 624.220(2).<sup>4</sup> The Decision, p. 8. Judge Pro found the  
9 Respondent’s definition of “subdivision site” to be reasonable and entitled to deference, and he  
10 determined that the subcontracts were properly aggregated to determine compliance with NRS  
11 624.220(2). *Id.* Judge Pro did not rule on the constitutionality of NRS 624.220(2). Judge Pro  
12 imposed a fine of \$33,000. *Id.* at 9.

13 After reviewing the record, the Court entered the ORDER REGARDING PETITION FOR  
14 JUDICIAL REVIEW on November 8, 2018 (“the November Order”). The November Order denied  
15 the first two arguments in the Petition, finding NRS 624.220(2) violated neither due process nor  
16 equal protection.<sup>5</sup> The November Order 5-7. In regards to the fourth argument, the Court entered a  
17 limited remand, requesting Judge Pro clarify his determination that the Respondent’s definition of  
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25 <sup>4</sup> The Respondent voluntarily dismissed the second cause of action, which alleged violations of NRS 624.3013(5). NRS  
26 624.3013(5) prohibits failing to ascertain that each person whose bid on a construction project the licensee considered is  
27 appropriately licensed as required by NAC 624.640(6). The Respondent also voluntarily dismissed the fourth cause of  
28 action, which alleged violations of NAC 624.640(6).

<sup>5</sup> The third argument was not considered because the Petitioner was not disciplined under the “single construction site”  
language of NRS 624.220(2).



1 “subdivision site” was a reasonable construction of the statute. Judge Pro entered the  
2 CLARIFICATION ON REMAND OF DECISION ENTERED DECEMBER 17, 2017 (“the  
3 Clarification”), on January 18, 2019.

4  
5 In the Clarification, Judge Pro explained that he reconciled the word “site” in NRS  
6 278.320(1) and NRS 624.220(2) by using evidence presented during the hearing on September 28,  
7 2017, and by gauging the Respondent’s understanding the term. The Clarification 2: ¶ 5. Judge  
8 Pro relied primarily on the testimony of Compliance Officer Jeff Gore (“Mr. Gore”) regarding the  
9 importance of geographical location in the determination of whether a project was a “subdivision  
10 site.” Judge Pro also resolved any ambiguity in favor of the Respondent’s understanding, as  
11 adduced through Mr. Gore’s testimony. The Clarification 3: ¶ 3.

12  
13 After reviewing the Clarification, the Court entered the ORDER PERMITTING  
14 SUPPLEMENTAL BRIEFING on April 9, 2019 (“the April Order”). The April Order allowed the  
15 Petitioners and the Respondent to submit limited supplemental briefing in response to the  
16 Clarification. The Respondent filed RESPONDENT’S SUPPLEMENTAL BRIEF (“the RSB”) on  
17 April 30, 2019. The Petitioners filed the SUPPLEMENTAL BRIEF (“the PSB”) on April 30,  
18 2019, and contemporaneously submitted the additional briefing for the Court’s consideration. In  
19 the RSB, the Respondent contends the Clarification reinforces that the Decision merits *Chevron*  
20 deference. The RSB 3-4. The Petitioners contend the Clarification emphasizes the clear error of  
21 law and the constitutional infirmity of NRS 624.220(2). The PSB 2:22-26; 4:22-24; 5:1-18.  
22 Having resolved all other issues in the November Order, this Order is limited to the merits of the  
23 Petition as it relates to the Respondent’s construction of NRS 624.220(2) and the corresponding  
24 definition of “subdivision site.”  
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1 NRS 233B.135 provides:

2 1. Judicial review of a final decision of an agency must be:

3 (a) Conducted by the court without a jury; and

4 (b) Confined to the record.

5  
6 In cases concerning alleged irregularities in procedure before an agency that are not  
7 shown in the record, the court may receive evidence concerning the irregularities.

8 2. The final decision of the agency shall be deemed reasonable and lawful until  
9 reversed or set aside in whole or in part by the court. The burden of proof is on  
10 the party attacking or resisting the decision to show that the final decision is  
11 invalid pursuant to subsection 3.

12 3. The court shall not substitute its judgment for that of the agency as to the weight  
13 of evidence on a question of fact. The court may remand or affirm the final  
14 decision or set it aside in whole or in part if substantial rights of the petitioner  
15 have been prejudiced because the final decision of the agency is:

16 (a) In violation of constitutional or statutory provisions;

17 (b) In excess of the statutory authority of the agency;

18 (c) Made upon unlawful procedure;

19 (d) Affected by other error of law;

20 (e) Clearly erroneous in view of the reliable, probative and substantial  
21 evidence on the whole record; or

22 (f) Arbitrary or capricious or characterized by abuse of discretion.

23 4. As used in this section, "substantial evidence" means evidence which a reasonable  
24 mind might accept as adequate to support a conclusion.

25 A district court cannot substitute its opinion for the agency's opinion on a question of fact. NRS  
26 233B.135(3). Although statutory interpretation is a question of law, the district court defers to the  
27 agency's interpretation of its governing statutes, as long as the interpretation is "within the  
28 language of the statute." *Dep't of Corr. v. Ludwick*, 135 Nev. Adv. Op. 12, 2019 WL 1967162, at  
\*2 (May 2, 2019) (internal citations omitted). *See also N. Lake Tahoe Fire Prot. Dist. v. Bd. of*

1 *Admin. of Subsequent Injury Account*, 134 Nev. Adv. Op. 93, 431 P.3d 39, 42 (2018) (quoting  
2 *Collins Disc. Liquors & Vending v. State*, 106 Nev. 766, 768, 802 P.2d 4, 5 (1990) (“[C]ourts  
3 should not substitute their own construction of a statutory provision for a reasonable interpretation  
4 made by an agency.”). Deference is not warranted if the regulation “conflicts with existing  
5 statutory provisions or exceeds the statutory authority of the agency.” *Nev. Attorney for Injured*  
6 *Workers v. Nev. Self-Insurers Ass’n*, 126 Nev. 74, 83, 225 P.3d 1265, 1271 (2010) (citing *State Div.*  
7 *of Ins. v. State Farm Mut. Auto. Ins. Co.*, 116 Nev. 290, 293, 995 P.2d 482, 485 (2000)).  
8

9         The Court will deny the remaining argument in the Petition because the Respondent’s  
10 interpretation of NRS 624.220(2) is a reasonable construction of the language within the statute. In  
11 attempting to ascertain the definition of “subdivision site,” the Respondent properly referred to  
12 other legislative pronouncements, instead of generating its own definition. In this vein, the  
13 Respondent referred to NRS 278.320(1), a zoning and planning statute.<sup>6</sup> However, the Respondent  
14 contemporaneously recognized the different role of the word “site” in NRS 278.320(1) and NRS  
15 624.220(2). While “site” was a method of division in NRS 278.320(1), the Respondent determined  
16 “site” more properly denoted location, rather than size, in NRS 624.220(1). Mr. Gore’s testimony  
17 emphasized the important role geographic location plays in determining whether a project is a  
18 single subdivision site. For all of these reasons, the Respondent supplied a reasonable definition of  
19 “subdivision site” to which Judge Pro appropriately deferred.  
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23         Second, the Respondent’s definition of “subdivision site” does not conflict with other  
24 statutory provisions and does not exceed the Respondent’s statutory authority. As adduced during  
25 the hearing before Judge Pro, “subdivision site” is not defined anywhere in NRS Chapter 624 or in  
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27 <sup>6</sup> From the Court’s review, the only other definition of “subdivision” is found NRS 119.110. “Subdivision” is defined as  
28 “any land or tract of land in another state, in this state or in a foreign country from which a sale is attempted, which is  
divided or proposed to be divided over any period in 35 or more lots, parcels, units or interests . . . .” NRS 119.110  
governs the sale of subdivided land.

1 an applicable regulation. *Contra Local Gov't Emp.-Mgmt. Relations Bd. v. Educ. Support Emps.*  
2 *Ass'n*, 134 Nev. Adv. Op. 86, 429 P.3d 658, 662-63 (2018) (reversing agency's interpretation of  
3 statute where clearly contradicted by statutory language and applicable regulation). Additionally,  
4 NRS 624.160 vests the Respondent "with all of the functions and duties relating to the  
5 administration of this chapter," including contractor discipline. As such, the Respondent is  
6 empowered to interpret and enforce NRS 624.220. For these reasons, the Respondent's definition  
7 of "subdivision site" does not conflict with other statutory provisions and does not exceed the  
8 Respondent's statutory authority.  
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10  
11 **IT IS ORDERED** that the PETITION FOR JUDICIAL REVIEW is hereby **DENIED**.

12 **DATED** this 21 day of June, 2019.

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15 ELLIOTT A. SATTLER  
16 District Judge  
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1 **CERTIFICATE OF MAILING**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court  
3 of the State of Nevada, County of Washoe; that on this \_\_\_\_ day of June, 2019, I deposited in the  
4 County mailing system for postage and mailing with the United States Postal Service in Reno,  
5 Nevada, a true copy of the attached document addressed to:  
6  
7

8 **CERTIFICATE OF ELECTRONIC SERVICE**

9 I hereby certify that I am an employee of the Second Judicial District Court of the State of  
10 Nevada, in and for the County of Washoe; that on the 21 day of June, 2019, I electronically filed  
11 the foregoing with the Clerk of the Court by using the ECF system which will send a notice of  
12 electronic filing to the following:  
13

14 MICHAEL S. KIMMEL, ESQ.

15 THEODORE CHRISSINGER, ESQ.

16 NOAH G. ALLISON, ESQ.

17 PHILLIP MANNELLY, ESQ.

18 EVAN JAMES, ESQ.  
19  
20

21   
22 Sheila Mansfield  
23 Judicial Assistant  
24  
25  
26  
27  
28

**CODE: 1310**

**HOY | CHRISSINGER | KIMMEL | VALLAS**

Michael S. Kimmel (NV Bar 9081)  
Theodore E. Chrissinger (NV Bar 9528)  
50 W. Liberty St., Suite 840  
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tchrissinger@nevadalaw.com

Attorneys for: Silverwing Development, J. Carter Witt III

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
**IN AND FOR THE COUNTY OF WASHOE**

SILVERWING DEVELOPMENT, a Nevada  
corporation; J CARTER WITT III, an individual,

Petitioners,

vs.

NEVADA STATE CONTRACTORS BOARD

Respondents.

CASE NO.: CV18-00128

DEPT. NO.: 10

**Case Appeal Statement**

1. Name of appellant(s) filing this case appeal statement:  
Silverwing Development; J Carter Witt, III
2. Identify the judge issuing the decision, judgment, or order appealed from:  
The Hon. Elliot Sattler
3. Identify each appellant and the name and address of counsel for each appellant.  
Appellant: Silverwing Development, J Carter Witt, III  
Counsel: Michael S. Kimmel (NV Bar 9081)  
Hoy Chrissinger Kimmel Vallas P.C.

50 W. Liberty Street, Suite 840  
Reno, Nevada 89501

Robert L. Eisenberg (NV Bar 950)  
Lemons, Grundy & Eisenberg  
6005 Plumas St. 3rd Flr  
Reno, Nevada 89519

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):

Respondent: The Nevada State Contractors Board

Appellate Counsel: Unknown

Trial Counsel: Noah G. Allison (NV Bar 6202)  
The Allison Law Firm Chtd.  
3191 East Warm Springs Road  
Las Vegas, Nevada 89120

5. All attorneys identified above are licensed to practice law in Nevada.
6. Appellants were represented by retained counsel in the District Court.
7. Appellants are represented by retained counsel on appeal.
8. Appellants did not seek leave to proceed in forma pauperis, and appellants were not granted leave to proceed in forma pauperis.

9. Indicate the date the proceedings commenced in the District Court:

January 17, 2018 (Petition for Judicial Review)

10. Brief description of the nature of the action and result in the District Court, including the type of judgment or order being appealed and the relief granted by the district court.

The action before the District Court involved a Petition for Judicial Review of an administrative order entered by the Nevada State Contractors Board, in which appellants were found to have violated a Nevada statute. Appellants were fined \$33,000 by the Board and

1 ordered to pay \$28,739 in attorney fees and costs related to purported violations of contractor  
2 licensing law.

3 Appellants contended in the District Court that the statute is unconstitutional both on its  
4 face and as applied to appellants.

5 The District Court disagreed with appellants and denied the petition.

6  
7 11. This case has not previously been the subject of an appeal or an original writ  
8 proceeding in the Supreme Court.

9 12. This appeal does not involve child custody or visitation.

10 13. This appeal is not likely to involve the possibility of settlement.

11 **Affirmation**

12  
13 The undersigned affirm that this document does not contain any social security  
14 numbers.

15 Dated July 3, 2019.

16 /s/ Michael S. Kimmel

17 Michael S. Kimmel

18 HOY | CHRISSINGER | KIMMEL | VALLAS

19 Attorneys for Petitioners / Appellants  
20  
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## Certificate of Service

I hereby certify that on July 3, 2019, I electronically filed the foregoing with the Clerk of the Court by using the electronic filing system which will send a notice of electronic filing to the following:

### **Respondent**

**NOAH ALLISON, ESQ.** for NEVADA STATE CONTRACTORS BOARD

### **Amicus**

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**EVAN JAMES, ESQ.** for SOUTHERN NV PAINTERS, DECORATORS, & GLAZIERS LMCC

**WESLEY SMITH, ESQ.** for SOUTHERN NV PAINTERS, DECORATORS, & GLAZIERS LMCC

/s/ Shondel Seth

An employee of Hoy | Chrissinger | Kimmel | Vallas PC

**SECOND JUDICIAL DISTRICT COURT****STATE OF NEVADA****COUNTY OF WASHOE****Case History - CV18-00128****Case Description: SILVERWING DEV.ET AL VS NV STATE CONTRACTORS (D10)****Case Number: CV18-00128 Case Type: OTHER JUDICIAL REVIEW/APPEAL - Initially Filed On: 1/17/2018****Parties**

<u>Party Type &amp; Name</u>	<u>Party Status</u>
JUDG - ELLIOTT A. SATTLER - D10	Active
PLTF - SILVERWING DEVELOPMENT - @162058	Active
PLTF - J. CARTER WITT III - @122805	Active
DEFT - NEVADA STATE CONTRACTORS BOARD - @1465	Active
ATTY - Mark A. Hutchinson, Esq. - 4639	Active
ATTY - Theodore E. Chrissinger, Esq. - 9528	Active
ATTY - Michael S. Kimmel, Esq. - 9081	Active
ATTY - Wesley J. Smith, Esq. - 11871	Active
ATTY - Paul J. Georgeson, Esq. - 5322	Party ended on: 11/29/2018 12:00:00AM
ATTY - Daniel H. Stewart, Esq. - 11287	Active
ATTY - Noah G. Allison, Esq. - 6202	Active
ATTY - Evan L. James, Esq. - 7760	Active
ATTY - Philip M. Mannelly, Esq. - 14236	Active
REAL - NEVADA CONTRACTORS ASSOCIATION - @1319615	Active
REAL - NEVADA ASSOCIATION OF MECHANICAL CONTRACTORS - @1319612	Active
REAL - NEVADA CHAPTER ASSOCIATED GENERAL CONTRACTORS - @1319611	Active
REAL - MECHANICAL CONTRACTORS ASSOCIATION OF LAS VEGAS - @1319616	Active
REAL - ASSOCIATED BUILDERS & CONTRACTORS, INC. - @1319619	Active
REAL - SOUTHERN NV PAINTERS, DECORATORS, & GLAZIERS LMCC - @1319610	Active
REAL - SOUTHERN NEVADA HOME BUILDERS ASSOCIATION - @1319614	Active
REAL - NEVADA SUBCONTRACTORS ASSOCIATION - @1319617	Active
REAL - SOUTHERN NV CHAPTER OF NATIONAL ELECTRONIC CONTRACTORS ASSOC - @1319618	Active
REAL - SHEET METAL & AIR CONDITIONING CONTRACTORS NATL ASSOC SO. NV - @1319618	Active

**Disposed Hearings**

- 1 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 2/5/2018 at 16:27:00  
Extra Event Text: MOTION FOR STAY OF FINAL DECISION (NO ORDER PROVIDED)  
Event Disposition: S200 - 4/10/2018
- 2 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 2/20/2018 at 16:18:00  
Extra Event Text: REQUEST FOR LEAVE TO PARTICIPATE IN PROCEEDINGS AS AMICUS CURIAE FILED 2/02/18  
Event Disposition: S200 - 4/2/2018
- 3 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 3/16/2018 at 15:53:00  
Extra Event Text: 1) MOTION TO STRIKE SILVERWING'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR STAY OF FINAL DECISION; AND 2) ALTERNATIVE DISPUTE RESOLUTION  
Event Disposition: S200 - 4/10/2018
- 4 Department: D10 -- Event: HEARING... -- Scheduled Date & Time: 4/9/2018 at 14:00:00  
Extra Event Text: HEARING ON LEAVE TO PARTICIPATE AMICUS CURIAE (1 HOUR)(COURT REPORTER REQUESTED BY PARTIES)  
Event Disposition: D425 - 4/9/2018

- 5 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 6/27/2018 at 11:22:00  
Extra Event Text: BRIEFING  
Event Disposition: S200 - 7/2/2018
- 6 Department: D10 -- Event: HEARING... -- Scheduled Date & Time: 9/4/2018 at 13:30:00  
Extra Event Text: HEARING ON PETITION FOR JUDICIAL REVIEW (1:30-5:00)(COURT REPT. REQUESTED BY PARTIES)  
Event Disposition: D840 - 9/4/2018
- 7 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 9/4/2018 at 16:21:00  
Extra Event Text: (COURT TOOK PETITION FOR JUDICIAL REVIEW UNDER ADVISEMENT AT THE CONCLUSION OF THE HEARING ON 9/4/18.)  
Event Disposition: S200 - 11/8/2018
- 8 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 1/24/2019 at 15:40:00  
Extra Event Text: CLARIFICATION ON REMAND OF DECISION (NO ORDER PROVIDED)  
Event Disposition: S200 - 4/9/2019
- 9 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 5/1/2019 at 09:50:00  
Extra Event Text: PETITION FOR JUDICIAL REVIEW  
Event Disposition: S200 - 6/21/2019

### Actions

- |    | <u>Filing Date</u> | <u>-</u> | <u>Docket Code &amp; Description</u>  |
|----|--------------------|----------|---|
| 1  | 1/17/2018          | -        | 2490 - Motion ...<br>Additional Text: Motion for Stay of Final Decision - Transaction 6483451 - Approved By: YVILORIA : 01-17-2018:11:18:30   |
| 2  | 1/17/2018          | -        | 2610 - Notice ...<br>Additional Text: Notice of Petition for Judicial Review - Transaction 6483451 - Approved By: YVILORIA : 01-17-2018:11:18:30  |
| 3  | 1/17/2018          | -        | \$PLTF - \$Addl Plaintiff/Complaint<br>Additional Text: J CARTER WITT III - Transaction 6483451 - Approved By: YVILORIA : 01-17-2018:11:18:30   |
| 4  | 1/17/2018          | -        | \$3550 - \$Pet for Judicial Review<br>Additional Text: Transaction 6483451 - Approved By: YVILORIA : 01-17-2018:11:18:30  |
| 5  | 1/17/2018          | -        | PAYRC - **Payment Receipted<br>Additional Text: A Payment of \$290.00 was made on receipt DCDC597699.   |
| 6  | 1/23/2018          | -        | 1005 - Acceptance of Service<br>Additional Text: NOAH ALLISON ESQ OBO NEVADA STATE CONTRACTORS BOARD - Transaction 6494166 - Approved By: CSULEZIC : 01-23-2018:13:48:20  |
| 7  | 1/23/2018          | -        | NEF - Proof of Electronic Service<br>Additional Text: Transaction 6494236 - Approved By: NOREVIEW : 01-23-2018:13:49:13   |
| 8  | 1/24/2018          | -        | BOND - **Cash Bond Posted -Civil/Prob<br>Additional Text: Bond ID: BOND-18-00002; Total Bond Amount: \$5,000.00.<br><br>Bond Code, BOND, Receipted for: Kimmel, Esq., Michael S., on 24-JAN-2018 in the amount of \$5,000.00 on case ID CV18-00128. |
| 9  | 1/25/2018          | -        | 2880 - Ord for Briefing Schedule<br>Additional Text: Transaction 6498573 - Approved By: NOREVIEW : 01-25-2018:11:54:12  |
| 10 | 1/25/2018          | -        | NEF - Proof of Electronic Service<br>Additional Text: Transaction 6498574 - Approved By: NOREVIEW : 01-25-2018:11:55:02   |

- 11 1/25/2018 - 2610 - Notice ...  
Additional Text: Notice of Filing Cash Bond - Transaction 6498841 - Approved By: SWILLIAM : 01-25-2018:13:41:28
- 12 1/25/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6498885 - Approved By: NOREVIEW : 01-25-2018:13:42:13
- 13 1/26/2018 - 2520 - Notice of Appearance  
Additional Text: NOAH G. ALLISON ESQ / RESP NEVADA STATE CONTRACTORS BOARD - Transaction 6501522 - Approved By: YVILORIA : 01-26-2018:15:09:42
- 14 1/26/2018 - 2645 - Opposition to Mtn ...  
Additional Text: DFX: EXHIBIT PRESENTED INCORRECTLY - LIMITED OPPOSITION TO MOTION FOR STAY OF FINAL DECISION - Transaction 6501522 - Approved By: YVILORIA : 01-26-2018:15:09:42
- 15 1/26/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6501744 - Approved By: NOREVIEW : 01-26-2018:15:10:26
- 16 2/2/2018 - 3870 - Request  
Additional Text: REQUEST FOR LEAVE TO PARTICIPATE IN PROCEEDINGS AS AMICUS CURIAE - Transaction 6513488 - Approved By: PMSEWELL : 02-05-2018:09:10:08
- 17 2/2/2018 - \$1560 - \$Def 1st Appearance - CV  
Additional Text: NEVADA CHAPTER ASSOCIATED GENERAL CONTRACTORS - Transaction 6513488 - Approved By: PMSEWELL : 02-05-2018:09:10:08
- 18 2/2/2018 - \$DEFT - \$Addl Def/Answer - Prty/Appear  
Additional Text: ASSOCIATED BUILDERS & CONTRACTORS, INC. - Transaction 6513488 - Approved By: PMSEWELL : 02-05-2018:09:10:08
- 19 2/2/2018 - \$DEFT - \$Addl Def/Answer - Prty/Appear  
Additional Text: SHEET METAL & AIR CONDITIONING CONTRACTORS NATL ASSOC SO. NV - Transaction 6513488 - Approved By: PMSEWELL : 02-05-2018:09:10:08
- 20 2/2/2018 - \$DEFT - \$Addl Def/Answer - Prty/Appear  
Additional Text: NEVADA SUBCONTRACTORS ASSOCIATION - Transaction 6513488 - Approved By: PMSEWELL : 02-05-2018:09:10:08
- 21 2/2/2018 - \$DEFT - \$Addl Def/Answer - Prty/Appear  
Additional Text: MECHANICAL CONTRACTORS ASSOCIATION OF LAS VEGAS - Transaction 6513488 - Approved By: PMSEWELL : 02-05-2018:09:10:08
- 22 2/2/2018 - \$DEFT - \$Addl Def/Answer - Prty/Appear  
Additional Text: NEVADA CONTRACTORS ASSOCIATION - Transaction 6513488 - Approved By: PMSEWELL : 02-05-2018:09:10:08
- 23 2/2/2018 - \$DEFT - \$Addl Def/Answer - Prty/Appear  
Additional Text: SOUTHERN NEVADA HOME BUILDERS ASSOCIATION - Transaction 6513488 - Approved By: PMSEWELL : 02-05-2018:09:10:08
- 24 2/2/2018 - \$DEFT - \$Addl Def/Answer - Prty/Appear  
Additional Text: SOUTHERN NV CHAPTER OF NATIONAL ELECTRONIC CONTRACTORS ASSOC - Transaction 6513488 - Approved By: PMSEWELL : 02-05-2018:09:10:08
- 25 2/2/2018 - \$DEFT - \$Addl Def/Answer - Prty/Appear  
Additional Text: NEVADA ASSOCIATION OF MECHANICAL CONTRACTORS - Transaction 6513488 - Approved By: PMSEWELL : 02-05-2018:09:10:08
- 26 2/5/2018 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of \$453.00 was made on receipt DCDC599516.
- 27 2/5/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6514079 - Approved By: NOREVIEW : 02-05-2018:09:11:04

- 28 2/5/2018 - 3790 - Reply to/in Opposition  
Additional Text: REPLY IN SUPPORT OF MOTION FOR STAY OF FINAL DECISION - Transaction 6514544 - Approved By: PMSEWELL : 02-05-2018:13:20:45
- 29 2/5/2018 - 2610 - Notice ...  
Additional Text: Notice of Intent to Participate as Amicus Curiae - Transaction 6514641 - Approved By: PMSEWELL : 02-05-2018:13:43:21
- 30 2/5/2018 - \$1560 - \$Def 1st Appearance - CV  
Additional Text: SOUTHERN NEVADA PAINTERS, DECORATORS AND GLAZIERS LMCC - Transaction 6514641 - Approved By: PMSEWELL : 02-05-2018:13:43:21
- 31 2/5/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6515209 - Approved By: NOREVIEW : 02-05-2018:13:21:59
- 32 2/5/2018 - 3860 - Request for Submission  
Additional Text: - Transaction 6515227 - Approved By: PMSEWELL : 02-05-2018:16:25:58  
DOCUMENT TITLE: MOTION FOR STAY OF FINAL DECISION (NO ORDER PROVIDED)  
PARTY SUBMITTING: THEODORE CHRISSINGER, ESQ.  
DATE SUBMITTED: FEBRUARY 5, 2018  
SUBMITTED BY: PMSEWELL  
DATE RECEIVED JUDGE OFFICE:
- 33 2/5/2018 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of \$213.00 was made on receipt DCDC599600.
- 34 2/5/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6515279 - Approved By: NOREVIEW : 02-05-2018:13:44:20
- 35 2/5/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6516251 - Approved By: NOREVIEW : 02-05-2018:16:27:10
- 36 2/6/2018 - 2475 - Mtn to Strike...  
Additional Text: NEVADA STATE CONTRACTORS BOARDS 1) MOTION TO STRIKE SILVERWING'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR STAY OF FINAL DECISION AND 2) ALTERNATIVE MOTION FOR LEAVE TO FILE SUR-REPLY - Transaction 6516860 - Approved By: YVILORIA : 02-06-2018:10:16:28
- 37 2/6/2018 - 2475 - Mtn to Strike...  
Additional Text: (1) Silverwing's Reply Memorandum in Support of Motion for Stay of Final Decision; and (2) Alternative Motion for Leave to file Sur-Reply - Transaction 6516916 - Approved By: YVILORIA : 02-06-2018:10:26:24
- 38 2/6/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6517058 - Approved By: NOREVIEW : 02-06-2018:10:17:31
- 39 2/6/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6517095 - Approved By: NOREVIEW : 02-06-2018:10:27:45
- 40 2/9/2018 - 2650 - Opposition to ...  
Additional Text: Opposition to Request for Leave to Participate in Proceedings As Amicus Curiae re AGC - Transaction 6525808 - Approved By: CSULEZIC : 02-12-2018:08:36:32
- 41 2/9/2018 - 2650 - Opposition to ...  
Additional Text: Opposition to Mtn to Strike Reply Memorandum ISO Mtn for Stay of Final Decision - Transaction 6525808 - Approved By: CSULEZIC : 02-12-2018:08:36:32
- 42 2/9/2018 - 2650 - Opposition to ...  
Additional Text: Opposition to Notice of Intent to Participate as Amicus Curiae re LMCC - Transaction 6525808 - Approved By: CSULEZIC : 02-12-2018:08:36:32
- 43 2/12/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6526440 - Approved By: NOREVIEW : 02-12-2018:08:37:34

- 44 2/12/2018 - 3960 - Statement Intent Participate  
Additional Text: Transaction 6526608 - Approved By: PMSEWELL : 02-12-2018:10:49:48
- 45 2/12/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6526890 - Approved By: NOREVIEW : 02-12-2018:10:50:38
- 46 2/15/2018 - 3790 - Reply to/in Opposition  
Additional Text: REPLY TO OPPOSITION TO NOTICE OF INTENT TO PARTICIPATE AS AMICUS CURIAE - Transaction 6535019 - Approved By: YVILORIA : 02-15-2018:14:52:34
- 47 2/15/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6535390 - Approved By: NOREVIEW : 02-15-2018:14:53:50
- 48 2/20/2018 - 3795 - Reply...  
Additional Text: REPLY IN SUPPORT OF REQUEST FOR LEAVE TO PARTICIPATE IN PROCEEDINGS AS AMICUS CURIAE - Transaction 6540097 - Approved By: YVILORIA : 02-20-2018:15:39:47
- 49 2/20/2018 - 3860 - Request for Submission  
Additional Text: REQUEST FOR LEAVE TO PARTICIPATE IN PROCEEDINGS AS AMICUS CURIAE FILED 2/02/18 - Transaction 6540108 - Approved By: CSULEZIC : 02-20-2018:15:20:28  
PARTY SUBMITTING: PHILLIP MANNELLY ESQ  
DATE SUBMITTED: 2/20/18  
SUBMITTED BY: CS  
DATE RECEIVED JUDGE OFFICE:
- 50 2/20/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6540359 - Approved By: NOREVIEW : 02-20-2018:15:21:26
- 51 2/20/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6540470 - Approved By: NOREVIEW : 02-20-2018:15:40:55
- 52 2/23/2018 - 2610 - Notice ...  
Additional Text: DFX: EXHIBITS PRESENTED INCORRECTLY - NOTICE OF TRANSMITTAL OF RECORD OF PROCEEDINGS - Transaction 6546118 - Approved By: YVILORIA : 02-23-2018:09:59:25
- 53 2/23/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6546447 - Approved By: NOREVIEW : 02-23-2018:10:03:01
- 54 3/16/2018 - 3860 - Request for Submission  
Additional Text: Transaction 6581957 - Approved By: YVILORIA : 03-16-2018:15:49:55  
DOCUMENT TITLE: 1) MOTION TO STRIKE SILVERWING'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR STAY OF FINAL DECISION; AND 2) ALTERNATIVE MOTION FOR LEAVE TO FILE SUR-REPLY  
PARTY SUBMITTING: NOAH G ALLISON ESQ  
DATE SUBMITTED: MAR 16, 2018  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 55 3/16/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6581963 - Approved By: NOREVIEW : 03-16-2018:15:52:08
- 56 4/2/2018 - 3347 - Ord to Set  
Additional Text: ORDER TO SET HEARING ON AMICUS CURIAE - Transaction 6607865 - Approved By: NOREVIEW : 04-02-2018:15:02:20
- 57 4/2/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6607873 - Approved By: NOREVIEW : 04-02-2018:15:03:19
- 58 4/2/2018 - S200 - Request for Submission Complet  
Additional Text: HEARING TO BE SET

- 59 4/2/2018 - 2610 - Notice ...  
Additional Text: Notice of Filing Transcript of September 28, 2017 Administrative Hearing - Transaction 6608609 - Approved By: PMSEWELL : 04-03-2018:09:49:59
- 60 4/3/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6608945 - Approved By: NOREVIEW : 04-03-2018:09:50:55
- 61 4/3/2018 - 1250E - Application for Setting eFile  
Additional Text: FOR HEARING ON LEAVE TO PARTICIPATE AMICUS CURIAE SET FOR APRIL 9, 2018, AT 2:00 P.M. - Transaction 6609838 - Approved By: NOREVIEW : 04-03-2018:13:41:35
- 62 4/3/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6609850 - Approved By: NOREVIEW : 04-03-2018:13:42:57
- 63 4/3/2018 - 2640 - Opening Brief  
Additional Text: Petitioners' Opening Brief - Transaction 6610515 - Approved By: YVILORIA : 04-03-2018:16:19:16
- 64 4/3/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6610657 - Approved By: NOREVIEW : 04-03-2018:16:21:46
- 65 4/10/2018 - 3025 - Ord Granting/Denying in Part  
Additional Text: ORDER GRANTING MOTION FOR STAY OF FINAL DECISION; ORDER DENYING NEVADA STATE CONTRACTOR'S BOARD'S MOTION TO STRIKE - Transaction 6620246 - Approved By: NOREVIEW : 04-10-2018:09:11:15
- 66 4/10/2018 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 67 4/10/2018 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 68 4/10/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6620249 - Approved By: NOREVIEW : 04-10-2018:09:12:14
- 69 4/10/2018 - MIN - \*\*\*Minutes  
Additional Text: 4/9/18 HEARING ON AMICUS CURIAE PARTICIPATION - Transaction 6620585 - Approved By: NOREVIEW : 04-10-2018:10:29:25
- 70 4/10/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6620588 - Approved By: NOREVIEW : 04-10-2018:10:30:16
- 71 4/18/2018 - 3105 - Ord Granting ...  
Additional Text: ORDER GRANTING PERMISSION FOR CONSTRUCTION TRADE ASSOCIATION AND LMCC'S PARTICIPATION IN THE PETITION FOR JUDICIAL REVIEW AS AMICUS CURIAE - Transaction 6636932 - Approved By: NOREVIEW : 04-18-2018:16:35:36
- 72 4/18/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6636937 - Approved By: NOREVIEW : 04-18-2018:16:36:51
- 73 5/2/2018 - 4047 - Stip Extension of Time ...  
Additional Text: STIPULATION TO EXTEND DEADLINE - Transaction 6658252 - Approved By: CVERA : 05-02-2018:09:56:50
- 74 5/2/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6658501 - Approved By: NOREVIEW : 05-02-2018:09:57:56
- 75 5/3/2018 - 3030 - Ord Granting Extension Time  
Additional Text: ORDER GRANTING EXTENSION OF TIME TO FILE FILE ANSWERING BRIEF TO PETITION FOR JUDICIAL REVIEW - Transaction 6661088 - Approved By: NOREVIEW : 05-03-2018:09:56:32

- 76 5/3/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6661089 - Approved By: NOREVIEW : 05-03-2018:09:57:30
- 77 5/3/2018 - 2540 - Notice of Entry of Ord  
Additional Text: Granting Stipulation to Extend Deadline - Transaction 6661538 - Approved By: NOREVIEW : 05-03-2018:11:45:16
- 78 5/3/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6661545 - Approved By: NOREVIEW : 05-03-2018:11:46:25
- 79 5/7/2018 - 4105 - Supplemental ...  
Additional Text: AMICUS CURIAE BRIEF OF THE CONSTRUCTION TRADE ASSOCIATIONS - Transaction 6667158 - Approved By: YVILORIA : 05-08-2018:08:29:21
- 80 5/7/2018 - 1960 - Memorandum ...  
Additional Text: LMCC's Amicus Brief Supporting Respondent - Transaction 6667402 - Approved By: JAPARICI : 05-08-2018:08:31:52
- 81 5/8/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6667567 - Approved By: NOREVIEW : 05-08-2018:08:30:16
- 82 5/8/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6667576 - Approved By: NOREVIEW : 05-08-2018:08:32:57
- 83 5/10/2018 - 1170 - Answering Brief  
Additional Text: Respondent's - Transaction 6673681 - Approved By: PMSEWELL : 05-10-2018:14:07:04
- 84 5/10/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6673713 - Approved By: NOREVIEW : 05-10-2018:14:08:36
- 85 5/24/2018 - 3785 - Reply Brief  
Additional Text: Reply to Amicus Curiae Brief - Transaction 6695480 - Approved By: PMSEWELL : 05-24-2018:09:16:45
- 86 5/24/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6695712 - Approved By: NOREVIEW : 05-24-2018:09:18:08
- 87 6/7/2018 - 3980 - Stip and Order...  
Additional Text: STIPULATION AND ORDER TO EXTEND TIME TO FILE REPLY BRIEF - Transaction 6718295 - Approved By: NOREVIEW : 06-07-2018:14:17:20
- 88 6/7/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6718313 - Approved By: NOREVIEW : 06-07-2018:14:20:44
- 89 6/15/2018 - 3790 - Reply to/in Opposition  
Additional Text: REPLY TO RESPONDENT'S ANSWERING BRIEF - Transaction 6731154 - Approved By: JAPARICI : 06-15-2018:12:51:21
- 90 6/15/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6731186 - Approved By: NOREVIEW : 06-15-2018:12:52:14
- 91 6/27/2018 - 3860 - Request for Submission  
Additional Text: Transaction 6749461 - Approved By: YVILORIA : 06-27-2018:11:20:33  
DOCUMENT TITLE: BRIEFING  
PARTY SUBMITTING: MICHAEL S KIMMEL ESQ  
DATE SUBMITTED: JUN 27, 2018  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 92 6/27/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6749536 - Approved By: NOREVIEW : 06-27-2018:11:22:04



- 93 7/2/2018 - 3347 - Ord to Set  
Additional Text: ORDER TO SET HEARING ON PETITIONER'S BRIEF - Transaction 6757082 - Approved By: NOREVIEW : 07-02-2018:13:34:39
- 94 7/2/2018 - S200 - Request for Submission Complet  
Additional Text: ON PETITIONER'S OPENING BRIEF-ORDER TO SET HEARING FILED JULY 2, 2018
- 95 7/2/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6757084 - Approved By: NOREVIEW : 07-02-2018:13:35:39
- 96 7/17/2018 - 1250E - Application for Setting eFile  
Additional Text: FOR HEARING ON PETITION FOR JUDICIAL REVIEW SET FOR SEPTEMBER 4, 2018, AT 1:30 P.M. - Transaction 6780183 - Approved By: NOREVIEW : 07-17-2018:11:49:16
- 97 7/17/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6780192 - Approved By: NOREVIEW : 07-17-2018:11:50:29
- 98 9/4/2018 - MIN - \*\*\*Minutes  
Additional Text: 9/4/18 - HRG ON PETITION FOR JUDICIAL REVIEW - Transaction 6862730 - Approved By: NOREVIEW : 09-04-2018:16:46:27
- 99 9/4/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6862732 - Approved By: NOREVIEW : 09-04-2018:16:47:18
- 100 9/18/2018 - 4185 - Transcript  
Additional Text: Hearing on Petition for Judicial Review - Transaction 6884397 - Approved By: NOREVIEW : 09-18-2018:09:25:45
- 101 9/18/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6884399 - Approved By: NOREVIEW : 09-18-2018:09:26:46
- 102 11/8/2018 - 3201 - Ord Remanding ...  
Additional Text: ORDER REMANDING FOR CLARIFICATION ON PETITION FOR JUDICIAL REVIEW - Transaction 6968206 - Approved By: NOREVIEW : 11-08-2018:10:18:00
- 103 11/8/2018 - S200 - Request for Submission Complet  
Additional Text: ORDER REMANDING FOR CLARIFICATION FILED NOVEMBER 8, 2018
- 104 11/8/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6968216 - Approved By: NOREVIEW : 11-08-2018:10:21:21
- 105 11/15/2018 - 2540 - Notice of Entry of Ord  
Additional Text: Regarding Petition For Judicial Review - Transaction 6978507 - Approved By: NOREVIEW : 11-15-2018:11:45:27
- 106 11/15/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6978511 - Approved By: NOREVIEW : 11-15-2018:11:46:34
- 107 11/29/2018 - 2610 - Notice ...  
Additional Text: NOTICE OF DISASSOCIATION - PAUL GEORGESON, ESQ. WITHDRAWS - Transaction 6998269 - Approved By: PMSEWELL : 11-29-2018:13:22:19
- 108 11/29/2018 - NEF - Proof of Electronic Service  
Additional Text: Transaction 6998336 - Approved By: NOREVIEW : 11-29-2018:13:24:09
- 109 1/24/2019 - 2545 - Notice of Entry ...  
Additional Text: of Clarification on Remand of Decision Entered December 17, 2017 - Transaction 7082666 - Approved By: NOREVIEW : 01-24-2019:10:04:36

- 110 1/24/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7082680 - Approved By: NOREVIEW : 01-24-2019:10:06:20
- 111 1/24/2019 - 3860 - Request for Submission  
Additional Text: Transaction 7084040 - Approved By: BVIRREY : 01-24-2019:15:41:07  
DOCUMENT TITLE: CLARIFICATION ON REMAND OF DECISION (NO ORDER PROVIDED)  
PARTY SUBMITTING: ALLISON LAW FIRM  
DATE SUBMITTED: 01/24/2019  
SUBMITTED BY: BVIRREY  
DATE RECEIVED JUDGE OFFICE:
- 112 1/24/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7084358 - Approved By: NOREVIEW : 01-24-2019:15:43:08
- 113 4/9/2019 - 3370 - Order ...  
Additional Text: ORDER PERMITTING SUPPLEMENTAL BRIEFING ON PETITION FOR JUDICIAL REVIEW - Transaction 7208247 - Approved By: NOREVIEW : 04-09-2019:10:10:58
- 114 4/9/2019 - S200 - Request for Submission Complet  
Additional Text: ORDER PERMITTING SUPPLEMENTAL BRIEFING FILED APRIL 9, 2019
- 115 4/9/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7208250 - Approved By: NOREVIEW : 04-09-2019:10:11:57
- 116 4/22/2019 - 3980 - Stip and Order...  
Additional Text: STIPULATION AND ORDER TO EXTEND TIME TO FILE REPLY BRIEF - Transaction 7230092 - Approved By: NOREVIEW : 04-22-2019:08:08:25
- 117 4/22/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7230096 - Approved By: NOREVIEW : 04-22-2019:08:09:13
- 118 4/30/2019 - 4105 - Supplemental ...  
Additional Text: RESPONDENT'S SUPPLEMENTAL BRIEF - Transaction 7245070 - Approved By: YVILORIA : 04-30-2019:14:38:51
- 119 4/30/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7245560 - Approved By: NOREVIEW : 04-30-2019:14:41:58
- 120 4/30/2019 - 4105 - Supplemental ...  
Additional Text: SUPPLEMENTAL BRIEF - Transaction 7245588 - Approved By: YVILORIA : 04-30-2019:15:43:52
- 121 4/30/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7245851 - Approved By: NOREVIEW : 04-30-2019:15:45:21
- 122 5/1/2019 - 3860 - Request for Submission  
Additional Text: REQUEST FOR SUBMISSION OF PETITION FOR JUDICIAL REVIEW - Transaction 7246636 - Approved By: YVILORIA : 05-01-2019:09:49:26  
DOCUMENT TITLE: PETITION FOR JUDICIAL REVIEW  
PARTY SUBMITTING: MICHAEL KIMMEL ESQ  
DATE SUBMITTED: 5-1-19  
SUBMITTED BY: YV  
DATE RECEIVED JUDGE OFFICE:
- 123 5/1/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7246896 - Approved By: NOREVIEW : 05-01-2019:09:50:44
- 124 6/21/2019 - 2840 - Ord Denying ...  
Additional Text: ORDER DENYING PETITION FOR JUDICIAL REVIEW - Transaction 7334963 - Approved By: NOREVIEW : 06-21-2019:13:40:51

- 125 6/21/2019 - S200 - Request for Submission Complet  
Additional Text: ORDER DENYING PETITION FOR JUDICIAL REVIEW FILED JUNE 21, 2019
- 126 6/21/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7334966 - Approved By: NOREVIEW : 06-21-2019:13:41:50
- 127 7/3/2019 - 2610 - Notice ...  
Additional Text: NOTICE OF POSTING BOND FOR COSTS ON APPEAL - Transaction 7354594 - Approved By: YVILORIA : 07-03-2019:11:36:05
- 128 7/3/2019 - 1310 - Case Appeal Statement  
Additional Text: CASE APPEAL STATEMENT - Transaction 7354594 - Approved By: YVILORIA : 07-03-2019:11:36:05
- 129 7/3/2019 - \$2515 - \$Notice/Appeal Supreme Court  
Additional Text: NOTICE OF APPEAL - Transaction 7354594 - Approved By: YVILORIA : 07-03-2019:11:36:05
- 130 7/3/2019 - SAB - \*\*Supreme Court Appeal Bond  
Additional Text: Transaction 7354605 - Approved By: YVILORIA : 07-03-2019:11:37:27
- 131 7/3/2019 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of \$34.00 was made on receipt DCDC640966.
- 132 7/3/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7354713 - Approved By: NOREVIEW : 07-03-2019:11:37:36
- 133 7/3/2019 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of \$500.00 was made on receipt DCDC640967.
- 134 7/3/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7354741 - Approved By: NOREVIEW : 07-03-2019:11:40:20
- 135 7/3/2019 - 2540 - Notice of Entry of Ord  
Additional Text: Transaction 7355367 - Approved By: NOREVIEW : 07-03-2019:14:06:59
- 136 7/3/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7355371 - Approved By: NOREVIEW : 07-03-2019:14:07:59
- 137 7/5/2019 - 1350 - Certificate of Clerk  
Additional Text: CERTIFICIATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 7356630 - Approved By: NOREVIEW : 07-05-2019:08:25:40
- 138 7/5/2019 - NEF - Proof of Electronic Service  
Additional Text: Transaction 7356631 - Approved By: NOREVIEW : 07-05-2019:08:26:38

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

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SILVERWING DEVELOPMENT,  
a Nevada corporation; J CARTER  
WITT III, an individual,

Petitioners,

Case No.: CV18-00128

vs.

Dept. No.: 10

NEVADA STATE CONTRACTORS  
BOARD,

Respondent.

**ORDER DENYING PETITION FOR JUDICIAL REVIEW**

Presently before the Court is the PETITION FOR JUDICIAL REVIEW ("the Petition").

The Petition was filed by Petitioners, SILVERWING DEVELOPMENT and J CARTER WITT III (collectively "the Petitioners") on January 17, 2018. The Petitioners filed PETITIONERS' OPENING BRIEF ("the Petitioners' Brief") on April 3, 2018. Respondent NEVADA STATE CONTRACTORS BOARD ("the Respondent") filed RESPONDENT'S ANSWERING BRIEF ("the Respondent's Brief") on May 10, 2018.<sup>1</sup> The Petitioners filed the REPLY TO RESPONDENT'S ANSWERING BRIEF ("the Petitioner's Reply") on June 15, 2018. The Court held a hearing on the matter on September 4, 2018, and took the matter under advisement.

<sup>1</sup> The Southern Nevada Painters and Decorators and Glaziers Labor-Management Cooperation Committee, Nevada Chapter Associated General Contractors, Nevada Association of Mechanical Contractors, Southern Nevada Chapter of National Electronic Contractors' Association, Southern Nevada Home Builders Association, Nevada Contractor's

1 The Petitioners seek judicial review of the Respondent's decision finding the Petitioners in  
2 violation of NRS 624.3013(5) and imposing a \$33,000.00 fine. The Petition Ex. 1, p. 9. The  
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7 in NRS 624.220(2), ("the Tesla Opinion"), constituted an unconstitutional delegation of legislative  
8 authority; and 4) there is insufficient evidence to support the conclusion the projects at issue are  
9 "subdivisions." The Petitioner's Brief 8:6-7; 14:5-7; 17:13-15; 19:15-16. The Respondent argues:  
10 1) the Administrative Law Judge, the Honorable Phillip M. Pro (Ret.) ("Judge Pro"), properly  
11 invoked and applied NRS 278.320(1) to define "subdivision site;" 2) NRS 624.220(2) is not  
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28 <sup>3</sup> *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837, 104 S. Ct. 2778 (1984) (holding agency  
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22 Having resolved all other issues in the November Order, this Order is limited to the merits of the  
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1 NRS 233B.135 provides:

2 1. Judicial review of a final decision of an agency must be:

3 (a) Conducted by the court without a jury; and

4 (b) Confined to the record.

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6 In cases concerning alleged irregularities in procedure before an agency that are not  
7 shown in the record, the court may receive evidence concerning the irregularities.

8 2. The final decision of the agency shall be deemed reasonable and lawful until  
9 reversed or set aside in whole or in part by the court. The burden of proof is on  
10 the party attacking or resisting the decision to show that the final decision is  
11 invalid pursuant to subsection 3.

12 3. The court shall not substitute its judgment for that of the agency as to the weight  
13 of evidence on a question of fact. The court may remand or affirm the final  
14 decision or set it aside in whole or in part if substantial rights of the petitioner  
15 have been prejudiced because the final decision of the agency is:

16 (a) In violation of constitutional or statutory provisions;

17 (b) In excess of the statutory authority of the agency;

18 (c) Made upon unlawful procedure;

19 (d) Affected by other error of law;

20 (e) Clearly erroneous in view of the reliable, probative and substantial  
21 evidence on the whole record; or

22 (f) Arbitrary or capricious or characterized by abuse of discretion.

23 4. As used in this section, "substantial evidence" means evidence which a reasonable  
24 mind might accept as adequate to support a conclusion.

25 A district court cannot substitute its opinion for the agency's opinion on a question of fact. NRS  
26 233B.135(3). Although statutory interpretation is a question of law, the district court defers to the  
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6 *Workers v. Nev. Self-Insurers Ass’n*, 126 Nev. 74, 83, 225 P.3d 1265, 1271 (2010) (citing *State Div.*  
7 *of Ins. v. State Farm Mut. Auto. Ins. Co.*, 116 Nev. 290, 293, 995 P.2d 482, 485 (2000)).

9         The Court will deny the remaining argument in the Petition because the Respondent’s  
10 interpretation of NRS 624.220(2) is a reasonable construction of the language within the statute. In  
11 attempting to ascertain the definition of “subdivision site,” the Respondent properly referred to  
12 other legislative pronouncements, instead of generating its own definition. In this vein, the  
13 Respondent referred to NRS 278.320(1), a zoning and planning statute.<sup>6</sup> However, the Respondent  
14 contemporaneously recognized the different role of the word “site” in NRS 278.320(1) and NRS  
15 624.220(2). While “site” was a method of division in NRS 278.320(1), the Respondent determined  
16 “site” more properly denoted location, rather than size, in NRS 624.220(1). Mr. Gore’s testimony  
17 emphasized the important role geographic location plays in determining whether a project is a  
18 single subdivision site. For all of these reasons, the Respondent supplied a reasonable definition of  
19 “subdivision site” to which Judge Pro appropriately deferred.

20         Second, the Respondent’s definition of “subdivision site” does not conflict with other  
21 statutory provisions and does not exceed the Respondent’s statutory authority. As adduced during  
22 the hearing before Judge Pro, “subdivision site” is not defined anywhere in NRS Chapter 624 or in  
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27 <sup>6</sup> From the Court’s review, the only other definition of “subdivision” is found NRS 119.110. “Subdivision” is defined as  
28 “any land or tract of land in another state, in this state or in a foreign country from which a sale is attempted, which is  
divided or proposed to be divided over any period in 35 or more lots, parcels, units or interests . . . .” NRS 119.110  
governs the sale of subdivided land.

1 an applicable regulation. *Contra Local Gov't Emp.-Mgmt. Relations Bd. v. Educ. Support Emps.*  
2 *Ass'n*, 134 Nev. Adv. Op. 86, 429 P.3d 658, 662-63 (2018) (reversing agency's interpretation of  
3 statute where clearly contradicted by statutory language and applicable regulation). Additionally,  
4 NRS 624.160 vests the Respondent "with all of the functions and duties relating to the  
5 administration of this chapter," including contractor discipline. As such, the Respondent is  
6 empowered to interpret and enforce NRS 624.220. For these reasons, the Respondent's definition  
7 of "subdivision site" does not conflict with other statutory provisions and does not exceed the  
8 Respondent's statutory authority.  
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10  
11 **IT IS ORDERED** that the PETITION FOR JUDICIAL REVIEW is hereby **DENIED**.

12 **DATED** this 21 day of June, 2019.

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15 ELLIOTT A. SATTLER  
16 District Judge  
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1 **CERTIFICATE OF MAILING**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court  
3 of the State of Nevada, County of Washoe; that on this \_\_\_\_ day of June, 2019, I deposited in the  
4 County mailing system for postage and mailing with the United States Postal Service in Reno,  
5 Nevada, a true copy of the attached document addressed to:  
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8 **CERTIFICATE OF ELECTRONIC SERVICE**

9 I hereby certify that I am an employee of the Second Judicial District Court of the State of  
10 Nevada, in and for the County of Washoe; that on the 21 day of June, 2019, I electronically filed  
11 the foregoing with the Clerk of the Court by using the ECF system which will send a notice of  
12 electronic filing to the following:  
13

14 MICHAEL S. KIMMEL, ESQ.

15 THEODORE CHRISSINGER, ESQ.

16 NOAH G. ALLISON, ESQ.

17 PHILLIP MANNELLY, ESQ.

18 EVAN JAMES, ESQ.  
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Sheila Mansfield  
Judicial Assistant

**CODE: 2540**

**HOY | CHRISSINGER | KIMMEL | VALLAS**

Michael S. Kimmel (NV Bar 9081)  
Theodore E. Chrissinger (NV Bar 9528)  
50 W. Liberty St., Suite 840  
Reno, Nevada 89501  
775.786.8000 (voice)  
775.786.7426 (fax)  
mkimmel@nevadalaw.com  
tchrissinger@nevadalaw.com

Attorneys for: Silverwing Development, J. Carter Witt III

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**IN AND FOR THE COUNTY OF WASHOE**

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CASE NO.: CV18-00128

DEPT. NO.: 10

Petitioners,

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Respondents.

**Notice of Entry of Order**

PLEASE TAKE NOTICE that on June 21, 2019, the Court entered the following Order  
Denying Petition for Judicial Review, a copy of which is attached hereto as Exhibit "1".

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## Affirmation

The undersigned affirm that this document does not contain any social security numbers.

Dated July 3, 2019.

/s/ Michael S. Kimmel

Michael S. Kimmel

HOY | CHRISSINGER | KIMMEL | VALLAS

Attorneys for Petitioners / Appellants

## Certificate of Service

I hereby certify that on July 3, 2019, I electronically filed the foregoing with the Clerk of the Court by using the electronic filing system which will send a notice of electronic filing to the following:

### **Respondent**

**NOAH ALLISON, ESQ.** for NEVADA STATE CONTRACTORS BOARD

### **Amicus**

**PHILIP MANNELLY, ESQ.** for ASSOCIATED BUILDERS & CONTRACTORS, INC., NEVADA CHAPTER ASSOCIATED GENERAL CONTRACTORS, SOUTHERN NEVADA HOME BUILDERS ASSOCIATION, SOUTHERN NV CHAPTER OF NATIONAL ELECTRONIC CONTRACTORS ASSOC, SHEET METAL & AIR CONDITIONING CONTRACTORS NATL ASSOC SO. NV, NEVADA CONTRACTORS ASSOCIATION, MECHANICAL CONTRACTORS ASSOCIATION OF LAS VEGAS, NEVADA SUBCONTRACTORS ASSOCIATION, NEVADA ASSOCIATION OF MECHANICAL CONTRACTORS

**EVAN JAMES, ESQ.** for SOUTHERN NV PAINTERS, DECORATORS, & GLAZIERS LMCC

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/s/ Shondel Seth

An employee of Hoy | Chrissinger | Kimmel | Vallas PC

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## Exhibit

Exhibit 1.

June 21, 2019 Order

9 pages

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11 attempting to ascertain the definition of “subdivision site,” the Respondent properly referred to  
12 other legislative pronouncements, instead of generating its own definition. In this vein, the  
13 Respondent referred to NRS 278.320(1), a zoning and planning statute.<sup>6</sup> However, the Respondent  
14 contemporaneously recognized the different role of the word “site” in NRS 278.320(1) and NRS  
15 624.220(2). While “site” was a method of division in NRS 278.320(1), the Respondent determined  
16 “site” more properly denoted location, rather than size, in NRS 624.220(1). Mr. Gore’s testimony  
17 emphasized the important role geographic location plays in determining whether a project is a  
18 single subdivision site. For all of these reasons, the Respondent supplied a reasonable definition of  
19 “subdivision site” to which Judge Pro appropriately deferred.  
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22

23         Second, the Respondent’s definition of “subdivision site” does not conflict with other  
24 statutory provisions and does not exceed the Respondent’s statutory authority. As adduced during  
25 the hearing before Judge Pro, “subdivision site” is not defined anywhere in NRS Chapter 624 or in  
26

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27 <sup>6</sup> From the Court’s review, the only other definition of “subdivision” is found NRS 119.110. “Subdivision” is defined as  
28 “any land or tract of land in another state, in this state or in a foreign country from which a sale is attempted, which is  
divided or proposed to be divided over any period in 35 or more lots, parcels, units or interests . . . .” NRS 119.110  
governs the sale of subdivided land.

1 an applicable regulation. *Contra Local Gov't Emp.-Mgmt. Relations Bd. v. Educ. Support Emps.*  
2 *Ass'n*, 134 Nev. Adv. Op. 86, 429 P.3d 658, 662-63 (2018) (reversing agency's interpretation of  
3 statute where clearly contradicted by statutory language and applicable regulation). Additionally,  
4 NRS 624.160 vests the Respondent "with all of the functions and duties relating to the  
5 administration of this chapter," including contractor discipline. As such, the Respondent is  
6 empowered to interpret and enforce NRS 624.220. For these reasons, the Respondent's definition  
7 of "subdivision site" does not conflict with other statutory provisions and does not exceed the  
8 Respondent's statutory authority.  
9

10  
11 **IT IS ORDERED** that the PETITION FOR JUDICIAL REVIEW is hereby **DENIED**.

12 **DATED** this 21 day of June, 2019.

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15 ELLIOTT A. SATTLER  
16 District Judge  
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1 **CERTIFICATE OF MAILING**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court  
3 of the State of Nevada, County of Washoe; that on this \_\_\_\_ day of June, 2019, I deposited in the  
4 County mailing system for postage and mailing with the United States Postal Service in Reno,  
5 Nevada, a true copy of the attached document addressed to:  
6  
7

8 **CERTIFICATE OF ELECTRONIC SERVICE**

9 I hereby certify that I am an employee of the Second Judicial District Court of the State of  
10 Nevada, in and for the County of Washoe; that on the 21 day of June, 2019, I electronically filed  
11 the foregoing with the Clerk of the Court by using the ECF system which will send a notice of  
12 electronic filing to the following:  
13

14 MICHAEL S. KIMMEL, ESQ.

15 THEODORE CHRISSINGER, ESQ.

16 NOAH G. ALLISON, ESQ.

17 PHILLIP MANNELLY, ESQ.

18 EVAN JAMES, ESQ.  
19  
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28

  
Sheila Mansfield  
Judicial Assistant



DATE, JUDGE  
OFFICERS OF  
COURT PRESENTAPPEARANCES-HEARING**HEARING REGARDING LEAVE TO PARTICIPATE AMICUS CURIAE**4/9/18  
HONORABLE  
ELLIOTT A.  
SATTLER  
DEPT. NO. 10  
J. Martin  
(Clerk)  
Not Reported  
(Reporter)

Michael Kimmel, Esq. was present on behalf of Silverwing Development and J. Carter Witt, III. Noah Allison, Esq. was present telephonically on behalf of the Nevada State Contractors Board. Paul Georgeson, Esq. was present on behalf of The Construction Trade Associations. Evan James, Esq. was present on behalf of Painters, Decorators & Glaziers, LMCC.

**COURT** reviewed the procedural history of the matter and discussed Counsel Allison's telephonic appearance, noting that Counsel Allison will not presenting oral arguments regarding Amicus Curiae. Court further noted that Respective Counsel requested a Court Reporter however the Reporter will be approximately 15 minutes late.

Respective Counsel waived their request for a Court Reporter and requested to proceed without the matter being reported.

**COURT** reviewed the pleadings on file in this matter.

Counsel Georgeson argued in support of the Construction Trade Associations request to participate as Amicus Curiae. Counsel Georgeson stated the issues in this matter are greater than those that effect Silverwing or the Nevada State Contractors Board; Counsel Georgeson further argued in support the request to participate as amicus curiae stating the ruling has the potential to effect the industry/public as a whole. Counsel Georgeson argued that statutes are constitutional. Counsel Georgeson stated all trade associations feel this matter is an important issue and argued their participation necessary.

Counsel James indicated he does not intend to present evidence in this matter however the Court has discretion to request it and to grant participation as amicus curiae.

Respective Counsel agreed that no other Court has reviewed this statute and this is a case of first impression.

Counsel James clarified that his client is a labor association and his client's position is that the statutes are constitutional. Counsel James discussed the amicus briefs and appeals. Counsel James stated his client would like to present the best possible information to the Court. Counsel James stated the Contractors Board is worried about the Board however the Court's decision in this matter has a further reach than just the parties in this matter. Counsel James stated the labor association has a vested interest in the matter and further argued in support of the Court allowing the amicus briefs.

**COURT** discussed the Mineral County case cited by Counsel James which addresses amicus at the Supreme Court level and not at the State Court level.

Counsel James argued that Judicial Officers at the State level have, from time to time accepted amicus briefs and argued this matter has a huge magnitude on the industry. Counsel James further discussed the possible effects of the Court's order in this matter on the industry as a whole. Counsel James further discussed case law relevant to the practice of amicus briefs at a State Court level in the State on Nevada.

**COURT** discussed NRS 233B with regard to briefing and page limitations.

Counsel James stated the Court could follow the local rules or the rules of civil procedure with regard to page limitations. Counsel James stated the Court could also grant the party opposite the amicus brief leave to file a short reply.

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

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4/9/18  
HONORABLE  
ELLIOTT A.  
SATTLER  
DEPT. NO. 10  
J. Martin  
(Clerk)  
Not Reported  
(Reporter)

Counsel Kimmel discussed case law relevant to the amicus issue and argued in opposition to the amicus curiae participation. Counsel Kimmel argued this matter is currently at the District Court for the initial decision regarding the Board's decision and the Supreme Court would be the appropriate platform for amicus brief upon an appeal of this Court's order. Counsel Kimmel stated the court should not consider amicus briefs based on possible chilling effect on the trade associations. Counsel Kimmel further argued that the court allowing the amicus participation would require a reply which is adverse to his client.

**COURT** discussed the amicus participation and indicated it more than likely would not hear from the amicus participants at the time of oral arguments but only through briefing.

Counsel Kimmel requested if the Court allows for amicus participation that an order enter setting a time for the participation. Counsel Kimmel further discussed the other parties that have expressed interest in participation and stated those parties have not appeared as this is not the appropriate venue for that participation. Counsel Kimmel further argued that a Petition for Judicial Review at the District Court level is not the appropriate place for the amicus briefs. Counsel Kimmel argued that the rules do not contemplate amicus briefs at the State Court level.

Counsel Georgeson stated the parties that have appeared thus far have followed the rules with regard to time and further argued the Court should be allowed the benefit of the amicus briefs.

Counsel Kimmel stated he does intent to attack the facial constitutionality of the statute.

**COURT GRANTED** the "Construction Trade Associations" and "Painters, Decorations & Glaziers, LMMC" (amicus participants) leave to participate as amicus curiae; amicus participants shall file briefs on the limited issue of the facial constitutionality of the statute; briefs shall be no more than ten (10) pages of substantive material; parties are directed to follow Local Rule 10; Court will inform parties if subsequent information/argument is requested in advance of the Oral Arguments on the Petition for Judicial Review; Court reserves the right to request arguments oral arguments from amicus participants at the hearing; amicus briefs shall be due at the same time as the Opposition to Petition for Judicial Review; Petitioner and Respondent granted leave to file replies to each amicus brief no more than five (5) pages in length; Counsel Georgeson and Counsel James shall submit proposed orders to the court no later than 5:00 p.m. on April 18, 2018; Counsel Georgeson and Counsel James may submit a joint proposed order; Court further informed parties that the \$5,000.00 cash bond is sufficient and the stay shall be entered.

CASE NO. CV18-00128      **SILVERWING DEVELOPMENT ETAL VS.**  
**NEVADA STATE CONTRACTORS BOARD ETAL**

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

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9/4/18      **HEARING ON PETITION FOR JUDICIAL REVIEW**  
HONORABLE      1:33 p.m. – Court convened.  
ELLIOTT A.      Michael Kimmel, Esq., and Daniel Stewart, Esq., were present on behalf of the  
SATTLER      Petitioners, Silverwing Development and J. Carter Witt, III. Mr. Witt was present.  
DEPT. NO. 10      Noah Allison, Esq., was present on behalf of Defendant Nevada State Contractors Board.  
M. Merkouris      Executive Officer Margi Grein was present at counsel table with counsel Allison.  
(Clerk)      Chairperson Margaret Cavin was present in the gallery.  
P. Hoogs      Paul Georgeson, Esq., and Philip Mannelly, Esq., were present on behalf of the  
(Reporter)      Construction Trade Associations.  
Evan James, Esq., was present on behalf of Southern Nevada Painters, Decorators, and  
Glaziers, LMCC.  
**COURT** reviewed the procedural history of the case.  
Counsel Kimmel presented argument in support of the Petition for Judicial Review, filed  
January 17, 2018.  
Counsel Allison responded; and he further presented argument in opposition of the  
Petition for Judicial Review.  
2:56 p.m. – Court stood in recess.  
3:16 p.m. – Court reconvened.  
Counsel Mannelly presented amici curiae argument on behalf of the Construction Trade  
Associations.  
Counsel James presented amicus curiae argument on behalf of Southern Nevada  
Painters, Decorators, and Glaziers, LMCC.  
Counsel Kimmel replied; and he further presented argument in support of the Petition  
for Judicial Review.  
**COURT** commended respective counsel for the level of professionalism and collegiality  
demonstrated in this case.  
**COURT ORDERED:** Matter taken under advisement.  
4:21 p.m. – Court adjourned.

Code 1350

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

SILVERWING DEVELOPMENT,  
a Nevada corporation; J CARTER  
WITT III, an individual,

Case No. CV18-00128

Dept. No. 10

Petitioners,

vs.

NEVADA STATE CONTRACTORS  
BOARD,

Respondent.

**CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL**

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 5th day of July, 2019, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 5th day of July, 2019

Jacqueline Bryant  
Clerk of the Court

By /s/ Yvonne Vilorio  
Yvonne Vilorio  
Deputy Clerk

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FOR CV18-00128

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